

SCHOOL NUTRITION PROGRAMS  
FOOD SERVICE CATERING PROGRAM

# Universal Academy

**REQUEST FOR PROPOSAL**

**AND**

**CONTRACT**

**2616 N. MacArthur Blvd. Irving, TX 75062**

**Contact:**

Andrea Butcher

Office: (972) 255-1800 Ext. 1010

**Physical Address**

2616 N. MacArthur Blvd., Irving TX, 75062

**Mailing Address**

2616 N. MacArthur Blvd., Irving TX, 75062

**In accordance with Federal law and United States Department of Agriculture policy, this Institution is prohibited from discriminating on the basis of race, color, national origin, sex, age, or disability. To file a complaint of discrimination, write U.S. Department of Agriculture, Director, Office of Adjudication and Compliance, 1400 Independence Avenue, SW, Washington, DC 20250-9410 or call (202) 260-632-9992 (toll free) or (202) 401-0216 (TTD). USDA is an equal opportunity provider and employer.**

## I. INTRODUCTION

This document contains a Request for Proposal for providing vended food services for Universal Academy School Food Authority's ("SFA") participation in the United States Department of Agriculture's School Nutrition Programs and sets forth the terms and conditions applicable to the proposed procurement. Upon acceptance, this document shall constitute the contract between the offertory and the SFA.

The Texas Department of Agriculture is not and will not be a party to any contract between a School Food Authority and a food service management company. The School Food Authority has full responsibility for ensuring that the terms of the contract are fulfilled. The Texas Department of Agriculture has no involvement with the enforcement of this contract; however, payment can be denied for all meals received/purchased under an invalid contract.

## II. REQUEST FOR PROPOSAL

### A. Legal Notice

Notice is hereby given that Universal Academy, hereinafter referred to as the School Food Authority (SFA), and intends to examine alternatives to its present food service program.

No intent should be construed from this legal notice that SFA intends to enter into a contract with any party for alternative food service unless, in the sole opinion of SFA, it is in SFA's best interest to do so.

All costs involved in submitting a response to this Request for Proposal (RFP) shall be borne in full by the interested party.

SFA reserves the right to accept any proposal which it determines most favorable to the interest of SFA and to reject any or all proposals or any portion of any proposal submitted which, in SFA's opinion, is not in the best interest of SFA.

The Offertory to this RFP will be referred to as the VENDOR, and any contract that may arise from this RFP will be between the VENDOR and the SFA.

### B. Request For Proposal

**Proposals will be received until 12:00 p.m. CST on Monday, June 28, 2021** for supplying UNIVERSAL ACADEMY (SFA) with food service catering services during the 2021-2022 school year.

SFA requires a **fixed meal rate proposal** to include all aspects and details needed for meals.

**Sealed proposals** are subject to all the conditions and specifications attached hereto and will be received in the office of UNIVERSAL ACADEMY and shall be marked on the envelope "***Vended Meals Food Service Proposal***", and also marked on the envelope the bidder's return address.

In accepting proposals, SFA reserves the right to reject any and all proposals and to waive any minor informality in order to take the action which it deems to be in the best interest of SFA.

Additional information required to adequately respond to this **RFP** may be obtained by contacting **Andrea Butcher at (972) 255-1800 Ext. 1010.**

Offertory must submit a complete response to this RFP, including all certifications, in order to provide a responsive proposal.

Contracts entered into on a basis of submitted proposals are revocable if contrary to law.

In accordance with Federal law and U.S. Department of Agriculture policy, this institution is prohibited from discriminating on the basis of race, color, national origin, sex, age or disability.

To file a complaint of discrimination, write USDA, Director, Office of Adjudication and Compliance, 1400 Independence Avenue, SW, Washington, D.C. 20250-9410 or call **(202) 260-1026, (866) 632-9992 (toll free) or (202) 401-0216 (TTD).** USDA is an equal opportunity employer.

See Standard Terms and Conditions herein below.

### **C. Procurement Method**

Procurement Method will be the Competitive Sealed Proposal. Competitive Sealed Proposals differ from the traditional sealed bid method in the following ways:

- Competitive sealed proposals allow discussions with competing offertory and adjustments to the initial proposal.
- Comparative judgmental evaluations may be made when selecting among acceptable proposals for award of contract.

As provided herein, under state regulations and SFA's policy, discussions may be conducted with responsible offertories who submit proposals determined to be reasonably susceptible to be selected for award, for the purpose of clarification, to assure full understanding of all terms and conditions of the response to this RFP and Contract's requirements. In conducting these discussions, there shall be no disclosure of any information derived from proposals submitted by competing offertory.

All procurement transactions shall be conducted in a manner that provides maximum open and free competition consistent with 7 CFR § 3016.36.

#### **D. Proposal Submission and Award**

SFA must use the prototype VENDOR RFP and Contract to be approved.

Two copies of Competitive Sealed Proposals are to be submitted to:

UNIVERSAL ACADEMY  
Attention: Andrea Butcher  
2616 N. MacArthur Blvd  
Irving, TX 75062

Please note that an electronic version of the vendors' RFP will be requested and necessary within 48 hours after the sealed proposal opening.

Opening will be **at 12pm CST on June 29, 2021**. Proposals will not be accepted after this time. Proposal is to be submitted in a sealed envelope marked "***Vended Meals Food Service Proposal.***"

#### **Timeline of Process:**

- 1) Monday, June 14, 2021: Publication of RFP
- 2) Monday, June 28, 2021 12pm CST: Proposals Due
- 3) Tuesday, June 29, 2021 12pm: Proposals Opened and Scored
- 4) Wednesday, June 30, 2021: Board Decision
- 5) Thursday, July 1, 2021: Alert winning vendor

SFA reserves the right to accept any proposal which it deems most favorable to the interest of SFA and to reject any or all proposals or any portion of any proposal submitted which, in SFA's opinion, is not in the best interest of SFA.

To be considered, each offeror must submit a complete response to this solicitation **using the forms provided**. No other documents submitted with the RFP and Contract will affect the Contract provisions, and **there may be no modifications to the RFP and Contract language**. In the event that Offeror modifies, revises, or changes the RFP and/or Contract in any manner, SFA may reject the offer as non-responsive.

Award will be made only to a qualified and responsible offeror whose proposal is responsive to this solicitation. A responsible offeror is one who's financial, technical, and other resources indicate an ability to perform the services required. Offeror shall submit for consideration such records of work and further evidence as may be required by the SFA's Board of Trustees. Failure to furnish such records and evidence, or the inclusion of any false or misleading information therein shall be sufficient cause for the rejection of the proposal or termination of any subsequent contract.

The qualification data shall be submitted by each offerory along with the sealed proposal, and shall include the information and format as follows:

- Offerory must be incorporated or licensed to do business in all counties in the State of Texas.
- Offerory must be able to supply and install needed meal equipment (self-contained freezers, convection/warming ovens, 1 or 2 door refrigerators, etc.) at each school under the **UNIVERSAL ACADEMY** banner or else provide an alternative reasonable solution to provide quality meals to students. For this RFP, this represents 1 LOCATION.
- If offerory is doing business with like-school systems and is familiar with the regulations pertaining to operations in such environments, offerory will receive points for that experience in the evaluation of the weight criteria.
- If offerory is presently operating a comparable, successful National School Lunch Program (NSLP) and School Breakfast Program (SBP) in a school setting, offerory will receive points for that experience in the evaluation of the weight criteria.

Offerory or their authorized representatives are expected to fully inform themselves as to the conditions, requirements, and specifications before submitting proposals; failure to do so will be at the offeror's own risk, and he or she cannot secure relief on plea of error. The SFA is not liable for any cost incurred by the offerory in submitting a proposal.

If additional information is requested, please contact **Andrea Butcher at [Andrea.Butcher@universalacademy.com](mailto:Andrea.Butcher@universalacademy.com)**. Any additional information provided to one offerory will be available to all.

#### **E. Late Proposals**

Any proposal submitted after the time specified for receipt will not be considered and will be returned unopened.

#### **F. Altering, Amending or Withdrawing Proposal**

No proposal may be altered, amended or withdrawn after specified time for opening proposals.

#### **G. Calculation of Time**

Periods of time, stated as a number of days, shall be calendar days.

#### **H. Firm Offer**

By submitting a response to this RFP, and if such response is not withdrawn prior to the time for opening proposals arrives, offerory understands and agrees that they are making a firm offer to enter into a contract, which may be accepted by SFA and which will result in a binding contract.

#### **I. Final Contract**

The complete contract includes all documents included by the SFA in the RFP, and all documents submitted by the VENDOR that have been mutually agreed upon by both parties (i.e. worksheets, attachments, and operating cost sheets) and identified in Section III, Part R, Paragraph 4 of the Standard Terms and Conditions.

### III. STANDARD TERMS AND CONDITIONS

#### A. Definitions

The following definitions shall apply within this document and its attachments:

1. “Accounting Periods” means each month.
2. “Effective Date” means no later than **July 1, 2021**.
3. “Fixed Fee” means an agreed upon amount per meal that is fixed at the inception of the contract
4. “VENDOR’s Proposal” means Food Service Company’s response to the RFP and Contract.
5. “Program(s)” or “Child Nutrition Program(s)” means the USDA Child Nutrition Programs in which SFA participates.
6. “Proposal” means Catering Company’s response to the RFP and Contract.
7. “RFP” means SFA’s Request for Proposal and Contract, and all of its attachments.
8. “SFA” or “School Food Authority” means the school food authority as defined in 7 CFR § 210.2.
9. “SFA’s Food Service Program” means the preparation and service of food to SFA’s students, staff, employees and authorized visitors, including the following programs: the National School Lunch Program (NSLP), School Breakfast Program (SBP) and/or Universal Free Breakfast Program.
10. “SFA’s Food Service Location(s)” means the schools or other locations where Program meals are served to SFA’s school children.
11. “TDA” means the Texas Department of Agriculture.
12. “USDA” means United States Department of Agriculture, Food and Nutrition Service.

## B. Scope and Purpose

1. Duration of Contract. Unless it is terminated in accordance with Section III, paragraph L, this Contract will be in effect for a period commencing on or before **July 1, 2021** and terminating on **June 30, 2022**, with the option to renew this contract up to three additional 1-year terms. If mutually agreed upon this contract may be renewed for up to THREE annual terms.

2. During the term of this Contract, VENDOR shall provided meals to the SFA's Food Service Program in conformance with SFA's agreement with the Texas Department of Agriculture's (TDA) Food and Nutrition Division (FND)

3. VENDOR shall provide meals and/or snacks to the programs checked below at the sites specified by SFA in the Schedule of Food Service Locations and Services provided which is attached to this Contract as "Exhibit A" and fully incorporated herein.

National School Lunch Program (NSLP)

School Breakfast Program (SBP)

Breakfast in the Classroom

4. The VENDOR shall be an independent contractor and not an employer of the SFA. The employees of the VENDOR are not employees of the SFA.

5. SFA and VENDOR agree that this Contract is neither a *cost-plus-a-percentage-of-income* nor a *cost-plus-a-percentage-of-cost* contract as required under United States Department of Agriculture (USDA) Regulations 7 CFR §210.15© and 7 CFR §3016.

6. SFA shall be legally responsible for the conduct of SFA's Food Program and shall supervise the food service operations in such manner as will ensure compliance with all applicable statutes, regulations, rules and policies including regulations, rules, and policies of TDA and USDA regarding the School Nutrition Program.

7. SFA shall be responsible for ensuring the resolution of Program reviews and audit findings. VENDOR shall fully cooperate with SFA in resolving review and audit issues, and VENDOR shall indemnify SFA for any fiscal action, claims, losses or damages, fault, fraud required repayment or restoration of funds, including reasonable attorney's fees incurred in defending or resolving such issues, that results from VENDOR's intentional or negligent acts.

8. SFA shall monitor the meal preparation and service of the VENDOR through periodic onsite visits to ensure that the food service is in conformance with the USDA program regulations. {7 CFR § 210.15(a) (3)}

9. VENDOR shall maintain all records necessary, in accordance with applicable regulations, for SFA, TDA and USDA to complete required monitoring activities and must make said records available to SFA, TDA, and USDA upon request for the purpose of auditing, examination and review. {7 CFR § 210.16(c) (1)}

10. Payments on any claim shall not preclude SFA from making a claim for adjustment on any item found not to have been in accordance with the provision of this RFP and Contract and bid specifications.

11. VENDOR shall comply with applicable federal, state and local laws, rules and regulations, policies, and instructions of TDA and USDA and any additions or amendments thereto, including USDA Regulation 7 CFR Parts 210, 220, 245, 250, 3016, 3017, 3018, and 3019; 7 CFR Part 215 (SMP), if applicable ; and 7 CFR Part 225 (SFSP), if applicable; 7 CFR Part 226 (CACFP) and OMB Circulars, and the other laws described in the “Schedule of Applicable Laws,” which is attached to this Contract as “Exhibit G” and fully incorporated herein by reference.

12. Any changes to the terms or conditions of this Contract, which are required by Federal or State law or rule, or changes to Federal or State laws or rules, are automatically incorporated herein, effective as of the date specified in such law or rule.

### C. Food Service

1. VENDOR shall provide meals on such days and at such times as requested by the SFA.
2. VENDOR shall provide meals that meet the menu-planning option selected below by the SFA:

- Traditional Food-Based
- Nutrient Standard Menu Planning

- a. VENDOR shall provide **flash frozen or fresh foods each day/week** specified type breakfast/lunch meals to be served in the schools/sites listed in Exhibit A.
- b. VENDOR shall provide options for veggie/halal meal entrees to help meet the needs of the SFA’s student population.

2. VENDOR shall make substitutions in the food components of the meal pattern for students with disabilities when their disability restricts their diet as stated in the students' Individual Educational Plans (IEPs) or 504 Plans and those nondisabled students who are unable to consume regular breakfast or lunch because of medical or other special dietary needs. Substitutions shall be made on a case-by-case basis when supported by a statement of the need for substitutes that includes recommended alternative foods, unless otherwise exempted by USDA. Such statement shall be signed by a medical doctor or a recognized medical authority. There will be no additional charge to the student for such substitutions.

3. VENDOR shall make substitutions for fluid milk for non-disabled students who cannot consume fluid milk due to medical or special dietary needs. Substitutions shall be made when a medical authority or student's parent or legal guardian submits a written request for a fluid milk substitute identifying the medical or other special dietary need that restricts the student's diet. Approval for fluid milk substitutions shall remain in effect until the medical authority or the student's parent or legal guardian revokes such request in writing, or SFA changes its substitution policy for non-disabled students. Fluid milk substitutes shall provide nutrients as required by federal and state regulations. There will be no additional charge to the student for such substitutions. {Reference 7 CFR § 210.10(g) and 7 CFR § 220.8}

#### **D. Use of Advisory Group/Menus**

1. SFA shall establish and the VENDOR shall participate in the formation, establishment, and periodic meetings of the SFA advisory board composed of students, teachers, and parents to assist in menu planning, if requested. {Reference 7 CFR § 210.16(a) (8)}

2. VENDOR shall serve meals that follow at least a **15-day menu cycle** that meet the food specifications contained in Food Specifications, which is attached to this Contract as "Exhibit E" and fully incorporated herein, and that meet School Nutrition Program requirements. SFA and VENDOR shall agree to Meal Specifications for each meal included in the 15-day cycle menus. At minimum, such Meal Specifications shall include: (i) a recipe for each menu item that includes the total yield, portion size, ingredients and all USDA required nutrient information; (ii) the identity of all branded items that may be used in the meal; and (iii) whenever possible, the grade style and

condition of each food item and other information that indicates the acceptable level of quality for each food item. A hard copy of these recipes shall be kept on file at SFA.

3. Any changes or variances requested by VENDOR substitutions to SFA menu of lower quality food items shall be justified and documented in writing. VENDOR must maintain documentation for substitutions and justification of lower quality food items for the records retention period that is applicable to food production records and shall make such documentation available to SFA, TDA and USDA for review upon request. {7 CFR 210.16(b) (1)}

### E. Purchases

1. Whether SFA conducts its own procurement or whether VENDOR procures products on behalf of SFA, VENDOR may not require any additional liability coverage, regardless of dollar value, beyond that which SFA would require under procurements not involving VENDOR.

2. SFA must check one of the purchasing options stated herein below [Note: SFA may not change the purchasing option once it has issued its RFP. Any change would be considered material and require SFA to either begin its procurement process again so that all bidders have the same opportunity or require SFA to pay VENDOR using funds other than School Nutrition funds.]

- a.  SFA will do all purchasing for School Nutrition Program.
- b.  Except for Section O, Paragraph 2, SFA will do all purchasing for CNP.
- c.  For Fixed-Price Per Meal Contracts: VENDOR will do all purchasing for CNP.

3. SFA and VENDOR acknowledge that, to the extent required by 7 CFR § 250.23, SFA must, whenever possible, purchase only food products that are produced in the United States.

4. SFA and VENDOR acknowledge that to the extent required by Texas Education Code § 44.042(a), unless preempted by federal law or regulations, SFA or VENDOR, if box “c” has been checked in paragraph 3 herein above, **shall purchase agricultural products produced, processed or grown in Texas if the cost and quality are equal.**

The availability of Texas products is expected by SFA. The farm to school relationship should be enhanced, encouraged and supported by a vendor supplying goods to SFA. Therefore, SFA will always give preference to items that can be delivered within 24 hours of harvest or production. It is

encouraged that the VENDOR submit a list of locally grown, processed, and manufactured items available through them for consideration on a regular basis. The products must be labeled and a good faith effort put forward by VENDOR to purchase local first when available. In keeping with our mission of establishing relationships, we advocate for a fair price to be paid to farmers to help make this important segment of our business sustainable.

#### **F. USDA-Donated Foods**

1. SFA shall retain title to all USDA-donated foods.
2. VENDOR will conduct all activities relating to donated foods for which it is responsible in accordance with 7 CFR Parts 250, 210, 220, 225 and 226, applicable.
3. SFA shall assure that the maximum amount of USDA-donated foods are received and utilized by VENDOR. {7 CFR § 210.9(b) (15)}
4. SFA shall ensure that VENDOR has credited it for the value of all USDA-donated foods received for use in SFA's meal service in the school year. {7 CFR § 250.15(a)}
5. SFA shall maintain responsibility for procuring processing agreements, private storage facilities, or any other aspect of financial management relating to commodities. (7 CFR § 250.15)
6. VENDOR shall accept and use all donated ground beef products, and all processed end products, without substitution, in SFA's Food Service Program. Upon termination of this Contract, VENDOR must return all unused donated ground beef and processed end products to SFA. 7 CFR § 205.52(c)
7. VENDOR further agrees to accept and use all other donated foods in SFA's food service. VENDOR may use substituted commercially purchased foods of the same generic identity, of U.S. origin, and of equal or better quality than the USDA-donated foods, in SFA's Food Service Program.

SFA shall consult with the VENDOR in the selection of commodities; however, the final determination as to the acceptance of commodities must be made by the SFA.

Upon termination of this Contract, VENDOR must, at SFA's discretion, return other unused USDA-donated foods to SFA. The value of other unused USDA-donated foods shall be based on the market value of all USDA-donated commodities received for use in SFA's food service. Market value shall be the value in USDA's Electronic Commodity Ordering System at the time the USDA-donated foods are received by SFA. {7 CFR § 250.51(a)}

1. VENDOR is prohibited from entering into any processing contracts utilizing USDA-donated foods on behalf of the SFA. VENDOR agrees that any procurement of end products by VENDOR on behalf of SFA will be in compliance with the requirements in subpart C of 7 CFR Part 250 and with the provisions of SFA's processing agreements. VENDOR shall credit SFA for the value of USDA-donated foods contained at the processing agreement value. All refunds received from processors must be credited to SFA's Nonprofit School Food Service Account. {7 CFR § 250.51 (a)}

2. VENDOR shall accept liability for any negligence on its part that results in any loss of, improper use of, or damage to USDA-donated foods.

3. VENDOR shall credit SFA for the value of all USDA-donated foods received for the use in SFA's meal service in the school year, including both entitlement and bonus foods, and including the value of USDA-donated foods contained in processed end products. The manner in which VENDOR shall account for the value of USDA-donated foods is (7 CFR § 250.51):

Fixed meal rate: VENDOR must subtract from SFA's monthly bill/invoice the market value of all USDA-donated commodities received for use in SFA's food service. The market value is based on the value in USDA's Electronic Commodity Ordering System at the time the USDA-donated foods are received by the SFA.

VENDOR prohibited from cashing out USDA-donated foods and providing a credit to SFA for USDA-donated foods. {7 CFR § 250.13}

4. VENDOR will comply with 7 CFR § 250 concerning storage and inventory management of USDA-donated foods. VENDOR will maintain accurate and complete records with respect to the receipt, use/disposition, storage, and inventory of USDA-donated foods. Failure by VENDOR to maintain the required records under this Contract shall be considered prima facie evidence of improper distribution or loss of USDA-donated foods.

5. VENDOR shall allow SFA and/or any state or federal representative or auditor, including the Comptroller General and USDA, or their duly authorized representatives, to perform onsite reviews of VENDOR's food service operation, including the review of records, to ensure compliance with requirements for the management and use of USDA-donated foods. {7 CFR § 250.53(a) (10)}

6. VENDOR shall maintain records to document its compliance with requirements relations to USDA-donated foods in accordance with 7 CFR § 250.54(b). {7 CFR § 250.53(a) (11)}

7. In a Fixed-meal rate contract, the bid rate per meal must be calculated as if no USDA-donated commodities were available.

8. VENDOR acknowledges that renewal of this Contract is contingent upon the fulfillment of all contract provisions herein relating to USDA-donated foods. (7 CFR § 250.53(a) (12))

### **G. Employees**

1. SFA intends to provide all employees to prepare and serve food and VENDOR shall provide and pay staff to deliver food to the SFA's campuses. SFA will provide individuals to complete POS. VENDOR will be asked to provide a rate for employees, in case needed.

2. VENDOR shall provide Workers Compensation coverage for its employees, as required by law.

3. VENDOR shall instruct its employees to abide by the policies, rules, and regulations with respect to use of SFA's premises as established by SFA and which are furnished in writing to VENDOR.

4. VENDOR will remove any employee who violates health requirements or conducts himself or herself in a manner that is detrimental to the well-being of the students, provided such request is not in violation of any federal, state or local employment laws. In the event of the removal or suspension of any such employee, VENDOR shall immediately restructure the food service staff to avoid disruption of service.

5. VENDOR shall cause all of its employees assigned to duty on SFA's premises to submit to health examinations as required by law, and shall submit satisfactory evidence of compliance with all health regulations to SFA upon request.

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

7. To the extent and in the manner required by state law, VENDOR shall perform a security (background) check on any VENDOR employee that will be working with SFA.

8. VENDOR shall not blacklist or require a letter relinquishment or publish or cause to be published or blacklisted any employee of VENDOR or SFA discharged from or voluntarily leaving the service of VENDOR or SFA with intent of and for the purpose of preventing such employee from engaging in securing or other employment from any other corporation, company or individual.

## **H. Use of Facilities, Inventory, Equipment, and Storage**

1. SFA will make available, without any cost or charge to VENDOR, area(s) of the premises in which VENDOR shall render its services. SFA shall have full access to the food service facilities at all times and for any reason, including inspection and audit.

2. At the commencement, termination or expiration of this Contract, VENDOR and SFA shall take a physical inventory of all non-expendable supplies and capital equipment owned by SFA, including but not limited to, silverware, trays, chinaware, glassware and kitchen utensils and all furniture, fixtures, and dining room equipment utilized in SFA's Food Service Program. VENDOR and SFA shall mutually agree on the usability of such supplies and equipment and, at the expiration or termination of this Contract, VENDOR shall surrender to SFA all non-expendable supplies and capital equipment in the condition in which it was received except for ordinary wear and tear, damage by the elements and except to the extent that said premises or equipment may have been lost or damaged by vandalism, fire, flood or other acts of God, or theft by persons other than employees of VENDOR except through the negligence of VENDOR or its employees, or for any other reason beyond the control of VENDOR. VENDOR and SFA will sign a summary of the beginning inventory at the commencement and at the expiration or termination of this Contract and keep a copy of each on file with this Contract.

3. At the commencement and at the expiration or termination of this Contract, VENDOR and SFA shall jointly undertake a beginning and closing inventory of all supplies. Commodities shall also be inventoried by a separate inventory. VENDOR and SFA shall determine whether any portion of the beginning inventory is not suitable for SFA's continued use. Such inventory, when completed, shall become a part of this Contract by incorporation. VENDOR shall be responsible for accounting for any difference between the beginning inventory and the ending inventory and shall compensate SFA for any shortfall in inventory not arising from: (1) normal wear and tear; or (2) theft, fire or other casualty loss beyond the control of VENDOR and not arising from the negligence of VENDOR or its agents. The value of the inventories, except for commodities inventories, shall be determined by invoice cost. The value of commodities shall be the market value, which is the value in USDA's Electronic Commodity Ordering System (ECOS) at the time the USDA-donated foods are received by SFA.

4. During the course of this Contract, title to all SFA food and supplies shall remain in SFA.

5. VENDOR shall maintain the inventory of silverware, chinaware, kitchen utensils and other operating items necessary for the food service operation and at the inventory level as specified by SFA.
6. SFA will replace expendable equipment and replace, repair and maintain nonexpendable equipment except when damages result from the use of less than reasonable care by the employees of VENDOR.
7. VENDOR shall maintain adequate storage procedures, inventory and control of USDA-donated foods in conformance with SFA's agreement with TDA.
8. VENDOR shall provide SFA with keys for all food service areas secured with locks.
9. SFA shall provide VENDOR with local telephone service.
10. SFA shall provide water, gas and electric service for the food service program.
11. SFA shall furnish and install any equipment and/or make any structural changes to the facilities needed to comply with federal, state, or local laws, ordinances, rules and regulations.
12. SFA shall be responsible for any losses, including USDA-donated foods, which may arise due to equipment malfunction or loss of electrical power not within the control of VENDOR.
13. VENDOR shall not remove any food preparation and serving equipment owned by SFA from SFA's premises.
14. SFA shall not be responsible for loss or damage to equipment owned by VENDOR and located on SFA premises.
15. VENDOR shall notify SFA of any equipment belonging to VENDOR on SFA premises within ten days of its placement on SFA premises.
16. VENDOR shall comply with all SFA building rules and regulations.
17. VENDOR shall not use SFA's facilities to produce food, meals or services for third parties without the approval of SFA. If such usage is mutually acceptable, there shall be a signed agreement that stipulates the fees to be paid by VENDOR to SFA for such facility usage. Such usage may not result in a cost to the Non-profit Food Service Account.
18. SFA, on the termination or expiration of this Contract, shall conduct a physical inventory of all equipment, food and supplies owned by SFA.
19. Upon termination of this Contract, VENDOR shall surrender to SFA all of SFA's equipment and furnishings used in SFA's Food Service Program in good repair and condition, reasonable wear and tear excepted.

## **I. Health Certifications/Food Safety/Sanitation**

1. SFA shall maintain, in the storage preparation and service of food, proper sanitation and health standards in conformance with all applicable State and local laws and regulations and comply with the food safety inspection requirement of § 210.13(b). {7 CFR § 210.9(b) (14)}
2. VENDOR shall maintain all State of Texas and local health certification for any facility outside the school in which it proposes to prepare meals and shall maintain this health certification for the duration of this Contract. {7 CFR § 210.16(c) (2)}
3. SFA shall obtain and post all licenses and permits as required by federal, state, and/or local law.
4. SFA/VENDOR shall comply with all State of Texas and local and sanitation requirements applicable to the preparation of food. {7 CFR § 210.16(a) (7)}
5. SFA/Host Site shall maintain applicable health certification and ensure that VENDOR complies with all applicable state and local regulations pertaining to sanitation, preparing or serving meals at a SFA facility. {7 CFR § 210.16(a) (7)}
6. SFA shall provide sanitary toilet and hand washing facilities for the employees of VENDOR.
7. SFA/Host Site shall be responsible for cleaning food service equipment, kitchen floors, hoods and grease filters, with VENDOR being responsible to clean own food service equipment (unless SFA uses its own employees).
8. SFA shall be responsible for the maintenance and expense of insect and pest control in all food service production and storage areas. VENDOR will notify SFA of any problems in this area.
9. SFA shall be responsible for removal of trash and garbage resulting from the food service program in compliance with SFA's schedule for waste disposal.
10. SFA shall be responsible for all regular food service-related building maintenance, except for normal clean up.
11. SFA/Host Site shall clean the kitchen and dining room areas, whereas VENDOR will clean and maintain equipment owned by VENDOR and equipment owned by SFA and used in the serving of food.
12. SFA shall provide regular cleaning service for cafeteria walls, windows, floors, light fixtures, draperies and blinds, and periodic waxing and buffing of floors.
13. SFA shall place garbage and trash in containers in designated areas as specified by SFA.
14. VENDOR shall operate and care for all equipment and food service areas in a clean, safe and healthy condition in accordance with the standards acceptable to SFA and comply with all applicable

laws, ordinances, regulations, and rules of federal, state and local authorities, including laws related to recycling.

15. SFA/Host Site shall routinely clean grease traps, ductwork, plenum chambers and roof fans.

16. SFA provides extermination services as needed.

17. Any cleaning or sanitation that is not specifically assigned herein shall be the responsibility of SFA.

18. VENDOR shall adhere to the food safety program implemented by the SFA for all preparation and service of school meals, using a Hazard Analysis and Critical Control Point (HACCP) system as required by the Child Nutrition and WIC Reauthorization Act of 2004 (Public Law 108-265).

19. VENDOR agrees to allow at least two health inspections to be conducted by the Health Department at every site involved in school meal preparation and/or service as required by the Child Nutrition and WIC Reauthorization Act of 2004 (Public Law 108-265).

20. VENDOR will stow all equipment and food, unless SFA chooses to use their own employees.

21. VENDOR will be responsible for the condition and care of meals until they are served, unless SFA chooses to use their own employees.

22. VENDOR will dispose of waste in the appropriate trash receptacles located in the kitchen/cafeteria, unless SFA chooses to use their own employees.

23. VENDOR will obtain and post all licenses and permits as required by federal, state, and/or local law for the Culinary Center where all food is made and prepared.

24. VENDOR, during COVID season and as needed, will provide options and pricing for food wrapped and prepared as necessary for food to be distributed as outlined to online/at-home students.

## **J. Financial Terms**

1. All income accruing as a result of payments by children and adults, federal and state reimbursements, and all other income from sources such as donations, special functions, catering à la carte, vending, concessions, contract meals, grants and loans shall be credited to the Non-profit School Food Service Fund on a daily basis. Any profit or guaranteed return shall remain in the SFA's Non-Profit Food Service Account.

2. All facilities, equipment and services to be provided by SFA shall be provided at SFA's expense.

3. Payment Terms/Method

a. (Competitive Sealed Proposals) Fixed-meal Rate Bid—the VENDOR must bid and will be paid at a fixed rate per meal/Meal Equivalent. The offer amount should be based on the assumption that no donated commodities will be available for use. The method by which VENDOR will use and account for USDA-donated foods shall be in accordance with section F of the Standard Terms and Conditions herein above.

4. Vendor's Fees

- a. The charge to the SFA for the vendor's per-meal fee is to be clearly identified in the proposal as a total cost per meal for breakfast and a total cost per meal for lunch.
- b. The per-meal fee will include all vendor costs incorporated into that fee. If fees are to increase during the two-year procurement period, then all fees for all years of the procurement period must be stated in the vendor's proposal to and contract with the school district/charter school. If fees are to be benchmarked against an index, such as the Consumer Price Index (CPI), the index and specific sub-index to be used must be stated in the vendor proposal and the contract.

***Award Criteria***

Proposals will be evaluated by a SFA committee based on the offer per meal/meal equivalent and the criteria, categories and assigned weights as stated herein below (to the extent applicable). Committee members must consist of SFA employees familiar with the regulations and requirements of the school nutrition programs. If a committee member is an agent for, employee of or in any other manner associated with a VENDOR, that VENDOR will be precluded from participating in the RFP and subsequent contract. Each area of the award criteria must be addressed in detail in the Proposal.

***Weight Criteria***

<b>Mandatory Criteria</b>		
1. Must be properly incorporated or licensed to do business in the State of Texas		
2. Must be experienced and capable of managing food service operations on a contractual basis		
3. Must not have a record of substandard work		
4. Must submit a proposal meeting all of the requirements in the <b><u>Request for Proposal</u></b> .		
<b>Criteria</b>	<b>Maximum Score</b>	<b>Vendor Score</b>
1. Cost	20	
2. Innovative Approach to Healthy Options	15	
3. Nutrition Education and Awareness	15	
4. Service Capability	15	
5. Experience and References	25	
6. Submission of all required forms <ul style="list-style-type: none"> <li>• Business License</li> <li>• Health Permit</li> <li>• Certificate of Liability Insurance</li> <li>• Attached Exhibits A-C</li> <li>• 21-day menu cycles compliant with NSLP for breakfast, lunch and snack</li> </ul>	10	
Total	100	

The fixed price per meal/meal equivalent may be increased on an annual basis by the yearly Percentage Change in the Consumer Price Index for All Urban Consumers, as published by the U.S. Department of Labor, Bureau of Labor Statistics, Food Eaten Away from Home [insert one CPI regional index: South-Size Class A (population of metropolitan area over 1.5 million), South-Size Class B/C (Mid-sized and small population metropolitan area with fewer than 1.5 million), or South-Size D (all nonmetropolitan areas)] (CPI). Such increases shall be effective on a prospective basis on each anniversary date of this Contract will be allowed only if approved in advance by SFA. CPI Fee increases for the upcoming Contract renewal year must be submitted to SFA by April 1 of each year. No other fee increases will be allowed.

5. For the purpose of computing the foregoing meal counts, the number of National School Lunch Program, and School Breakfast Program, meals served to children shall be determined by actual count; provided, however, that no payment will be made to VENDOR for meals that: (i) are spoiled or unwholesome at the time of delivery; (ii) do not meet detailed specifications as developed by SFA for each food component in the meal pattern; or (iii) do not otherwise meet the requirements of this Contract.

6. Payment Terms/Method: VENDOR shall invoice SFA within 30 days after the end of each Accounting Period for the total amount of SFA's financial obligation for that Accounting Period.

7. SFA shall make payment in accordance with the Texas Prompt Payment Act Tex. Gov't Code Chapter 2251; however, no interest or finance charges that may accrue under this Contract may be paid from SFA's Non-Profit Food Service Account.

#### **K. Books and Records**

1. VENDOR shall maintain such records (supported by invoices, receipts, or other evidence) as SFA will need to meet monthly reporting responsibilities and shall submit monthly operating, statements in a format approved by the SFA no later than 10<sup>th</sup> day following the month in which services were rendered.

2. VENDOR shall maintain records at SFA's premises to support all allowable expenses appearing on the monthly operating statements. These shall be kept in an orderly fashion according to expense categories.

3. VENDOR shall provide SFA with a year-end statement.

4. SFA and VENDOR must provide all documents as necessary for the independent auditor to conduct SFA's single audit.

5. VENDOR shall make its books and records pertaining to the Contract available, upon demand, in an easily accessible manner for a period of three years after the final claim for reimbursement for the fiscal year to which they pertain. The books and records shall be made available for audit, examination, excerpts, and transcriptions by SFA and/or any state or federal representatives and auditors. If audit findings regarding VENDOR's records have not been resolved within the three-year record retention period, the records must be retained beyond the three-year period for as long as required for the resolution of the issues raised by the audit.

{Reference 7 CFR § 210.9[b] [17], 7 CFR § 3016.36[i] [10], and 7 CFR § 3019.48[d]}

6. Authorized representatives of SFA, TDA, USDA and USDA's Office of the Inspector General (OIG) shall have the right to conduct on-site administrative reviews of the food service operation.

7. VENDOR shall not remove federally required records from SFA premises upon the expiration or termination of this Contract.

8. VENDOR will provide SFA document requisition support in the event of an audit by the State Department of Education, or local governing entity for reimbursable Child Nutrition Programs, including Administrative Review circumstances. SFA shall be responsible for notifying VENDOR within three (3) business days of receiving any information from a State Agency of an audit, technical assistance or other action. SFA shall be responsible for forwarding the complete written notification from the governing entity so that VENDOR is positioned to best support the requisition request and tailor the support to exactly what is required. Typical document requisition in a formal audit includes support with menus, production records, recipes, labels, and product formulation statements.

#### **L. Term and Termination**

1. If, at any time, SFA shall make a reasonable decision that adequate funding from federal, state or local sources shall not be available to enable SFA to carry out its financial obligation to VENDOR, then SFA shall have the option to terminate this Contract by giving 10 days written notice to VENDOR.

2. In the event either party commits material breach of this Contract, the non-breaching party shall give the breaching party written notice specifying the default, and the breaching party shall have 30 days within which to cure the default. If the default is not cured within that time, the non-breaching party shall have the right to then terminate this Contract for cause by giving 30 days written notice to the breaching party. If the breach is remedied prior to the proposed termination date, the non-breaching party may elect to continue this Contract. Notwithstanding the foregoing termination clause, in the event that the breach concerns sanitation problems, the failure to maintain insurance coverage as required by this Contract, failure to provide required periodic information or statements or failure to maintain quality of service at a level satisfactory to SFA, SFA may terminate this Contract immediately.

3. In the event that either party is prevented from performing its obligations under this Contract by war, acts of public enemies, fire, flood or acts of God (individually each known as a “Force Majeure Event”), that party shall be excused from performance for the period of such Force majeure Event exists.

4. In the event of VENDOR’s nonperformance under this Contract or the violation or breach of the terms of this Contract, SFA shall have the right to pursue any and all available administrative, contractual and legal remedies against VENDOR.

5. VENDOR shall promptly pay SFA the full amount of any meal over-claims, disallowed costs or other or fiscal actions which are attributable to VENDOR’s actions hereunder, including those over-claims based on review or audit findings that occurred during the Effective Dates of original and renewal contracts.

6. SFA is the responsible authority without recourse to USDA or TDA for the settlement and satisfaction of all contractual and administrative issues arising in any way from this Contract. Such authority includes, but is not limited to, source evaluation, protests, disputes, claims or other matters of a contractual nature.

7. SFA is allowed to operate this contract for the first year, with the option to renew this contract up to three additional 1-year terms.

8. **TERMINATION:** The School reserves the right to terminate all or any part of the undelivered portion of any order resulting from this request for proposals with thirty (30) days written notice; upon default by the vendor, for delay or nonperformance by the vendor or, if it is deemed in the best interest of the School, for convenience.

## **M. Insurance**

1. VENDOR shall maintain the insurance coverage set forth below for each accident provided by insurance companies authorized to do business in the state of Texas. A Certificate of Insurance of VENDOR's insurance coverage indicating these amounts must be submitted at the time of award.
2. The information below must be completed by SFA:
  - A. Comprehensive General Liability—includes coverage for:
    - 1) Premises—Operations\
    - 2) Products—Completed Operations
    - 3) Contractual Insurance
    - 4) Broad Form Property Damage
    - 5) Independent Contractors
    - 6) Personal Injury
      - a. \$1,000,000.00 Combined Single Limit.
      - b. Automobile Liability coverage with a \$1,000,000.00 Combined Single Limit.
      - c. Workers' Compensation—Statutory, Employer's Liability
      - d. **Excess Umbrella Liability with a combined single limit of \$1,000,000.00.**
3. SFA shall be included as additional insured on General Liability, Automobile, and Excess Umbrella policies.
4. The contract of insurance shall provide for notice to SFA of cancellation of insurance policies 30 days before such cancellation is to take effect.
5. Notwithstanding any other provision of this Contract, SFA shall not be liable to VENDOR for any indemnity.

## **N. Trade Secrets and Proprietary Information**

1. During the term of this Contract, VENDOR may grant to SFA a nonexclusive right to access certain proprietary materials of VENDOR, including menus, recipes, signage, food service surveys and studies, management guidelines and procedures, operating manuals, software (both owned by and licensed by VENDOR) and similar compilations regularly used in VENDOR business operations ("Trade Secrets"). SFA shall not disclose any of VENDOR's Trade Secrets or other

confidential information, directly or indirectly, during or after the term of this Contract. SFA shall not photocopy or otherwise duplicate any such material without the prior written consent of VENDOR. All trade secrets and other confidential information shall remain the exclusive property of VENDOR and shall be returned to VENDOR immediately upon termination of this Contract. SFA shall not use any confusingly similar names, marks, systems, insignia, symbols, procedures and methods. Without limiting the foregoing and except for the software provided by SFA, SFA specifically agrees that all software associated with the operation of the food service, including without limitation, menu systems, food production systems, accounting systems and other software, are owned by or licensed to VENDOR and not SFA. Furthermore, SFA's access or use of such software shall not create any right, title interest or copyright in such software and SFA shall not retain such software beyond the termination of this Contract. In the event of any breach of this provision, VENDOR shall be entitled to equitable relief, including an injunction or specific performance, in addition to all other remedies otherwise available. All of SFA's obligations under this section are subject to SFA's obligations under the Texas Public Information Act and any other law that may require SFA to use, reproduce or disclose VENDOR confidential information. This provision shall survive termination of this Contract.

2. Any discovery, invention, software or program, the development of which is paid for by SFA, shall be the property of SFA to which TDA and USDA shall have unrestricted rights.

3. During the term of this Contract, VENDOR may not have access to SFA confidential information ("SFA Confidential Information"), including student identifiable confidential information that is protected from disclosure by federal law {42 U.S.C. § 1758 (b) (6)}.

#### **O. Certifications**

VENDOR shall execute and comply with the following Certifications: (i) Debarment Certification, which is attached to this Contract as Exhibit J and fully incorporated herein; (ii) Anti-collusion Affidavit, which is attached to this Contract as Exhibit K and fully incorporated herein; (iii) Certification Regarding Lobbying, which is attached to this Contract as Exhibit L and fully incorporated herein; and (iv) Standard Form-LLL, Disclosure Form to Report Lobbying, when applicable, which is attached to this Contract as Exhibit M and fully incorporated herein.

**P. Miscellaneous**

1. Emergency Notifications.

A. SFA shall notify VENDOR of any interruption in utility service of which it has knowledge.

Notification will be provided to:

Name [VENDOR information]:

Title:

Telephone number:

Alternate telephone number:

B. SFA shall notify VENDOR of any delay in the beginning of the school day or the closing of school(s) due to snow or other emergency situations. Notification will be provided to:

Name [VENDOR information]:

Title:

Telephone number:

Alternate telephone number:

1. Governing Law: This Contract is governed by and shall be construed in accordance to Texas Law.

2. Headings. All headings contained in this Contract are for convenience of reference only, do not form a part of this Contract, and shall not affect in any way the meaning or interpretation of this Contract.

3. Incorporation/Amendments: This Request for Proposal and Contract, which includes the attached Exhibits A—M and VENDOR’s proposal documents (collectively the “Contract Documents”), contain the entire agreement between the parties with relation to the transaction contemplated hereby, and there have been and are no covenants, agreements, representations, warranties or restrictions between the parties with regard thereto other than those specifically set forth in this Contract. In the event of a conflict between or among any of the terms of the Contract Documents, such conflicts shall be resolved by referring to the Contract Documents in the following order of priority: (i) SFA’s Request for Proposal and Contract and (ii) VENDOR proposal documents. No modification or amendment to this Contract shall become valid unless it is made in writing signed by the parties, and approved by TDA.

4. Indemnity. Except as otherwise expressly provided in this Contract, VENDOR will defend, indemnify, and hold SFA harmless from and against all claims, liability, loss and expense, including reasonable collection expenses, attorney's fees and court costs that may rise because of the actions of VENDOR, its agents or employees in the performance of its obligations under this Contract, except to the extent any such claims or action result from the negligence of SFA, its employees or agents. This clause shall survive termination of this Contract.

5. Nondiscrimination. Both SFA and VENDOR agree that no child who participates in the NSLP, SBP, SMP, ASCP, CACFP, SSO, or SFSP will be discriminated against on the basis of race, color, national origin, sex, age, or disability.

6. Notices. All notices, consents, waivers or other communications which are required or permitted hereunder, except those required under Emergency Notification herein above, shall be sufficient if given in writing and delivered personally, or by sending a copy thereof by first class or express mail, postage prepaid, courier service, charges prepaid or by facsimile transmission (followed by the original) to the address (or to the facsimile or telephone number), as follows (or to such other addressee or address as shall be set forth in a notice given in the same manner):

To SFA:        UNIVERSAL ACADEMY  
Physical Address:    2616 N. MacArthur Blvd Irving TX 75062  
Mailing Address:    2616 N. MacArthur Blvd Irving TX 75062

To VENDOR:

Copy to:

If such notice is sent by mail or courier service, it shall be deemed to have been given to the person entitled thereto when deposited in the United States mail or courier service for delivery to that person or, in the case of facsimile transmission, when received.

7. Severability. If one or more provisions of this Contract, or the application of any provision to either party or circumstance is held invalid, unenforceable or illegal in any respect, the remainder of this Contract and the application of the provision to other parties or circumstances shall remain valid and in full force and effect.

8. Silence, absence or omission. 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 that only materials (e.g., food, supplies, etc.) and workmanship of a quality that would normally be specified by SFA are to be used.

9. Subcontract/Assignment. No provision of this Contract shall be assigned or subcontracted without prior written consent of SFA, except that VENDOR may, after notice to SFA, assign this Contract in its entirety to an affiliated company or wholly owned subsidiary without prior written consent and without being released from any of its responsibilities hereunder.

10. Waiver. The failure of VENDOR or SFA to exercise any right or remedy available under this Contract upon the other party's breach of the terms, covenants or conditions of this Contract or the failure to demand prompt performance of any obligation under this Contract shall not be deemed a waiver of such right or remedy; of the requirement of punctual performance; or of any subsequent breach or default on the part of the other party.

**AGREEMENT**

Offertory certifies that the VENDOR shall operate in accordance with all applicable state and federal regulations.

Offertory certifies that all terms and conditions within the Proposal shall be considered a part of this Contract as if incorporated therein.

This Contract shall be in effect for up to the remainder of the school year and may be renewed by mutual agreement for three additional one-year periods.

IN WITNESS WHEREOF, the parties hereto have caused this Contract to be signed by their duly authorized representatives.

ATTEST:

\_\_\_\_\_

SCHOOL FOOD AUTHORITY:

**UNIVERSAL ACADEMY**

\_\_\_\_\_  
Signature of Authorized Representative

Diane Harris  
\_\_\_\_\_  
(Name/CFO/CEO/Owner)

Superintendent  
\_\_\_\_\_  
Title

Date Signed

ATTEST:

\_\_\_\_\_

VENDED FOOD COMPANY:

\_\_\_\_\_  
Name of VENDOR

\_\_\_\_\_  
Signature of Authorized Representative

\_\_\_\_\_  
Typed Name of Authorized Representative

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date Signed

**Exhibit A**  
**SCHEDULE OF FOOD SERVICE LOCATIONS AND SERVICES PROVIDED**

**LOCATIONS**

**Universal Academy 2616 N. MacArthur Blvd Irving TX 75062**

**SERVICES PROVIDED**

**Breakfast / School Lunch**

**FOOD SERVICE BUDGET—FIXED-MEAL RATE**

**UNIVERSAL ACADEMY**

School Year      2019-2020  
Meals provided (estimated)

**Total Schools ADP**

Lunch and Breakfast for grades Pre-K through 12

Total Meals Served Daily

Lunch            600

Breakfast       260

## Exhibit E

### FOOD SPECIFICATIONS

All food Specifications must meet requirements of the United States Department of Agriculture (“USDA”) *Food Buying Guide* (“FBG”), Texas Public School Nutrition Policy (“TPSNP”), and TDA’s Administrative Reference Manual (“ARM”).

- All USDA-donated commodities offered to the SFA and made available to VENDOR 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:

- Breads, bread alternatives, and grains must be made from whole-grain or enriched meal or flour. All breads and grains must be fresh (or frozen, if applicable) and must meet the minimum weight per serving as listed in the FBG. If applicable, the product should be in moisture-proof wrapping and pack code date provided.
- All meat and poultry must have been inspected by USDA and must be free from off color or odor.
  - Beef must be at least 70:30 lean to fat, preferably 80:20 lean to fat.
  - 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 USDA.
  - For breaded and battered items, all flours must be whole grain or enriched for breads/grains credit and breading/batter must not exceed 30% of the weight of the finished product.
  - For sausage patties, the maximum fat allowed is 50% by weight; industry standard of 38% to 42% fat preferred.
- 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.
- 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; and have a pleasing flavor, demonstrate satisfactory melt ability; and contain proper moisture and salt content.
- All fish must have been inspected by the United States Department of Commerce (USDC) and meet minimum flesh and batter/breading required for USDC Grade A product or product packed under federal inspection (PUFI) by the USDC.

- All fresh fruits must be ripe and in good condition when delivered and must be ready for consumption per the USDA FBG. Fruits must at a minimum 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 attached 21-day cycle menu requirements.
- All fresh vegetables must be ripe and in good condition when delivered and must be ready for consumption per the USDA FBG. Vegetables must at a minimum meet the food distributors' second quality level. Vegetables should have characteristic color and good flavor and be well-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.
- All canned vegetables must meet the food distributors' first quality level (extra fancy and fancy) and canned fruits (standard) must meet the second quality level. Vegetables should have characteristic color and good fresh flavor and be free from discoloration, blemishes, and decay.
- 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.
- 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.
- 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.
- Meals and food items must be stored and prepared under properly controlled temperatures and in accordance with all applicable health and sanitation regulations.
- Fluid milk must be offered in a variety of at least two different fat contents. The selection of milk must be consistent with the types of milk consumed the prior year. The milk must contain vitamins A and D at levels specified by the Food and Drug Administration, and must be consistent with State and local standards.

## Exhibit G

### SCHEDULE OF APPLICABLE LAWS

1. VENDOR shall comply with the mandatory standards and policies relating to energy efficiency that are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (P.L. 94-163, 89 Stat. 871)
2. VENDOR shall comply with Section 103 and 107 of the Contract Work Hours and Safety Standards Act (the “Act”), 40 U.S.C. § 327-330, as supplemented by Department of Labor regulations, 29 CFR Part 5. Under Section 103 of the Act, VENDOR shall be required to compute the wages of every laborer on the basis of a standard workweek of 40 hours. Work in excess of the standard workweek is permissible provided that the worker is compensated at a rate of not less than 1 ½ times the basic rate of pay for all hours worked in excess of 40 hours in any workweek. Section 107 of the Act provides that no laborer or mechanical shall be required to work in surroundings or under working conditions, which are unsanitary, hazardous or dangerous to his health and safety as determined under construction, safety and health standards promulgated by the Secretary of Labor.
3. VENDOR shall comply with Executive Order 11246, entitled Equal Employment Opportunity, as amended by Executive Order 11375 of October 13, 1967, and as supplemented in Department of Labor regulations, 41 CFR Part 60.
4. VENDOR shall comply with the following civil rights laws, as amended: Title VI of the Education Amendments of 1972; Section 504 of the Rehabilitation Act of 1973; the Age Discrimination Act of 1975; Title 7 CFR Parts 15, 15a, and 15b; the Americans with Disabilities Act; and FNS Instructions 113-1, Civil Rights Compliance and Enforcement—Nutrition Programs and Activities.
5. VENDOR has signed the Certification Regarding the Buy American Provision (Exhibit I) for contracts that involve the purchase of food, USDA Regulation 7 CFR Part 250, which is attached herein and is incorporated by reference and made a part of this Contract.
6. VENDOR has signed the Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion, Exhibit J, which is attached herein and is incorporated by reference and made a part of this Contract. (Reference 7 CFR § 3017.)
7. VENDOR has signed the Anti-Collusion Affidavit, Exhibit K, which attached herein and is incorporated by reference and made a part of this Contract.
8. VENDOR shall comply with all applicable standards, orders, or requirements issued under Section 306 of the Clean Air Act (42 U.S.C. 1857[h]), Section 508 of the Clean Water Act (33 U.S.C. 1368), Executive Order 11738, and Environmental Protection Agency (EPA) regulations (40 CFR Part 15).
9. VENDOR shall comply with the Lobbying Certification, Exhibit L, which is attached herein and is incorporated and made a part of this Contract. If applicable, VENDOR has also completed and submitted Standard Form-LLL, Disclosure Form to Report Lobbying, Exhibit K herein, or will complete and submit as required in accordance with its instructions included in Exhibit K.

**Exhibit I**

**Certification Regarding the Buy American Provision**

- As required by the Buy American provision, all products must be of domestic origin as required by 7 CFR Part 210.21(d). (210.21(d) is the Buy American Provision)
- The District participates in the National School Lunch Program and School Breakfast Program and is required to use the nonprofit food service funds, to the maximum extent practical, to buy domestic commodities or products for Program meals. A “domestic commodity or product” is defined as one that is either produced in the U.S. or is processed in the U.S. substantially using agricultural commodities that are produced in the U.S. as provided in 7 CFR Part 210.21(d).
- Exceptions to the Buy American provision should be used as a last resort; however, an alternative or exception may be approved upon request. To be considered for the alternative or exception, the VENDOR must submit a request in writing to the SFA Food Service Coordinator, a minimum of 3 day(s) in advance of delivery, and explain why the exception is needed.

\_\_\_\_\_  
Organization Name

\_\_\_\_\_  
Name of Authorized Representative

\_\_\_\_\_  
Title

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

## Buy American Justification Form

This form (or a form with similar information) is required for each foreign food product that is being served in the school child nutrition programs. The purpose of this form is to assist the district in compliance with federal documentation necessary to purchase foreign food products with child nutrition funds.

PRODUCT NAME		
PURCHASE UNIT (Example: case)		
ESTIMATED ANNUAL USAGE (How many purchase units?)		
BID COST PER PURCHASE UNIT FOR DOMESTIC FOOD PRODUCT		
BID COST PER PURCHASE UNIT FOR FOREIGN FOOD PRODUCT		
COUNTRY OF ORIGIN OF FOREIGN FOOD PRODUCT		
ESTIMATED ANNUAL COST DOMESTIC FOOD PRODUCT (Annual Usage X Bid Cost per Purchase Unit)		
ESTIMATED ANNUAL COST FOREIGN FOOD PRODUCT (Annual Usage X Bid Cost per Purchase Unit)		
IS DOMESTIC HIGHER THAN FOREIGN?	YES <input type="checkbox"/>	NO <input type="checkbox"/>
IF YES, IS COST DIFFERENCE SIGNIFICANT?	YES <input type="checkbox"/>	NO <input type="checkbox"/>
IF YES, WHAT OTHER ALTERNATIVES TO USING FOREIGN FOOD PRODUCTS WERE CONSIDERED? Depending on Volume needed at time of purchase, we source domestic product as often as possible		
AFTER CONSIDERING ALTERNATIVES TO FOREIGN PRODUCT, WERE FOREIGN FOOD PRODUCTS USED?	YES <input type="checkbox"/>	NO <input type="checkbox"/>

IF YES, EXPLAIN WHY FOREIGN FOOD PRODUCT WAS USED AND AN ALTERNATE PRODUCT WERE NOT USED		
--	--	--

\_\_\_\_\_  
Child Nutrition Director/Supervisor Signature

\_\_\_\_\_  
Date

**Exhibit J**

**U.S. DEPARTMENT OF AGRICULTURE**

**Certification Regarding Debarment, Suspension, Ineligibility, and  
Voluntary Exclusion-Lower Tier Covered Transaction**

This certification is required by the regulations implementing Executive Order 12549, Debarment and Suspension, 7 CFR Part 3017.510, Participants' responsibilities. The regulations were published as Part IV of the January 30, 1989, Federal Register (pages 4722-4733). Copies of the regulations may be obtained by contacting the Department of Agriculture agency with which this transaction originated.

(BEFORE COMPLETING CERTIFICATION, READ INSTRUCTIONS ON NEXT PAGE)

- (1) The prospective lower tier participant certifies, by submission 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 participant shall attach an explanation to this proposal.

\_\_\_\_\_  
Organization Name

\_\_\_\_\_  
PR/Award Number or Project Name

\_\_\_\_\_  
Name of Authorized Representative

\_\_\_\_\_  
Title

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

## **Exhibit J (Continued)**

### **Instructions for Certification**

1. By signing and submitting this form, the prospective lower tier participant is providing the certification set out on the form in accordance with these instructions.
2. The certification in this clause is a material representation of fact upon which reliance was placed when the transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.
3. The prospective lower tier participant shall provide immediate written notice to the person to whom this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
4. The terms “covered transaction”, “debarred”, “suspended”, “ineligible”, “lower tiered covered transaction”, “participant”, “person”, “primary covered transaction”, “principal”, “proposal”, and “voluntarily excluded” as used in this clause, have the meanings set out in the definitions and coverage sections of rules implementing Executive Order 12549. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations.
5. The prospective lower tier participant agrees by submitting this for that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tiered covered transaction be entered into, it shall not knowingly enter into lower tiered covered transaction with a person who is debarred, suspended, declared ineligible or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.
6. The prospective lower tier participant further agrees by submitting this form that it will include this clause titled “Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion—Lower Tier Covered Transactions”, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.
7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that is not debarred, suspended, ineligible or voluntarily excluded from that covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the Non-procurement List.

**Exhibit J (Continued)**

8. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
9. Except for transactions authorized under paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

**Exhibit K**

**ANTI-COLLUSION AFFIDAVIT**

STATE OF TEXAS

COUNTY OF DALLAS

\_\_\_\_\_, of lawful age, being first sworn on oath say that he/she is the agent authorized by the bidder to submit the attached bid. Affiant further states that the bidder has not been a party to any collusion among bidders in restraint of freedom of competition by agreement to bid at a fixed price or to refrain from bidding; or with any state official of employees to quantity, quality, or price in the prospective contract, or any other terms of said prospective official concerning exchange of money or other thing of value for special consideration in the letting of contract; that the bidder/contractor had not paid, given or donated, or agreed to pay, give or donate to any officer or employee either directly or indirectly in the procuring of the award of a contract pursuant to this bid.

Signed \_\_\_\_\_

Subscribed and sworn before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_

Notary Public (or Clerk or Judge) \_\_\_\_\_

My commission expires \_\_\_\_\_

**Exhibit L**

**PROCUREMENT**

**Certification Regarding Lobbying**

Applicable to Grants, Sub-grants, Cooperative Agreements, and Contracts exceeding \$100,000 in Federal funds.

Submission of this certification is a prerequisite for making or entering into this transaction and is imposed by section 1352, Title 31, U.S. Code. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

The undersigned certifies, to the best of his or her knowledge and belief, that:

- (1) No Federal appropriated funds have been paid or will be paid by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, an employee of a Member of Congress, or any Board Member, officer, or employee of **UNIVERSAL ACADEMY School District** in connection with the awarding of a Federal contract, the making of a Federal grant, the making of a Federal loan, the entering into a cooperative agreement, and the extension, continuation, renewal, amendment, or modification of a Federal contract, grant, loan, or cooperative agreement.
- (2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, an employee of a Member of Congress, or any Board Member, officer, or employee of **UNIVERSAL ACADEMY School District** in connection with this Federal grant cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying", in accordance with its instructions.
- (3) The undersigned shall require that the language of this certification be included in the award documents for all covered sub-awards exceeding \$100,000 in Federal funds at all appropriate tiers and that all sub-recipients shall certify and disclose accordingly.

\_\_\_\_\_  
Name/Address of Organization

\_\_\_\_\_  
Name/Title of Submitting Official

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

**Exhibit M**

**PROCUREMENT**

**Disclosure of Lobbying Activities**

***Complete this form to disclose lobbying activities pursuant to 31 U.S.C. 1352***

*(See next page for public burden disclosure.)*

*Approved by OMB*

0348-0046

<p>1. Type of Federal Action:</p> <p><input type="checkbox"/> a. contract</p> <p><input type="checkbox"/> b. grant</p> <p><input type="checkbox"/> c. cooperative agreement</p> <p><input type="checkbox"/> d. loan</p> <p><input type="checkbox"/> e. loan guarantee</p> <p><input type="checkbox"/> f. loan insurance</p>	<p>2. Status of Federal Action:</p> <p><input type="checkbox"/> a. bid/offer/application</p> <p><input type="checkbox"/> b. initial award</p> <p><input type="checkbox"/> c. post-award</p>	<p>3. Report Type:</p> <p><input type="checkbox"/> a. initial offering</p> <p><input type="checkbox"/> b. material change</p> <p>For Material Change Only:</p> <p>Year ____ Quarter ____</p> <p>Date of last report _____</p>
<p>4. Name and Address of Reporting Entity:</p> <p><input type="checkbox"/> Prime</p> <p><input type="checkbox"/> Sub-awardees'</p> <p>Tier ____, <i>if known:</i></p> <p>Congressional District, <i>if known:</i></p>	<p>5. If Reporting Entity in No. 4 is Sub-awardees', Enter Name and Address of Prime:</p> <p>Congressional District, <i>if known:</i></p>	
<p>6. Federal Department/Agency:</p>	<p>Federal Program Name/Description:</p> <p>CFDA Number, <i>if applicable:</i></p> <p>_____</p>	
<p>8. Federal Action Number, <i>if known:</i></p>	<p>9. Award Amount, <i>if known:</i></p> <p align="center">\$</p>	

**Exhibit M (Continued)**

<p>10. a. Name and Address of Lobbying Entity  <i>(If individual, last name, first name, MI):</i></p> <p>(Attach continuation sheet(s) if necessary)</p>	<p>8. Individuals Performing Services</p> <p><i>(Incl. Address if different from No. 10a)(last name, first name, MI):</i></p>
<p>11. Amount of Payment <i>(check all that apply):</i></p> <p>\$ _____</p> <p>Actual _____ Planned _____</p>	<p>13. Type of Payment <i>(check all that apply):</i></p> <p>___ a. retainer</p> <p>___ b. one-time fee</p> <p>___ c. commission</p> <p>___ d. contingent fee</p> <p>___ e. deferred</p> <p>___ f. other, specify: _____</p>
<p>12. Form of Payment <i>(check all that apply):</i></p> <p>___ a. cash</p> <p>___ b. in-kind; specify; nature _____</p> <p>value _____</p>	
<p><b>14. Brief Description of Services Performed or to be Performed and Date(s) of Service, including officer(s), employee(s), or member(s) contacted for Payment Indicated in Item 11:</b></p> <p>(Attach continuation sheet(s) if necessary)</p>	
<p>15. Continuation Sheet(s) attached: ___ Yes ___ No</p>	

**Exhibit M (Continued)**

<p>16. Information requested through this form is authorized by article 31 U.S.C. sections 1352.</p> <p>This disclosure of lobbying activities is a material representation of fact upon which reliance was placed by the tier above when this transaction was made or entered into. This disclosure is required pursuant to 31 U.S.C. 1352. This information will be reported to the Congress semi-annually and will be available for public inspection. Any person who fails to file the required disclosure shall be subject to civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.</p>	<p>Signature: _____</p> <p>Print Name: _____</p> <p>Title: _____</p> <p>Telephone No: _____</p> <p>Date: _____</p>
<p><b><i>Federal Use Only:</i></b> <b><i>Authorized for Local Reproduction of:</i></b></p> <p>Standard Form-LLL</p>	

**Exhibit M (Continued)**

**PROCUREMENT**

**Instructions for Completion of SF-LLL, Disclosure of Lobbying Activities**

This disclosure form shall be completed by the reporting entity, whether sub-awardees' or prime Federal recipient, at the initiation or receipt of a covered Federal action, or a material change to a previous filing, pursuant to title 31 U.S.C. section 1352. The filing of a form is required for each payment or agreement to make payment to any lobbying entity for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with a covered Federal action. Use the SF-LLL-A Continuation Sheet for additional information if the space on the form is inadequate. Complete all items that apply for both the initial filing and material change report. Refer to the implementing guidance published by the Office of Management and Budget for additional information.

1. Identify the type of covered Federal Action for which lobbying activity is and/or has been secured to influence the outcome of a covered Federal Action.
2. Identify the status of the covered Federal Action.
3. Identify the appropriate classification of this report. If this is a follow-up report caused by a material change to the information previously reported, enter the year and quarter in which the change occurred. Enter the date of the last previously submitted report by this reporting entity for this covered Federal Action.
4. Enter the full name, address, city, state and zip code of the reporting entity. Include Congressional District, if known. Check the appropriate classification of the reporting entity that designates if it is, or expects to be, a prime or sub-award recipient. Identify the tier of the sub-awardees', e.g., the first sub-awardee of the prime is the 1<sup>st</sup> tier. Sub-awards include but are not limited to subcontracts, sub grants, and contract awards under grants.
5. If the organization filing the report in item 4 checks "sub-awardee", then enter the full name, address, city, state and zip code of the prime Federal recipient. Include Congressional District, if known.
6. Enter the name of the Federal Agency making the award or loan commitment. Include at least one organizational level below agency name, if known. For example, Department of Transportation, United States Coast Guard.
7. Enter the Federal program name or description for the covered Federal Action (item 1). If known, enter the full Catalog of Federal Domestic Assistance (CFDA) number for grants, cooperative agreements, loans, and loan commitments.
8. Enter the most appropriate Federal identifying number available for the Federal Action identified in item 1 (e.g., Request for Proposal (RFP) number; Invitation For Bid (IFB) number; grant announcement number; the contract, grant, or loan award number; the application proposal control number assigned by the Federal agency). Include prefixes, e.g., "RFP-DE-90-001."

## Exhibit M (Continued)

9. For a covered Federal Action where there has been an award or loan commitment by the Federal agency, enter the Federal amount of the award/loan commitment for the prime entity identified in item 4 or 5.
10. (a.) Enter the full name, address, city, state and zip code of the lobbying entity engaged by the reporting entity identified in item 4 to influence the covered Federal Action.  
(b.) Enter the full names of the individual(s) performing services, and include full address if different from 10 (a). Enter last name, first name, and middle initial (MI).
11. Enter the amount of compensation paid or reasonably expected to be paid by the reporting entity (item 4) to the lobbying entity (item 10). Indicate whether the payment has been made (actual) or will be made (planned). Check all boxes that apply. If this is a material change report, enter the cumulative amount of payment made or planned to be made.
12. Check the appropriate box (es). Check all boxes that apply. If payment is made through an in-kind contribution, specify the nature and value of the in-kind payment.
13. Check the appropriate box(es). Check all boxes that apply. If other, specify nature.
14. Provide a specific and detailed description of the services that the lobbyist has performed, or will be expected to perform, and the date(s) of any services rendered. Include all preparatory and related activity, not just time spent in actual contact with Federal officials. Identify the Federal official(s) or employee(s) contacted or the officer(s), employee(s), or Member(s) of Congress that were contacted.
15. Check whether or not SF-LLL-A continuation sheet(s) is attached.
16. The certifying official shall sign and date the form; print his/her name, title, and telephone number.

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Public reporting burden for this collection of information is estimated to average 30 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348-0046), Washington, D.C. 20503.