

**Request for Proposal and Contract  
Nonprofit School Food Service  
Food Service Management Company  
New Springs, Inc. DBA  
New Springs Schools**





Florida Department of Agriculture and Consumer Services  
Division of Food, Nutrition and Wellness  
600 South Calhoun Street (H2)  
Tallahassee, Florida 32399  
Phone: 850/617-7400  
Fax: 850/617-7402  
[www.FreshFromFlorida.com](http://www.FreshFromFlorida.com) | Page

*The U.S. Department of Agriculture (USDA) prohibits discrimination against its customers, employees, and applicants for employment on the bases of race, color, national origin, age, disability, sex, gender identity, religion, reprisal and, where applicable, political beliefs, marital status, familial or parental status, sexual orientation, or if all or part of an individual's income is derived from any public assistance program, or protected genetic information in employment or in any program or activity conducted or funded by the Department. (Not all prohibited bases will apply to all programs and/or employment activities.)*

*If you wish to file a Civil Rights program complaint of discrimination, complete the USDA Program Discrimination Complaint Form, found online at*

*[http://www.ascr.usda.gov/complaint\\_filing\\_cust.html](http://www.ascr.usda.gov/complaint_filing_cust.html), or at any USDA office, or call (866) 632-9992 to request the form. You may also write a letter containing all of the information requested in the form. Send your completed complaint form or letter to us by mail at U.S. Department of Agriculture, Director, Office of Adjudication, 1400 Independence Avenue, S.W., Washington, D.C. 20250-9410, by fax (202) 690-7442 or email at [program.intake@usda.gov](mailto:program.intake@usda.gov).*

*Individuals who are deaf, hard of hearing, or have speech disabilities and wish to file either an EEO or program complaint please contact USDA through the Federal Relay Service at (800) 877-8339 or (800) 845-6136 (in Spanish).*

*Persons with disabilities, who wish to file a program complaint, please see information above on how to contact us by mail directly or by email. If you require alternative means of communication for program information (e.g., Braille, large print, audiotape, etc.) please contact USDA's TARGET Center at (202) 720-2600 (voice and TDD).*

*USDA is an equal opportunity provider and employer. 2 | Page*

## SECTION 1 INSTRUCTIONS

### 1.1 Notice of Proposal

This Invitation to Proposal (“RFP”) is for the purpose of obtaining responses from caterers and vendors to provide meal services for New Springs Schools, Inc. Meal programs will include the United States Department of Agriculture (“USDA”) National School Lunch Program and/or the School Breakfast Program. New Springs Schools, Inc is a charter school located in Tampa, Florida. The goal of the Food Service Program is to serve breakfast and lunch to K-8 students.

### 1.2 Proposal Submission

Responses should address each of the requirements set forth in this RFP. Please provide the requested information no later than 5:00PM EST on **March 20, 2019** to the address below. Responses will be publicly opened at 5:00PM EST on **March 20, 2019** to be evaluated per the criteria specified in subsection 1.4, below.

New Springs, Inc. DBA  
New Springs Schools  
Sanan Gajjevi  
2410 E Busch Blvd  
Tampa, FL 33612

### 1.3 Timeline

- March 2nd, 2019, Proposal available to public
- March 9th , 2019, Proposal questions due
- March 17<sup>th</sup> All Proposal questions answered by publishing Addendum 1
- March 20<sup>th</sup>,2019, Proposal submissions due by 5:00 PM EST
- March 20<sup>th</sup>,2019, Proposal submissions publicly opened
- March 21<sup>th</sup> ,2019, SFA review of Proposals
- March 22<sup>nd</sup> ,2019, SFA recommendation to FDACS and FDACS review
- April 21<sup>st</sup> ,2019, contract award
- August, 2019, awarded Vendor begins service

### 1.4 Evaluation Criteria

Proposals received will be reviewed to ensure all materials have been submitted as specified in this RFP. Contract award decision will be made based on the Vendor that provides the lowest, most responsive, responsible proposal.

- Price 25 points (Lowest price will receive the maximum points available (25).**
- Other vendors will receive points equal to the lowest price divided by their meal price multiplied by 25. (No rounding)**

- Program management plan (including equipment) 15 points**
- Innovation in menu design, food quality and type of food production, and program participation 25 points**
- Management plan for utilizing USDA Commodities 10 points**
- Experience with: (Please provide references for each) 15 points** 1) **Diversity in school community**
- 2) National School Lunch Program 3) Additional programs such as ASSP, CACFP, and BIC**
- Community outreach and school promotion 10 points**

FSMC is responsible to provide all necessary equipment for a warming kitchen at the site to prepare approved NSLP breakfast/lunch menus, provide staffing for serving the food, providing computer based program/software for keeping track the student breakfast/lunches.

#### 1.5 Proposal Attachments

1. Location of school(s) – Exhibit A
2. Approved 21-day cycle menu – Exhibit B
3. Menu Planning Approach Guidelines – Exhibit C
4. 2017/2018 School Calendar – Exhibit D
5. Drug-Free Workplace Program Bidder Certification
6. Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion
7. Certification Regarding Lobbying
8. Disclosure of Lobbying Activities
9. Proposal Summary

#### 1.6 Questions and Site Visits

Questions concerning this RFP and requests for a site visit can be submitted in writing via email to [sanan@newspringsschools.org](mailto:sanan@newspringsschools.org) or via phone at (813) 933-5025 Ext104. All responses to questions received will be made in writing on March 17<sup>th</sup>, 2017 and sent to all potential vendors.

#### 1.7 Addenda

Revisions which modify the RFP documents, by addition, deletions, clarifications or corrections will be issued in writing prior to the opening of Proposals.

## **SECTION 2**

### **GENERAL CONDITIONS**

#### 2.1 Rejection of Proposal

Proposals that do not conform to the requirements of this RFP shall be rejected.

Proposals may be rejected for reasons that include, but are not limited to, the following:

- a. The proposal was received after the submission deadline;
- b. The proposal was not signed by an authorized representative of the FSMC;
- c. The proposal contained unauthorized amendments, deletions, or contingencies to the requirements of the RFP;
- d. The proposal was incomplete or contained significant inconsistencies or inaccuracies.

#### 2.2 Errors or Omissions

If the SFA determines that a proposal contains a minor irregularity or an error, such as a transposition, extension or footing error in figures that are presented, the SFA may allow the FSMC an opportunity to correct the error. Information that is required to be included in the proposal and is inadvertently omitted shall not be accepted under this error correction provision.

All information required to be included in a 4 | Page

proposal must be received by the date and time that proposals are due. The SFA reserves the right to seek clarification of any information contained in the FSMC's proposal.

### 2.3 Deviations or Exceptions

Deviations or exceptions to the specifications provided in this RFP will not be considered.

### 2.5 Specifications and Conditions

By submitting a response to this RFP, FSMCs are acknowledging that they have read the specifications and conditions provided in the RFP and that their proposal is made in accordance with the provisions of such specifications. FSMCs further agree to deliver services that meet or exceed specifications provided in the RFP should they be awarded a contract for services.

### 2.6 Withdrawal of Proposal

Requests for withdrawal of a proposal may be considered if such request is received in writing within 72 hours after the proposal opening time and date. Requests received in accordance with this provision may be granted upon proof of the impossibility to perform based upon an obvious error on the part of the FSMC. If a request for withdrawal is not received, a FSMC shall be legally responsible for fulfilling all requirements of its proposal if it is accepted.

### 2.7 Proposal Modifications

Requests for modifications of a proposal may be considered if such request is received in writing within 72 hours after the proposal opening time and date. Requests received in accordance with this provision may be granted upon proof of the impossibility to perform based upon an obvious error on the part of the FSMC. If a request for modification is not received, a FSMC shall be legally responsible for fulfilling all requirements of its proposal if it is accepted.

### 2.8 Prohibition of Gratuities

By submission of a proposal, a FSMC certifies that no employee of SFA has or shall benefit financially or materially from such proposal or subsequent contract. Any contract issued as a result of this RFP may be terminated at such time as it is determined that gratuities of any kind were either offered or received by any of the aforementioned persons.

### 2.9 FSMC Research

SFA reserves the right to research any FSMC submitting a proposal in response to this RFP to ensure the FSMC's ability to perform the services as specified.

### 2.10 Conditions for Acceptance

FSMCs must submit a proposal meeting the requirements of the RFP to include the required attachments and certifications signed by the authorized official. Proposals must be received by the time and date specified in subsection 1.2, Proposal Submission, above.

### 2.11 Proposal computation method

Estimated totals must be carried out to the second decimal place and must not be rounded.

### 2.12 Proposal bond requirements (optional)

---

N/A

---

2.13 Performance bond requirements (optional)

---

N/A

---

2.14 Protest of the RFP

Any adversely affected person who desires to file a formal protest to this RFP must do so in accordance under chapter 120, Florida Statutes. Failure to file a protest within the time prescribed in section 120.57(3), Florida Statutes, or failure to post the bond or other security required by law within the time allowed for filing a bond shall constitute a waiver of proceedings under chapter 120, Florida Statutes.

2.15 Indemnification (optional)

---

N/A

---

2.16 Copyrights

The SFA reserves a royalty-free, nonexclusive, and irrevocable license to reproduce, publish or otherwise use, and to authorize others to use, for SFA purposes: (a) The copyright in any work developed under a grant, subgrant, or contract under a grant or subgrant; and (b) Any rights of copyright to which a grantee, sub grantee or contractor purchases ownership with grant support.

2.17 Patents

The SFA reserves a royalty-free, nonexclusive, and irrevocable license to reproduce, publish or otherwise use, and to authorize other to use, for SFA purposes patent rights with respect to any discovery or invention which arises or is developed in the course of or under such contract.

2.18 Confidentiality (optional)

---

N/A

---

2.19 Federal Debarment Certification

FSMC will comply with the Federal Debarment Certification regarding debarment suspension, ineligibility and voluntary exclusion, as required by Executive Order 12549, Debarment and Suspension and implemented at 2 C.F.R. 417.

(1) The prospective lower tier (\$25,000) participant certifies, by submission and of this proposal, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any federal department or agency.

(2) Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participants shall attach an explanation to this proposal.

## 2.20 Public Entity Crimes Certification

Pursuant to Section 287.133(2)(a), Florida Statutes, a person or affiliate who has been placed on the convicted vendor list following a conviction for a public entity crime may not submit a proposal on a contract to provide any goods or services to a public entity; may not submit a proposal on a contract with a public entity for the construction or repair of a public building or public work; may not submit proposals on leases of real property to public entities; may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity; and may not transact business with any public entity in excess of the threshold amount provided in Section 287.017, Florida Statutes, for Category Two for a period of 36 months from the date of being placed on the convicted vendor list.

## 2.21 Drug Free Workplace Certification

In accordance with Section 287.087, Florida Statutes, whenever two or more proposals, or replies that are equal with respect to price, quality, and service are received by an SFA for the procurement of commodities or contractual services, a reply received from a business which certifies that it has implemented a Drug Free Workplace Program by signing the enclosed Drug Free Workplace Certification Form, shall be given preference in the award process.

### **SECTION 3**

#### **SCOPE**

3.1 The food service provided shall be operated and maintained as a benefit to the SFA's students, faculty, and staff.

3.2 The food service operation shall be managed to promote maximum participation in the Child Nutrition Programs.

3.3 The FSMC shall have the exclusive right to manage the Child Nutrition Programs (to include NSLP, SM, SBP, FFVP and/or SFSP) at the sites specified on Exhibit A.

3.4 The FSMC will provide food services to each site as specified in Exhibit A.

3.5 The SFA may add or remove sites and/or meal periods for existing programs to Exhibit A at any time during each Contract Term unless the addition or removal of sites and/or meal periods creates a material or substantive Contract change.

3.6 The SFA reserves the right to maintain, add, and/or remove present food and beverage vending machines in its facilities.

3.7 The FSMC shall be an independent contractor and not an employee of the SFA. The employees of the FSMC shall be considered solely employees of the FSMC and shall not be considered employees or agents of the SFA in any fashion.

3.8 The FSMC shall conduct the food service operation to ensure compliance with the rules and regulations of the Florida Department of Agriculture and Consumer Services ("FDACS") and the USDA regarding Child Nutrition Programs.

3.9 The SFA shall be legally and financially responsible for the conduct of the food service operation and shall supervise the food service to ensure compliance with the rules and regulations of the FDACS and the USDA regarding Child Nutrition Programs.

#### **SECTION 4 SCHOOL FOOD AUTHORITY RESPONSIBILITIES**

4.1 The SFA shall ensure that the food service operation is in conformance with its *National School Lunch and Breakfast Program Sponsor Agreement* and the *Policy Statement for Free Meals, Free Milk, and Reduced-Price Meals*.

4.2 The SFA shall retain control of the quality, extent, and general nature of its food service operation and the prices to be charged for meals, milk, a la carte items, adult meals, and vending machine items, as applicable.

4.3 The SFA shall monitor the food service operation through periodic on-site reviews to include the inspection of meals, food preparation, storage and service areas, sanitation practices, and procedures for accurately counting and claiming meals provided that nothing in this paragraph shall be construed as to relieve the FSMC of its independent obligation to provide proper oversight and supervision of its operations or to otherwise comply with State and Federal rules and/or regulations.

4.4 The SFA shall approve the menus and recipes for meals and other food to be served or sold to students to ensure compliance with the rules and regulations of the FDACS and the USDA.

4.5 The SFA shall approve all a la carte items and the prices charged for those items in advance of sale by the FSMC.

4.6 The SFA shall retain signatory authority on the FDACS *Annual School Application for Participation in Child Nutrition Programs and Food Distribution Programs*; the *Policy Statement for Free Meals, Free Milk, and Reduced*

*-Price Meals*; the *National School Lunch and Breakfast Program Sponsor Agreement*; and the *Child Nutrition Program Monthly Claim for Reimbursement*.

4.7 The SFA will establish internal controls that ensure the accuracy of meal counts before submittal of the *Monthly Claim for Reimbursement*. At a minimum, these controls will include:

- An on-site review of the meal counting and claiming system employed by each school,
- Reviews of meal count data for each site, and
- Edit checks of meal count data against the product of the eligibility data times an attendance factor.

4.8 The SFA shall ensure USDA Foods received for use by the SFA and made available to the FSMC are utilized within the Term of this Contract in the SFA's food service operation for the preparation and service of meals and for other allowable uses in accordance with the Code of Federal Regulations, 7 C.F.R. 250.

4.9 The SFA shall maintain and visibly post applicable health certification and assure all state and local regulations are met by the FSMC preparing or serving meals at SFA facilities.

4.10 The SFA shall establish and maintain an advisory board composed of parents, teachers, and students to assist in menu planning.

4.11 The SFA shall distribute and collect the letter and household applications for free and reduced-price meals or milk and determine eligibility of students for meal benefits.

8 | Page

4.12 The SFA shall verify applications for free and reduced-price meals and conduct any appeals or hearings for eligibility determinations.

4.13 The SFA shall inform the FSMC of any adjustments to menus and monitor implementation of adjustments.

4.14 The SFA shall be responsible for resolution of program reviews and audit findings.

## **SECTION 5**

### **FOOD SERVICE MANAGEMENT COMPANY RESPONSIBILITIES**

5.1 The FSMC will conduct the school food service operation in conformance with the Program Sponsor Agreement between SFA and FDACS and in accordance with generally accepted standards of care and best practices in the industry.

5.2 The FSMC shall serve, on such days and at such times as requested by the SFA:

5.2.1 Breakfasts, priced as a unit, which meet USDA requirements

5.2.2 Lunches, priced as a unit, which meet USDA requirements

5.2.3 After-school snacks, priced as a unit, pursuant to the After-School Care Program

5.2.4 Summer meals, priced as a unit, which meet USDA requirements

5.2.5 Milk, served to all children pursuant to the Special Milk Program

5.2.6 Fresh fruit and vegetables, served to all children pursuant to the USDA Fresh Fruit and Vegetable Program

5.2.7 Other foods as agreed upon by the FSMC and SFA, pursuant to applicable regulatory requirements

5.3 The FSMC shall serve free, reduced-price, and paid meals and/or free milk to those children designated by the SFA.

5.4 The FSMC shall implement collection procedures as specified by the SFA and approved by the FDACS.

5.5 The FSMC shall implement the *Offer versus Serve* provision at the food service sites specified by the SFA on Exhibit A.

5.6 The FSMC shall adhere to the 21-day cycle menu(s) and portion sizes specified by the SFA on Exhibit B for the first 21 days of meal service. After the first 21 days of meal service, menu changes may be made with SFA approval. Meals must meet the Healthy Hunger-Free Kids Act of 2010 as designated herein by the SFA for each Term of the Contract, as applicable. Meals must meet or exceed the calories and meet the nutrient standards for National School Lunch, School Breakfast, and/or Summer Food Service Program meals for the age/grade groups of school children and as listed in Exhibit C.

5.7 The serving sizes, if applicable, provided by the SFA on the 21-day cycle menu(s) in Exhibit B are, in most cases based on the required minimum serving sizes stated in Exhibit C. If the serving sizes for the food items indicated on the menu(s) do not meet the required weekly calorie and nutrient standards as stated in Exhibit C, the FSMC must increase serving sizes and/or provide additional food items as necessary to meet the calorie and nutrient standards without altering the 21-day cycle menu(s). Serving sizes may not be decreased unless otherwise stated in this *Request for Proposal and Contract*.

5.8 The FSMC shall be responsible for providing meals and menus appropriate for the age of the students served and acceptable to students evidenced through production records, a minimum of plate waste

9 | Page

and participation levels in the National School Lunch, School Breakfast, and/or Summer Food Service Program meals, as applicable.

5.9 The FSMC shall participate in the parent, teacher, and student advisory board.

5.10 The FSMC shall cooperate with the SFA in promoting nutrition education and assist in the coordination of the SFA's food service with classroom instruction.

5.11 The FSMC shall use SFA facilities for preparation of food to be served as specified on Exhibit A.

5.12 The FSMC is required to substitute food components of the meal pattern for students who are considered to have a disability under 7 C.F.R. 15b and the disability restricts their diet. Substitutions must be made on a case by case basis only when supported by a written statement of the need for substitution(s) that includes recommended alternate foods, unless otherwise exempted by FNS. Such statement must be signed by a licensed physician.

The FSMC may make substitutions for students without disabilities who cannot consume the regular lunch or afterschool snack because of medical or other special dietary needs. These substitutions must be made on a case by case basis and only when supported by a written statement of the need for substitutions that includes recommended alternate foods, unless otherwise exempted by FNS. Except with respect to substitutions for fluid milk, such a statement must be signed by a recognized medical authority.

5.13 The FSMC shall deposit daily all monies in the SFA's nonprofit food service account.

5.14 The FSMC will operate and care for equipment and food service areas in a clean, safe and healthy condition in accordance with the standards prescribed in the SFA's written food safety program and comply with all applicable federal, state, and local laws, ordinances, regulations, and rules concerning sanitation.

5.15 It will be the joint responsibility of the SFA and the FSMC to protect the anonymity of all children receiving free or reduced-price meals, and methods for ensuring anonymity shall be jointly agreed upon; provided that nothing in this paragraph shall be construed to relieve the FSMC of its independent obligation to protect the anonymity of all children receiving free or reduced-price meals and to provide the required quality and extent of goods and services hereunder.

## **SECTION 6 INVOICING AND PAYMENT**

6.1 The Vendor shall submit itemized invoices to the SFA bi-weekly or monthly. Invoices shall specify the number of meals provided to the SFA and the unit price for each meal type.

6.2 The SFA shall pay the Vendor the unit price specified in the Bid Summary times meals provided as specified in the invoice. The SFA shall pay:

6.2.1 According to the time frame as stated on the Vendor's invoice; or

6.2.2 Five (5) business days after receiving Meal Claim Reimbursement; whichever occurs sooner.

6.2.3 No later than forty-one days (41) calendar days of its receipt of the invoice from the Vendor.

6.3 The Vendor shall use the following delinquent payment notification procedures in order to exercise its right to demand payment from the SFA:

10 | Page

6.3.1 For invoices not paid within forty-two (42) calendar days after the SFA received the invoice, the Vendor shall send the SFA a notice letter with a copy of the original invoice attached. The Vendor shall also provide a copy of the notice letter to the FDACS.

6.3.2 When an invoice previously noticed when delinquent forty-two (42) calendar days is still delinquent and not paid in full within sixty-three (63) calendar days after the SFA received the invoice, the Vendor must provide a second letter to the SFA with a copy of the original invoice attached and provide a copy to the FDACS.

6.3.3 The Vendor may suspend service or terminate its contract with the SFA if the SFA has failed to make full and complete payment for any invoice sixty-three (63) or more calendar days after the invoice was received. The Vendor's failure to terminate its contract shall not waive its right to seek payment under appropriate Florida Law and procedures.

## **SECTION 7 USDA FOODS**

7.1 Any USDA Foods received for use by the SFA and made available to the FSMC shall be utilized within the specified Term of this Contract in the SFA's food service operation for the preparation and service of meals and for other allowable uses in accordance with 7 C.F.R. 250.

7.2 The FSMC shall accept and use USDA Foods in as large a quantity as may be efficiently utilized in the nonprofit food service operation, subject to approval of the SFA.

7.3 The FSMC shall manage all USDA Foods to ensure the foods are utilized in the SFA's food service. USDA Foods shall not be sold, exchanged or otherwise disposed of without the approval of the USDA.

7.4 The FSMC shall utilize all USDA ground beef, ground pork, and processed end products received in the SFA's food service operation. Commercially-purchased foods shall not be substituted for these foods.

7.5 The FSMC shall utilize all other USDA Foods, or substitute commercially-purchased foods of the same generic identity, of U.S. origin, and of equal or better quality than the USDA Foods as determined by the SFA, in the SFA's food service operation.

7.6 The FSMC shall credit the SFA for the full value of all USDA Foods received for use in the SFA's meal service during the school year (including both entitlement and bonus foods) regardless of whether the USDA Foods have actually been used. If the FSMC acts as an intermediary between a processor and the SFA, the FSMC shall credit the SFA for the value of USDA Foods contained in the processed end products at the USDA processing agreement value, unless the processor is providing such credit directly to the SFA. The FSMC will issue all such credit in full prior to the expiration of each Contract Term.

7.7 The FSMC will clearly identify USDA food credits on the SFA's monthly bill/invoice, and record these credits on a separate line item entry. Each month, the FSMC will also provide a detailed account of all the USDA Food items that were used and the credits issued for any unused USDA Food items.

7.8 The current value of USDA Foods is based on the information listed on the SFA's Web-Based Supply Chain Management (WBSCM) Requisition and by the Requisition Status Report.

If not listed, the current market value of USDA Foods will be based on the prices issued by the FDACS.

7.9 The SFA shall ensure the method and timing of crediting does not cause its cash resources to exceed limits established in 7 C.F.R. subparagraph 210.9(b)(2).

7.10 At the end of each Contract Term and upon expiration or termination of the Contract, a year-end reconciliation shall be conducted by the SFA to ensure and verify correct and proper credit has been

received for the full value of all USDA Foods received by the FSMC during each Contract Term for use in the SFA's food service operation.

7.11 The SFA shall verify receipt of USDA Foods shipments through its electronic records or by contacting FDACS or the processor, as applicable.

7.12 The FSMC must keep separated inventories (both physical and accounting) of USDA Foods and regular purchased food.

7.13 The SFA and FSMC must maintain records of receipt of USDA Foods and processed end products, of crediting for the value of USDA Foods, and other records relating to USDA Foods in accordance with 7 C.F.R. section 250.54. All records pertaining to USDA Foods shall be maintained and made available for inspection by the SFA, FDACS and the USDA for a period of five (5) years plus the current year.

7.14 FSMC will comply with the storage and inventory management requirements for USDA Foods in 7 C.F.R. paragraph 250.14(b). USDA ground beef, ground pork, and processed end products shall be stored in a manner that ensures usage in the SFA's food service operation.

7.15 The FSMC must accept liability for any fault or negligence on its part that results in any loss, damage, out of condition, or improper use of USDA Foods not yet credited to the SFA.

7.16 SFA and FDACS have and preserve a right to assert claims against other persons to whom USDA Foods are delivered for care, handling or distribution, and will take action to obtain restitution in connection with claims for improper distribution, use or loss of, or damage to, USDA Foods.

7.17 The SFA and FSMC shall consult and agree on end products to be produced from USDA Foods during each Contract Term. If the SFA and FSMC cannot agree on end products, the FSMC shall utilize the USDA Foods in the form furnished by the USDA.

7.18 The SFA shall be responsible for contracting with any commercial facility for the processing or repackaging USDA Foods. The FSMC shall pay all related processing fees and costs. The SFA shall not be responsible for any costs associated with processing USDA Foods. Although the FSMC may procure processed end products on behalf of the SFA, the FSMC itself shall not enter into any processing agreements with a processor, nor shall the FSMC enter into any subcontracts for further processing of USDA Foods. If the FSMC procures processed end products on behalf of the SFA, the FSMC will comply with the provisions of the SFA processing agreement(s) and the requirements in subpart C of 7 C.F.R. 250.

7.19 The FSMC shall have records maintained and available to substantiate the receipt, use, storage, and inventory of USDA Foods. The FSMC must submit to the SFA monthly inventory reports showing all transactions for processed and non-processed USDA Foods. Failure by the FSMC to maintain records as required 7 C.F.R. section 250.16 shall be considered prima facie evidence of improper distribution or loss of USDA Foods and the FSMC shall be subject to the provisions of § 250.13(e).

7.20 The SFA, FDACS, Comptroller General of the United States, Florida Auditor General, USDA, or any of their duly authorized representatives may perform on-site reviews of the FSMC's food service operation at any reasonable time. This includes the inspection and

inventory of USDA Foods in storage or the facilities used in the handling or storage of such USDA Foods, and inspection and audit all records, including financial records, and reports pertaining to the distribution of USDA Foods and may review or audit the procedures and methods used in carrying out the requirements of this contract and 7 C.F.R. 250 and 210.

7.21 The FSMC shall return all unused USDA ground beef products, ground pork products, and processed end products to the SFA upon termination, expiration, or non-renewal of the Contract.

12 | Page

7.22 At the discretion of the SFA, the FSMC may be required to return other unused USDA Foods to the SFA upon termination, expiration, or non-renewal of the Contract.

7.23 The SFA shall retain title to all USDA Foods provided to the FSMC for use in the SFA's food service operation.

7.24 USDA Foods or processed end products containing USDA Foods shall not be used for catering or special functions conducted outside of the nonprofit school food service operation.

## **SECTION 8 PURCHASES/BUY AMERICAN**

8.1 The FSMC shall retain title to all purchased food and nonfood items.

8.2 The FSMC shall purchase, to the maximum extent practicable, domestic commodities or products that are either agricultural commodities produced in the United States or food product processed in the United States substantially using agricultural commodities produced in the United States.

8.3 The FSMC shall not substitute commercially-purchased foods for USDA ground beef, ground pork, and processed end products received.

8.4 The FSMC may substitute commercially-purchased foods for all other USDA Food received. All commercially-purchased food substitutes must be of the same generic identity as the USDA food received, of United States origin, and of equal or better quality than the USDA Foods as determined by the SFA.

8.5 The SFA shall ensure commercially-purchased foods used in place of USDA Foods received are of the same generic identity as the USDA Foods received, of United States origin, and of equal or better quality than the USDA Foods as determined by the SFA.

8.6 The FSMC may be required to certify the percentage of United States content in the products supplied to the SFA.

8.7 The SFA reserves the right to review FSMC purchase records to ensure compliance with the *Buy American* provision in 7 C.F.R. sections 210.21 and 250.23.

8.8 The FSMC shall provide Nutrition Facts labels and any other documentation requested by the SFA to ensure compliance with United States content requirements.

## **SECTION 9 USE OF FACILITIES AND EQUIPMENT**

9.1 The SFA shall make available without any cost or charge to the FSMC, the areas and premises agreeable to both parties in which the FSMC shall render its services.

9.2 The SFA shall furnish and install any equipment and make any structural changes needed to comply with federal, state, and local laws, ordinances, rules, and regulations.

9.3 The FSMC shall not use the SFA's facilities to produce food, meals, or services for other organizations or otherwise use the facilities of the SFA for any reason other than those specifically provided for in this Contract without the express written consent of the SFA.



9.4 The FSMC and SFA shall inventory the equipment and supplies owned by the SFA at the beginning of the school year and the end of the school year, including but not limited to flatware, trays, chinaware, glassware, and kitchen utensils. The FSMC will be responsible for correcting any discrepancies and any equipment repairs that are not the result of normal wear and tear within 30 days of the end-of-the-school-year inventory.

9.5 The SFA shall repair and service equipment except when damages result from the use of less-than-reasonable care by the FSMC employees or agents as determined by the SFA. When damage results from less-than-reasonable care on the part of any FSMC employees or agents, it will be the FSMCs responsibility to repair and service the damaged equipment, incurring all applicable fees and costs, within a reasonable timeframe to ensure no disruption in service.

9.6 The SFA reserves the right, at its sole discretion, to use its facilities to sell or dispense any food or beverage before or after regularly scheduled lunch or breakfast periods provided such use does not interfere with the operation of the Child Nutrition Programs.

9.7 The SFA shall return facilities and equipment to the FSMC in the same condition as received when the SFA uses the facilities for extra-curricular activities.

9.8 The FSMC shall maintain the inventory of expendable equipment necessary for the food service operation and at the inventory level as specified by the SFA.

9.9 The SFA shall be legally responsible for any losses of USDA Foods which may arise due to equipment malfunction or loss of electrical power not within the control of the FSMC.

9.10 The FSMC and/or its employees or agents shall not remove equipment or property of the SFA from the SFA's premises including, but not limited to, food preparation and/or serving equipment.

9.11 The FSMC shall provide written notification to the SFA of any equipment belonging to the FSMC within ten days of its placement on SFA premises.

9.12 The SFA shall not be legally responsible for loss or damage to equipment and/or vehicles owned by the FSMC and located on SFA premises.

9.13 The SFA shall provide sanitary toilet facilities for the FSMC employees.

9.14 The SFA shall have access, with or without notice to the FSMC, to all SFA facilities used by the FSMC for inspection and audit purposes.

9.15 The FSMC shall surrender all equipment and furnishings in good repair and condition to the SFA upon termination of the Contract, reasonable wear and tear excepted.

9.16 The SFA must give prior approval and have final authority for the purchase of equipment used for the storage, preparation, serving, or delivery of school meals.

9.17 The SFA retains title to all property and equipment when placed in service. If the property and/or equipment is amortized through the FSMC and the Contract expires or is terminated, the SFA can return the property to the FSMC for full release of the unpaid balance or continue to make payments in accordance with amortization schedules.



10.1 The FSMC shall place garbage and trash in containers as specified by the SFA and place them in designated areas.

10.2 The SFA shall remove all garbage and trash from the designated areas.

10.3 The FSMC shall clean the kitchen area including, but not limited to, sinks, counters, tables, chairs, flatware, and utensils.

10.4 The FSMC shall operate and care for all equipment and food service areas in a clean, safe, and healthy condition in accordance with standards acceptable to the SFA and comply with all applicable laws, ordinances, regulations, and rules of federal, state, and local authorities.

10.5 The SFA shall clean grease traps, walls, floors, light fixtures, window coverings, and ducts and hoods above the filter line.

10.6 The SFA shall provide extermination services as needed.

10.7 The SFA shall clean the dining/cafeteria area, including tables, chairs, and floors after the meal service.

## **SECTION 11 EMPLOYEES**

11.1 The FSMC shall comply with all wage and hours of employment regulations of federal and state law.

11.2 The FSMC shall pay all FSMC employees in accordance with the Fair Labor Standards Act and any other applicable statutes.

11.3 The FSMC and SFA recognize that one of the most important elements of a successful food service program is the staff employed to administer the food service program. The FSMC shall be responsible for the employment of all staff necessary for the safe, timely, and efficient distribution of meals to students and members of the SFA staff.

11.4 The FSMC shall instruct its employees to abide by the policies, rules, and regulations, with respect to use of SFA premises, as established by the SFA and furnished in writing to the FSMC.

11.5 The FSMC shall provide the SFA with a list of its personnel policies and employee handbook.

11.6 The FSMC shall ensure, at its own expense, required fingerprint-based criminal history record checks are conducted on all FSMC employees assigned to the SFA and results are provided to the SFA per the Jessica Lunsford Act, section 1012.32, Florida Statutes.

11.7 The SFA shall submit to the FSMC a current schedule of employees, positions, assigned locations, hours of work, wages and benefits (as applicable) on Exhibit F which must be used for proposal calculation purposes.

11.8 The FSMC shall maintain the same minimum level of employee positions, hours, wages, and benefits as stipulated on Exhibit F throughout the entire Contract Term, and each subsequent Contract Term, as applicable, unless a reduction in the required levels is authorized by the SFA. The FSMC shall provide the SFA with written notice of any increases in employee positions, hours, wages, and benefits.

11.9 In the event a reduction in employee positions, hours, wages, and/or benefits occurs and such reduction is authorized by the SFA, the FSMC shall credit the SFA's monthly bill/invoice for the exact dollar amount related to the cost of the labor reduction as indicated on Exhibit F for the remainder of the

Contract Term, including the value of any subsequent and future increases in employee wages and benefits. Such credits shall be termed a Labor Reduction Fee.

11.10 The FSMC must ensure that the employees' hours listed on Exhibit F are not used for catering or special functions.

11.11 Upon written request of the SFA, the FSMC will remove any FSMC employee who violates health requirements or conducts himself/herself in a manner which is detrimental to the physical, mental, or moral well-being of students or staff, or otherwise violates SFA policies, procedures, and practices.

11.12 In the event of the removal or suspension of any employee, the FSMC shall immediately restructure its staff without disruption in service.

11.13 All food service personnel assigned to each school shall be instructed on the use of all emergency valves, switches, and fire and safety devices in the kitchen and cafeteria areas.

11.14 The use of student workers or students enrolled in vocational classes in the food service operation shall be mutually agreed upon.

11.15 The FSMC shall provide daily, on-site supervisory personnel dedicated solely to the SFA, for the overall food service operation.

11.16 The FSMC shall conduct civil rights training for all food service employees, including front-line staff, on an annual basis. Civil rights training must include:

- Collection and use of data,
- Effective public notification systems,
- Complaint procedures,
- Compliance review techniques,
- Resolution of noncompliance,
- Requirements for reasonable accommodation of persons with disabilities,
- Requirements for language assistance,
- Conflict resolution, and
- Customer service.

11.17 The FSMC shall conduct periodic training on various food service operations related topics for all food service employees.

## **SECTION 12**

### **DESIGNATION OF PROGRAM EXPENSE**

12.1 The FSMC guarantees to the SFA that the proposal meal rates and fees for each reimbursable school meal and a la carte equivalent shall include the expenses designated under Column I. The FSMC shall be responsible for negotiating/paying all employees' fringe benefits, employee expenses, and accrued vacation and sick pay for staff on their payroll.

12.2 The SFA shall pay those expenses designated under Column II.

Column I Column II

LABOR

Payroll, Managers, and/or Supervisors X

Payroll, Full-, and Part-Time Workers X  
Payroll,  
Ticket Sellers X \_ 16 | Page

Cashiers X

Drivers X

EMPLOYEE BENEFITS/COSTS—TO BE PAID BY PARTY DESIGNATED AS EMPLOYER.

MAY INCLUDE, BUT NOT LIMITED TO:

Life Insurance, Medical/Dental Insurance X \_

Retirement Plans, Social Security X \_

Vacation, Sick Leave, Holiday Pay X \_

Uniforms, Tuition Reimbursement X

Labor Relations X \_

Unemployment Compensation, Workers

Compensation X \_

Processing and Payment of Payroll X \_

FOOD

Food Products X \_

Commodity Delivery X \_

Commodity Freight/Handling Costs X \_

Food Storage/Warehouse X \_

OTHER EXPENSES

Accounting

Bank Charges X \_

Data Processing X \_

Record Keeping X \_

Processing and Payment of Invoices X \_

Equipment—Major

Original Purchase X \_

Routine Maintenance X \_

Major Repairs X \_

Replacement X \_

Equipment—Expendable (Trays, tableware,  
glassware, utensils)

Original Purchase X \_

Replacement X \_

Cleaning/Janitorial Supplies X \_

Insurance

Liability Insurance X \_

Insurance on Supplies/Inventory X \_

Laundry and Linen X \_

Office Materials X \_

Paper/Disposable Supplies X \_

Pest Control X

Postage X \_

Printing X \_

Product Testing X \_

Promotional Materials X \_

Taxes and License X \_

Telephone

Local X \_

Long Distance X \_

Tickets/Tokens X \_ 17 | Page

Training X   
Transportation X   
Trash Removal  
From Kitchen X  
From School Premises X  
Travel  
Required X   
Requested X   
Vehicles X

## **SECTION 13**

### **FEES**

13.1 All proposals must be calculated based on the menu(s) in Exhibit B. All proposals shall be submitted using the *Proposal Summary* form attached herein. The proposal price(s) must not include the use of commodities or any alternate pricing structure. All rates must be written in ink or typed in the blank space(s) provided and the estimated totals must be carried out to the second decimal place and must not be rounded.

13.2 Gross Sales shall be remitted to SFA or deposited in the nonprofit food service account on a daily basis. FSMC shall be paid a fixed meal price for each Reimbursable Meal and Meal Equivalent provided by the FSMC under this Agreement.

13.3 The total cost shall include SFA's salary and benefits, indirect cost, commodity and other SFA cost. These are SFA direct pay items that must be funded from Food Service Program revenues, but are included in the Fixed Meal Price paid per meal to FSMC. A meal or meal equivalent shall be calculated as follows:

13.3.1 A student lunch includes: student reimbursable lunches and full-paid adult lunches are counted as one meal equivalent for each lunch served. A reimbursable student breakfast and full-paid adult breakfast are counted as (.50) meal equivalents for each breakfast served. A reimbursable student after school snack is counted as (.25) meal equivalents. A la carte food sales are converted to meal equivalents by dividing the total dollars of a la carte sales by three dollars (3.00).

13.4 The FSMC shall invoice the SFA at the end of each accounting period as determined by the SFA. Invoiced amounts shall be paid within 15 (days) after receipt of the invoice. Reconciliation shall be made for any over-payment or under-payment on the invoice for the next accounting period. Invoices to the SFA must include a statement that documentation is available at the SFA Food Service office or reasonably accessible to support the invoice and any auditing process. All clerical/recordkeeping requirements of the Food Service operation shall be completed by the staff, both SFA and FSMC, assigned to the SFA Food Service office. Upon termination of the Agreement all outstanding amounts shall be paid within thirty (30) days. In addition, FSMC and SFA shall perform a final reconciliation of the records and FSMC shall either invoice SFA for amounts due or refund SFA for any overpayment resulting from such reconciliation.

13.5 The FSMC shall receive no payment for meals that are spoiled or unwholesome at the time of serving, that do not meet the detailed specifications for each food component or menu item in accordance with 7 C.F.R. 210, or that do not otherwise meet the requirements of the contract.

13.6 The FSMC must subtract from the SFA's monthly bill/invoice the value of all USDA Foods received. Credit issued by the FSMC to the SFA for USDA Foods receipts shall be recorded on the monthly bill/invoice as a separate line item entry and shall be clearly identified and labeled.

18 | Page

13.7 The FSMC shall submit separate billing for special functions conducted outside of the nonprofit school food service account.

13.8 The fixed meal rate for meals must be calculated as if no USDA Foods were available.

## **SECTION 14**

### **REVENUE**

14.1 The SFA shall receive all revenue from the food service operation.

14.2 The food service revenue shall be used only for the SFA's nonprofit food service.

14.3 The food service revenue shall flow through the SFA's chart of accounts.

14.4 All goods, services, or monies received as the result of any equipment or government commodity rebate shall be credited to the SFA's nonprofit food service account.

14.5 If reimbursement is denied as a direct result of the failure of the FSMC to comply with the provisions of this Contract, the FSMC shall assume responsibility for the amount denied.

## **SECTION 15**

### **LICENSES, CERTIFICATIONS, AND TAXES**

15.1 Throughout the Term of the Contract and each renewal Term, the FSMC shall obtain and maintain all applicable licenses, permits, and health certifications required by federal, state, and local law.

15.2 The FSMC shall have state or local health certification for any facility outside the SFA in which it proposes to prepare meals, if applicable, and must maintain this health certification for each Contract Term.

15.3 The FSMC and all affiliates shall collect and remit Florida Use Tax on all sales of tangible personal property in the State of Florida in accordance with applicable state statutes.

## **SECTION 16**

### **RECORD KEEPING**

16.1 The FSMC shall maintain such records as the SFA will need to meet monthly reporting responsibilities and will report claim information, including daily meal counts, to the SFA promptly at the end of each month.

16.2 The FSMC shall have records maintained and available to demonstrate compliance with the requirements relating to USDA Foods. Such records shall include the following

16.2.1 The receipt, use, storage, and inventory of USDA Foods;

16.2.2 Monthly inventory reports showing all transactions for processed and non-processed USDA Foods; and

16.2.3 Documentation of credits issued to the SFA for USDA Foods received; and

16.2.4 Documentation of credits issued to the SFA for USDA Foods owned by the SFA prior to the contract execution date.

16.3 The FSMC shall retain all records relating to the initial contract and all subsequent renewals for a minimum of five (5) years or the longer of the retention periods required by

federal, state or local laws and regulations that govern the SFA regarding recordkeeping and records retention.

19 | Page

16.4 All records must be maintained for the longer of the retention periods specified above for the purpose of making audits, examinations, excerpts, and transcriptions by representatives of the SFA, the FDACS, the USDA, and the Auditor General, and other governmental entities with monitoring authority at any reasonable time and place. If audit findings have not been resolved, the records shall be retained beyond the specified period as long as required for the resolution of the issues raised by the audit.

16.5 The FSMC accepts liability for any over-claims due to FSMC negligence or noncompliance with regulations, including those over-claims based on review or audit findings.

## **SECTION 17 TERMS AND TERMINATION**

17.1 This Contract is effective for a one-year period, commencing \_\_\_\_08/10/2019\_\_\_\_ or upon written acceptance of the Contract, whichever occurs last, and ending \_\_\_\_\_08/09/2020\_ (“contract term” or “term”). This contract will be renewable on an annual basis, upon mutual agreement of the SFA and FSMC, for up to four (4) additional years (each year a “renewal term”).

17.2 Renewal of this Contract is contingent upon the fulfillment of all Contract provisions relating to USDA Foods.

17.3 Either the SFA or FSMC can terminate this Contract for cause or for convenience with a sixty- (60) day written notification. Following sixty- (60) day written notification, the SFA can terminate this Contract in whole or in part without the payment of any penalty or incurring any further obligation to the FSMC.

17.4 Following any termination for convenience, the FSMC shall be entitled to compensation for services completed upon submission of invoices and proof of claim for services provided under this Contract up to and including the effective date of termination. The SFA shall have the right to receive services from the Contractor through the effective date of the notice of termination, and may, at its election, procure such work from other contractors as may be necessary to complete the services.

17.5 Notwithstanding any provision to the contrary in this Contract, obligations of the SFA will cease immediately without penalty of further payment being required if sufficient funds for this Agreement are not appropriated by the Florida Legislature or a federal funding source, or such funds are otherwise not made available to the SFA for payments in accordance with this Contract.

17.6 Notwithstanding the notice period in paragraph 16.3, the SFA may immediately terminate the Contract, in whole or in part, upon notice to the FSMC if the SFA determines that the actions, or failure to act, of the FSMC, its agents, employees or subcontractors have caused, or reasonably could cause jeopardy to health, safety, or property; or if the SFA determines that the FSMC lacks the financial resources to perform under the Contract.

17.7 If the FSMC fails to perform to the SFA's satisfaction any material requirement of this Contract or is in violation of a material provision of this Contract, the SFA shall provide written notice to the FSMC requesting that the breach or noncompliance be remedied within sixty- (60) days. If the breach or noncompliance is not remedied by the specified period of time, the SFA may either: (a) immediately terminate the Contract without additional written notice or, (b)

enforce the terms and conditions of the Contract, and in either event seek any available legal or equitable remedies and damages. The SFA may finish the services by whatever method the SFA may deem expedient. Any damages incurred by the SFA as a result of any FSMC default shall be borne by the FSMC at its sole cost and expense, shall not be payable as part of the Contract amount, and shall be reimbursed to the SFA by the FSMC upon demand.

17.8 Neither the FSMC nor SFA shall be responsible for any losses resulting if the fulfillment of the terms of the Contract is delayed or prevented by wars, acts of public enemies, strikes, fires, floods, acts of God,

or any other acts which could not have been prevented by the exercise of due diligence (“Act of God”). The SFA may cancel the Contract without penalty if the FSMC’s performance does not resume within thirty (30) days of the FSMC’s interruption of services due to an Act of God.

17.9 The only rates and fees that may be renegotiated in subsequent years of this contract are the fixed rates and fixed fees contained herein. Before any fixed rate or fee increases can be implemented as part of a contract renewal agreement, the FSMC shall document to the SFA, through a written financial analysis, the need for such increases. Renegotiation of all fixed rates and fees in subsequent years of the contract must not exceed the *Consumer Price Index for Urban Consumers—Food Away From Home* annualized rate for December of the current school year. Individual per meal fixed rate and applicable fixed fee increases cannot exceed *the CPI Index* as stated above. Percentage increases cannot be applied to any previous year’s total estimated or actual contract cost. The calculation method regarding the determination of a la carte equivalents is outlined in the *Fees* section of this contract.

## **SECTION 18 GENERAL CONTRACT TERMS**

18.1 No provision of this Contract shall be assigned or subcontracted without prior written consent of the SFA.

18.2 This solicitation/Contract, exhibits, and attachments constitute the entire agreement between the SFA and FSMC and may not be changed, extended orally, or altered by course of conduct. No other contracts will be signed by the SFA.

18.3 Each party to this Contract represents and warrants to the other that: (a) it has the right, power and authority to enter into and perform its obligations under this Contract and (b) it has taken all requisite action (corporate, statutory or otherwise) to approve execution, delivery and performance of this Contract, and (c) this Contract constitutes a legal, valid and binding obligation upon itself in accordance with its terms.

18.4 Any silence, absence, or omission from the Contract specifications concerning any point shall be regarded as meaning that only the best commercial practices are to prevail, and all materials, workmanship, and services rendered shall be of a quality that would normally be specified by the SFA.

18.5 No course of dealing or failure of the SFA to enforce strictly any term, right, or condition of this Contract shall be construed as a waiver of such term, right, or condition. No express waiver of any term, right, or condition of this Contract shall operate as a waiver of any other term, right, or condition.

18.6 Payments on any claim shall not prevent the SFA from making claim for adjustment on any item found not to have been in accordance with the provisions of this Contract.

18.7 It is further agreed between the SFA and FSMC that the exhibits, attachments, and clauses attached and designated are hereby in all respects made a part of this Contract.

18.8 Minority-Owned Business Enterprise

Both parties agree to take affirmative steps to ensure that small businesses, minority-owned businesses and women's business enterprises are used whenever possible. Affirmative steps shall include the following:

18.8.1 Include qualified small businesses, minority-owned businesses and women's business enterprises on solicitation lists;

18.8.2 Assuring that small businesses, minority-owned businesses and women's businesses are solicited whenever they are potential sources;

18.8.3 When economically feasible, dividing total requirements into smaller tasks or quantities so as to permit maximum small businesses, minority-owned businesses and women's business participation;

18.8.4 Where the requirement permits, establishing delivery schedules which will encourage participation by small businesses, minority-owned businesses and women's businesses;

18.8.5 Using the services and assistance of the Small Business Administration and the Department of Commerce's Minority Business Development Agency in the solicitation and utilization of small businesses, minority-owned businesses and women's business enterprises.

18.9 The FSMC shall comply with the Title VI of the Civil Rights Act of 1964; USDA regulations implementing Title IX of the Education Amendments of 1972; Section 504 of the Rehabilitation Act of 1973; the Age Discrimination Act of 1975; 7C.F.R. Parts 15, 15a, and 15b; FNS Instruction 113-1, *Civil Rights Compliance and Enforcement—Nutrition Programs and Activities*; and any additions or amendments to such laws and regulations.

18.10 If this Contract is in excess of \$100,000, the SFA and FSMC shall comply with all applicable standards, orders, or regulations, including but not limited to:

- The Clean Air Act (42 U.S.C. § 7401 *et seq.*), the Clean Water Act (33 U.S.C. § 1251 *et seq.*), as amended, Executive Order 11738, and Environmental Protection Agency regulations (2 C.F.R. 1532);
- *Certification Regarding Lobbying* pursuant to 31 U.S.C. 1352 (Appendix A: 7 C.F.R. 3018); and
- *Disclosure of Lobbying Activities* pursuant to 31 U.S.C. 1352 (Appendix A: 7 C.F.R. 3018).

18.11 The FSMC will comply with:

- Energy Policy and Conservation Act (42 U.S.C. section 6201 *et seq.*);
- Sections 103 and 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 327-333), as supplemented by Department of Labor regulations (29 C.F.R. 5);
- Executive Order 11246, entitled *Equal Employment Opportunity*, as amended by Executive Order 11375 and Department of Labor Regulation (41 C.F.R. Chapter 60);
- Copeland "Anti-Kickback" Act (18 U.S.C. 874) as supplemented in Department of Labor regulations (29 C.F.R. Part 3); and
- Davis-Bacon Act (40 U.S.C. 276a to 276a-7) as supplemented by Department of Labor regulations (29 C.F.R. Part 5).

18.12 The FSMC is subject to the provisions of 7 U.S.C. section 2209d due to the use of federal funds for operation of the food service program. All announcements and other materials publicizing this program must include statements as to the amount and proportion of federal funding involved.

18.13 The FDACS and the USDA are not parties to this Contract and are not obligated, liable, or responsible for any action or inaction by the SFA or the FSMC. The SFA and the FSMC have full responsibility for ensuring the terms of the Contract are fulfilled

18.14 To the fullest extent permitted by law, the FSMC agrees to indemnify, defend, and hold harmless the SFA and its respective agents, officers and employees from and against any and all claims, demands, suits, liabilities, injuries (personal or bodily), property damage, causes of action, losses, costs, expenses, damages, or penalties, including, without limitation, reasonable defense costs, and reasonable legal fees, arising or resulting from, or occasioned by or in

connection with (i) any bodily injury or property damage resulting or arising from any act or omission to act (whether negligent, willful, wrongful, or otherwise) by the FSMC, its subcontractors, anyone directly or indirectly employed by them or anyone for whose acts they may be liable; (ii) failure by the FSMC or its subcontractors to comply with any Laws applicable to the performance of the Services; (iii) any breach of this Contract, including, without limitation, any representation or warranty provided by the FSMC herein; (iv) any employment

actions of any nature or kind including but not limited to, workers compensation, or labor action brought by the FSMC's employees; or (v) any identity breach or infringement of any copyright, trademark, patent, or other intellectual property right.

## **SECTION 19**

### **FOOD SPECIFICATIONS**

19.1 All USDA Foods offered to the SFA and made available to the FSMC are acceptable and should be utilized in as large a quantity as may be efficiently utilized.

For all other food components, specifications shall be as follows:

19.2 All breads, bread alternates, and grains must be whole grain-rich. All breads and grains must be fresh (or frozen, if applicable) and must meet the minimum weight per serving as listed on Exhibit C. If applicable, product should be in moisture-proof wrapping and pack-code date provided.

19.3 All meat and poultry must have been inspected by the USDA and must be free from off color or odor.

19.3.1 Beef must be at least 70:30 lean to fat, preferably 80:20 lean to fat.

19.3.2 Poultry should be U.S. Grade A when applicable and should meet the recommendations outlined in *Specifications for Poultry Products, A Guide for Food Service Operators* from the USDA.

19.3.3 For breaded and battered items, all flours must be enriched for breads/grains credit and breading/batter must not exceed 30 percent of the weight of the finished product.

19.3.4 For sausage patties, the maximum fat allowed is 50 percent by weight; industry standard of 38 to 42 percent fat preferred.

19.4 All cured processed meats (bologna, frankfurters, luncheon meat, salami, others) shall be made from beef and/or poultry. No variety meats, fillers, extenders, non-fat milk solids, or cereal will be allowed. Meats must not show evidence of greening, streaking, or other discoloration.

19.5 All cheese should be firm, compact, and free from gas holes; free of mold; free of undesirable flavor and odors; pasteurized when applicable; and preferably reduced- or low-fat. All cheese should also have a bright, uniform, and attractive appearance; have a pleasing flavor; demonstrate satisfactory meltability; and contain proper moisture and salt content.

19.6 All fish must have been inspected by the United States Department of Commerce (USDC) and meet minimum flesh and batter/breading requirements for a USDC Grade A product or a product packed under federal inspection (PUFI) by the USDC.

19.7 All fresh fruits must be ripe and in good condition when delivered and must be ready for consumption per the USDA *Food Buying Guide*. At a minimum, fruits must meet the food distributors' second-quality level. Fruits should have characteristic color and good flavor and be well-shaped and free from scars and bruises. Size must produce a yield equal to or greater than the attached 21-day cycle menu requirements.

19.8 All fresh vegetables must be ripe and in good condition when delivered and must be ready for consumption per the USDA *Food Buying Guide*. At a minimum, vegetables must meet the food distributors' second-quality level. Vegetables should have characteristic color and good flavor, be well

23 | Page

shaped, and free from discoloration, blemishes, and decay. Size must produce a yield equal to or greater than the attached 21-day cycle menu requirements.

19.9 All canned vegetables must meet the food distributors' first quality level (extra fancy and fancy) and should be low-sodium or no added salt.

19.10 All canned fruits must meet the food distributors' second quality level (standard). Fruit must be packed in juice, water or light syrup, and all frozen or dried fruit must have no added sweetener (nutritive or non-nutritive).

19.11 Eggs must be inspected and passed by the state or federal Department of Agriculture and used within 30 days of date on carton. Eggs should be grade A, uniform in size, clean, sound-shelled, and free of foreign odors or flavors.

19.12 Sauces, such as gravy, spaghetti sauce, pizza sauce, etc., must be smooth and uniform in color with no foreign substance, flavor, odor, or off color.

19.13 If applicable, the food production facility, manufacturing plant, and products must meet all sanitary and other requirements of the Food, Drug, and Cosmetic Act and other regulations that support the wholesomeness of products.

19.14 Meals and food items must be stored and prepared under properly controlled temperatures and in accordance with all applicable health and sanitation regulations.

19.15 All fruit juices must be 100 percent fruit juice.

19.16 When the specification calls for "Brand Name or Equivalent", the brand name product is acceptable. Other products may be considered with proof that such products meet stated specifications and are deemed equivalent to the brand products in terms of quality, performance, and desired characteristics, as determined by the SFA.

19.17 Food items must meet the sodium target level prescribed in 7 C.F.R. section 210.10 for the applicable school year.

19.18 Nutrition labels or manufacturer specifications must indicate zero grams of trans fat (less than 0.5 grams) per serving. Meats that contain a minimal amount of naturally-occurring trans fats are allowed in the school meal programs..

19.19 Fluid milk must be low-fat (1 percent milk fat or less, unflavored only) or fat-free (unflavored or flavored). Two choices must be offered daily as required by the SFA.

Sponsor Name: New Springs, Inc. DBA New Springs Schools Sponsor Number 01-1270

## **PROPOSAL SUMMARY**

### **Request for Proposal and Contract**

#### **Nonprofit School Food Service**

This document contains a proposal solicitation for the furnishing of management services for the operation of the nonprofit food service programs for the period beginning 08/10/2017 and ending 08/09/2018 and sets forth the terms and conditions applicable to the procurement. Upon acceptance, this document shall constitute the Contract between the FSMC and the SFA. The FSMC shall not plead misunderstanding or deception because of such estimate of quantities, or of the character, location, or other conditions pertaining to the proposal solicitation/Contract.

#### **MEAL RATES AND FEES MUST BE QUOTED AS IF NO USDA FOODS WILL BE RECEIVED**

1. All proposals must be calculated based on the menu(s) in Exhibit B. All proposals shall be submitted using the Proposal Summary form attached herein. The proposed price(s) must not include the use of USDA Foods or any alternate pricing structure. Proposals must be written in ink or typed in the blank space(s) provided.

2. Fixed Meal Prices for Reimbursable Meals and Meal Equivalent. FSMC shall be paid a fixed meal price (Fixed Meal Price) for each Reimbursable Meal and Meal Equivalent provided by the FSMC under this Agreement as follows:

#### Reimbursable Meals and Meal Equivalent Fixed Meal Price

All Reimbursable Meals and Meal Equivalent \$\_\_\_\_\_.\_\_\_\_\_

3. The total cost includes direct pay items that must be funded from Food Service Program revenues, but are included in the Fixed Meal Price paid per meal to FSMC, such as SFA's salary and benefits, indirect cost, commodity and other SFA costs.

4. A meal or meal equivalent shall be calculated as follows:

A lunch equivalent includes student reimbursable lunches and full-paid adult lunches, counted as one meal equivalent for each lunch served. A breakfast equivalent includes student reimbursable breakfasts and full-paid adult breakfasts, counted as (.50) meal equivalents for each breakfast served. An afterschool snack includes student reimbursable snacks, counted as (0.25) meal equivalents. A la carte food sales are converted to meal equivalents by dividing the total dollars of a la carte sales by three dollars (3.00).

(All totals must be carried out to the second decimal place and must not be rounded.)

Name of FSMC

Street Address

City State Zip Code

By submission of this proposal, the FSMC certifies that, in the event the FSMC receives an award under this solicitation, the FSMC shall operate in accordance with all applicable current program regulations. This 25 | Page

agreement shall be in effect for one year and may be renewed by mutual agreement for four additional one-year renewal terms.

Authorized FSMC Name Title

Authorized FSMC Signature Date

***ACCEPTANCE OF CONTRACT***

---

**Sponsor Number School Food Authority (SFA)**

---

**Signature of Authorized SFA Representative Title Date 26 | Page**

Florida Department of Agriculture and Consumer Services  
Bureau of General Services

**DRUG-FREE WORKPLACE PROGRAM  
BIDDER CERTIFICATION**

IDENTICAL TIE PROPOSALS - Preference shall be given to businesses with drug-free workplace programs. Whenever two or more Proposals which are equal with respect to price, quality, and service are received by the State or by any political subdivision for the procurement of commodities or contractual services, a proposal received from a business that certifies that it has implemented a drug-free workplace program shall be given preference in the award process. Established procedures for processing tie proposals will be followed if none of the tied vendors have a drug-free workplace program. In order to have a drug-free workplace program, a business shall:

- 1) Publish a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the workplace and specifying the actions that will be taken against employees for violations of such prohibition.
- 2) Inform employees about the dangers of drug abuse in the workplace, the business's policy of maintaining a drug-free workplace, any available drug counseling, rehabilitation, and employee assistance programs, and the penalties that may be imposed upon employees for drug abuse violations.
- 3) Give each employee engaged in providing the commodities or contractual services that are under Proposal a copy of the statement specified in subsection (1).
- 4) In the statement specified in subsection (1), notify the employees that, as a condition of working on the commodities or contractual services that are under Proposal, the employee will abide by the terms of the statement and will notify the employer of any conviction of, or plea of guilty or nolo contendere to, any violation of chapter 893 or of any controlled substance law of the United States or any state, for a violation occurring in the workplace no later than five (5) days after such conviction.
- 5) Impose a sanction on, or require the satisfactory participation in a drug abuse assistance or rehabilitation program if such is available in the employee's community, by any employee who is so convicted.
- 6) Make a good faith effort to continue to maintain a drug-free workplace through implementation of this section.

As the person authorized to sign the statement, I certify that this firm complies fully with the above requirements.

VENDOR'S SIGNATURE 27 | Page

**EXHIBIT A  
 SITE INFORMATION LIST  
 NATIONAL SCHOOL LUNCH PROGRAM**

Sponsor Name: New Springs Inc. DBA New Springs Schools

Sponsor	Enrollment	Grade Levels	Number of Days Meals Served	Average Daily Participation	Meal Type	Serving Times
Number 01- 1270 Site Name & Address Begin <b>New Springs Schools Inc.</b> 2410 E Busch Blvd Tampa, FL 33612	475	K-8	180	End 350	Breakfast & Lunch	B 7:30 AM L 10:30 AM B 7:50 AM L 1:00 PM