

**Contract Summary**

Vended Meal Service Contract

This contract is entered in to between the School Food Authority (SFA) and the vended meal provider named below:

SFA Name: American Indian Model Schools
SFA Address: 171 12 <sup>th</sup> St. Oakland CA 94607

Vended Meal Provider: The LunchMaster
Company Address: 601 Taylor Way San Marcos, Ca 94070

**I. Introduction**

American Indian Model Schools, hereinafter referred to as the school food authority (SFA), enters into this Contract with The LunchMaster, hereinafter referred to as the vended meal provider (VENDOR) to provide vended meals for the SFA’s food service program, hereinafter referred to as “Services.” **During the term of this Contract, the VENDOR will provide services to the SFA as described in the Scope of Work (Exhibit A) of this Contract.**

**II. General Terms and Conditions**

**A. Term**

The term of this contract is one year. The VENDOR shall commence providing Services under the Contract on July 1, 2018 and continue through June 30, 2019. After careful consideration, the SFA may annually renew this Contract for four additional one-year periods upon agreement between both parties. Execution of all contracts and amendments is contingent on approval by the California Department of Education (CDE). The SFA may cancel this Contract upon notification from the CDE that it or any part of the bidding process has been determined noncompliant with state and federal laws and regulations (Title 7, *Code of Federal Regulations* [7 CFR], Section 210.16[d]).

**B. Designated Contract Liaisons**

SFA Liaison for Services		VENDOR Liaison for Services	
Name: Tiffany Tung		Name:	
Title: Data, Accountability and Operations Manager		Title:	
Phone:510.893.8701 ex.23	Cell Phone: 510.604.1785	Phone:	Cell Phone:
Fax:510.893.0345	E-mail: <a href="mailto:Tiffany.tung@aimschools.org">Tiffany.tung@aimschools.org</a>	Fax:	E-mail:

## C. Fees

### 1. Fixed-price Contracts

The SFA will pay the VENDOR at a fixed rate per meal. The fixed rate per meal includes all fees and charges indicated in the Schedule of Fees (Exhibit B) of this Contract. The SFA must determine, and the VENDOR shall credit the SFA for, the full value of U.S. Department of Agriculture (USDA) Foods. The VENDOR's fixed-price invoice will be fully compliant with procurement requirements for the National School Lunch, School Breakfast, and Special Milk Programs, set forth in Title 7, *Code of Federal Regulations (7 CFR)*, parts 210, 215, and 220, and the USDA Food and Nutrition Service (FNS) Final Rule issued Wednesday, October 31, 2007. The VENDOR shall take discounts, rebates, and other credits into account when formulating their prices for this fixed-price contract (Title 2, *Code of Federal Regulations [2 CFR]*, sections 200 & 400).

### 2. Payment Terms

The VENDOR shall submit monthly invoices by 15th of the following month that reflect all activity for the previous month. The VENDOR must submit detailed cost documentation [monthly] to support all charges to the SFA. Charges and expenses are included in the Schedule of Fees (Exhibit B). All costs, charges, and expenses must be mutually agreeable to the SFA and the VENDOR and must be allowable costs consistent with the cost principles in 2 *CFR*, parts 200 or 400, as applicable. The SFA will pay invoices submitted by the VENDOR within thirty (30) days of the invoice date. The SFA will pay invoices received by its accounting department if the invoices pass the SFA's audit (7 *CFR*, sections 210.14[a] 210.19[a], 210.21[c][3]). The SFA will notify the VENDOR of invoices that do not pass audit, which the SFA will not pay until the invoices have passed audit, with no penalty accruing to the SFA (7 *CFR*, sections 210.19[a][1], 210.14[a], 210.21[f]).

### 3. Interest, Fines, Penalties, and Finance Charges

All meal service ordered by SFA for free of charge or reduced charge meals shall be billed monthly unless otherwise agreed upon by the parties. All invoices received by SFA from VENDOR shall be due and payable within 30 days of receipt of the invoice. If all sums due is not received by VENDOR within 30 days of the invoice date the parties agree that a service charge calculated from the date of billing at the rate of (1.5%) per month shall be paid on all unpaid sums in addition to the amount originally invoiced. SFA agrees to pay said service charge upon presentation. This paragraph shall apply to all sums owed by Client to VENDOR, whether for free of charge or reduced charged meals or for any other product or service provided by VENDOR to Client.

### 4. Spoiled or Unwholesome Food

The SFA shall make no payment to the VENDOR for food that, in the SFA's determination, is spoiled or unwholesome at the time of delivery, does not meet detailed food component specifications as developed by the SFA for the meal pattern, or does not otherwise meet the requirements of this Contract (7 *CFR*, Section 210.16[c][3]).

The SFA shall make no payment to the VENDOR for meals that, in the SFA's determination, are spoiled or unwholesome at the time of delivery, do not meet detailed food component specifications as developed by the SFA for the meal pattern, or do not otherwise meet the requirements of this Contract (7 *CFR*, Section 210.16[c][3]).

**D. Contract Cost Adjustment**

The renegotiation of price terms under this Contract is permitted only upon the occurrence of unpredictable, unexpected conditions beyond the control of both parties. If those conditions create a significant and material change in the financial assumptions upon which the price terms of this contract were based, then those price terms so affected may be renegotiated by both parties. Renegotiation of price terms under such conditions must be mutual and both parties must agree on any changes in price terms. Any adjustments so negotiated and agreed upon must accurately reflect the change in conditions. The occurrence of contingencies that are foreseeable and predictable, but not certain, should be calculated into the defined price terms, to the extent possible, with the goal of minimizing the need for renegotiation of price terms during the term of the Contract. Substantive changes of the Contract will require the SFA to rebid the Contract.

**E. Availability of Funds**

Every payment obligation of the SFA under this Contract is conditioned upon the availability of funds appropriated or allocated for the payment of such obligation. The SFA may terminate this Contract at the end of the period for which funds are available if funds are not allocated and available for the continuance of this Contract. In the event the SFA exercises this provision, no liability shall accrue to the SFA and the SFA shall not be obligated or liable for any future payments or for any damages resulting from termination under this provision.

**F. Timeliness**

Time is of the essence in this Contract.

**G. Approval**

This Contract has no force or effect until it is signed by both parties and is approved by the CDE (7 *CFR*, Section 210.19 [a][5]).

**H. Amendment**

No amendment or variation of the terms of this Contract shall be valid unless made in writing, signed by both parties, and approved by the CDE. Any oral understanding or agreement not incorporated into the Contract in writing and approved by the CDE is not binding on either party (7 *CFR*, Section 210.19[a][5]).

**I. Substantive Changes to Contract**

Any change to this Contract that results in a material change or any proposed renewals of this Contract may, at the determination of the CDE, either void this Contract or require the SFA to rebid

the Contract. Following are examples of substantive changes that could require the SFA to rebid the Contract (7 *CFR*, Section 200.3245 [b][5]):

- The addition of a program
- A major shift in responsibilities for VENDOR/SFA staff
- A modification that changes the scope of the Contract or increases the price of the Contract by more than the applicable federal, state, or local small purchase threshold (2 *CFR*, Section 200.324 [B][4])

**J. Subcontract/Assignment**

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

**K. Written Commitments**

Any written commitment by the VENDOR relative to the services herein shall be binding upon the VENDOR. Failure of the VENDOR to fulfill any such commitment shall render the VENDOR liable for damages due to the SFA. Such written commitments include, but are not limited to:

- Any warranty or representation made by the VENDOR in any publication, drawing, or specifications accompanying or referred to in the proposal pertaining to the responsiveness of the proposal
- Any written notifications, affirmations, or representations made by the VENDOR in, or during the course of, negotiations that are incorporated into a formal amendment to the proposal

**L. Trade Secrets/Copyrights**

The VENDOR and SFA shall designate any information they consider confidential or proprietary—including recipes, surveys and studies, management guidelines, operational manuals, and similar documents—that the SFA and VENDOR regularly use in the operation of their business or that they develop independently during the course of this Contract. Information so designated and identified shall be treated as confidential by the VENDOR and the SFA, and the VENDOR and the SFA shall exercise the same level of care in maintaining the confidences of the other party as they would employ in maintaining their own confidences, unless disclosure is otherwise required under the law. All such materials shall remain the exclusive property of the party that developed them and shall be returned to that party immediately upon termination of this Contract. Notwithstanding, the federal awarding agency reserves a royalty-free, nonexclusive, and irrevocable license to reproduce, publish, or otherwise use, and authorize others to use, the following for federal government purposes:

- The copyright in any work developed under a federal grant, subgrant, or contract under a grant or subgrant (7 *CFR*, Section 200.315)

- Any rights of copyright to which a grantee, subgrantee, or a contractor purchases ownership with federal grant support (2 *CFR*, Section 200.315[B])

**M. Severability**

Should any provision(s) of this Contract be declared or found to be illegal, unenforceable, ineffective, and/or void, then each party shall be relieved of any obligations arising from such provision(s). The balance of this Contract, if capable of performance, shall remain and continue in full force and effect.

**N. Counterparts**

This Contract may be executed in counterparts, each of which shall be deemed an original, but all of which together will constitute one and the same instrument.

**O. Silence/Absence/Omission**

Any silence, absence, or omission from the Contract specifications concerning any point shall mean that only the best commercial practices are to prevail. Only those materials (e.g., food, supplies, etc.) and workmanship of a quality that would normally be specified by the SFA are to be used.

**P. Indemnification**

The VENDOR shall indemnify and hold harmless the SFA, or any employee, director, agent, or Board Member of the SFA, from and against all claims, damages, losses, and expenses (including attorney's fees and court costs incurred to defend litigation), and decrees or judgments whatsoever arising from any and all injuries, including death or damages to or destruction of property resulting from the VENDOR's acts or omissions, willful misconduct, negligence, or breach of the VENDOR's obligations under this Contract by the VENDOR, its agents, employees, or other persons under its supervision and direction.

The VENDOR shall not be required to indemnify or hold harmless the SFA from any liability or damages arising from the SFA's sole acts or omissions.

**Q. Penalties**

For the breach of the Contract and associated benefits:

If the VENDOR causes the breach, the VENDOR assumes liability for any and all damages, including excess cost to the SFA in procuring similar services, and is liable for administrative, contractual, and legal remedies, as applicable.

**R. Small and Minority Businesses - Prime Contractors and Subcontractors**

(a) The non-Federal entity must take all necessary affirmative steps to assure that minority businesses, women's business enterprises, and labor surplus area firms are used when possible. (b) Affirmative steps must include: (1) Placing qualified small and minority businesses and women's

business enterprises on solicitation lists; (2) Assuring that small and minority businesses, and women's business enterprises are solicited whenever they are potential sources; (3) Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority businesses, and women's business enterprises; (4) Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority businesses, and women's business enterprises; (5) Using the services and assistance, as appropriate, of such organizations as the Small Business Administration and the Minority Business Development Agency of the Department of Commerce; and (6) Requiring the prime contractor, if subcontracts are to be let, to take the affirmative steps listed in paragraphs (1) through (5) of this section. (2 *CFR*, Part 200.321[a][b][1-6])

**S. The VENDOR shall comply with the provisions referenced in Appendix II to 2 Part 200, which include but are not limited to:**

- a) Equal Employment Opportunity (for contracts in excess of \$10,000)
- b) Davis Bacon Act (for construction contracts in excess of \$2,000)
- c) Rights to Inventions Made Under a Contract or Agreement (if applicable)
- d) Byrd Anti-Lobbying Amendment [31 U.S.C. 1352] (Appendix II to 2 *CFR*, Part 200 (for contracts worth \$100,000 or more])

**T. Force Majeure**

1. Neither party shall be liable to the other for delay in, or failure of, performance nor shall any such delay in, or failure of, performance constitute default if such delay or failure is caused by force majeure. Force majeure means an occurrence that is beyond the control of the party affected and occurs without its fault or negligence. Force majeure may include, but is not restricted to, acts of God, the public enemy, acts of the state in its sovereign capacity, fires, floods, power failure, disabling strikes, epidemics, quarantine restrictions, and freight embargoes.
2. Force majeure does not include any of the following occurrences:
  - Late delivery of equipment or materials caused by congestion at a manufacturer's plant or elsewhere, or an oversold condition of the market
  - Late performance by a subcontractor, unless the delay arises out of a force majeure occurrence
  - Inability of either the VENDOR or any of its subcontractors to acquire or maintain any required insurance, bonds, licenses, or permits
3. If either party is delayed at any time in the progress of work by force majeure, the delayed party shall notify the other party in writing of such delay, as soon as practicable and no later than the following work day or the commencement thereof, and shall specify the causes of such delay. Such notice shall be delivered by hand or sent by postal mail with a certified return receipt requested and shall make a specific reference to this article, thereby invoking its provisions. The delayed party shall cause such delay to cease as soon as practicable and shall notify the other

party in writing when it has done so. The time for completion shall be extended by contract amendment, as long as the amended period does not violate 7 *CFR* Section 210.16(d).

4. Any delay or failure in performance by either party caused by force majeure shall not constitute default, nor give rise to any claim for damages or loss of anticipated profits.

**U. Nondiscrimination**

Both the SFA and VENDOR agree that no child who participates in the National School Lunch Program (NSLP), School Breakfast Program (SBP), Summer Food Service Program (SFSP), or Child and Adult Care Food Program (CACFP) will be discriminated against 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 all or part of an individual's income derived from any public assistance program or protected genetic information in employment or in any program or activity conducted or funded by the USDA. (Not all prohibited bases will apply to all programs and/or employment activities (2 *CFR*, Section 210.23[b])

**V. Compliance with the Law**

The VENDOR shall comply with all laws, ordinances, rules, and regulations of all applicable federal, state, county, and city governments, bureaus, and agencies regarding purchasing, sanitation, health, and safety for the food service operations and shall procure and maintain all necessary licenses and permits. The SFA shall cooperate, as necessary, in the VENDOR's compliance efforts.

The VENDOR shall comply with 2 *CFR*, Part 200, 7 *CFR*, parts 210 (NSLP), 220 (SBP), 225 (SFSP), 226 (CACFP), 245 (Determining Eligibility for Free and Reduced Price Meals and Free Milk in Schools) as applicable, 250 (Donation of Foods for Use in the United States, its Territories and Possessions and Areas Under its Jurisdiction, USDA FNS Instructions and policy, federal laws and regulations, California *Education Code (EC)*, and California laws and regulations, where applicable.

[Note: take out any of the above references that do not apply to this Contract]

**W. Choice of Law**

This Contract shall be construed under the laws of the state of California, where applicable, without giving effect to the principles of conflict of laws. Any action or proceeding arising out of this Contract shall be heard in the appropriate courts in California.

**X. Advice of Counsel**

Each party acknowledges that, in executing this Contract, such party has had the opportunity to seek the advice of independent legal counsel and has read and understood all of the terms and provisions of this Contract (California *Education Code [EC]*, Section 45103.5[b]).

**III. Relationship of the Parties**

- A. The VENDOR's relationship with the SFA will be that of an independent contractor and not that of an employee of or supervisor for the SFA. The VENDOR will not be eligible for any employee benefits, nor will the SFA make deductions from payments made to the VENDOR for taxes; all of which will be the VENDOR's responsibility. The VENDOR agrees to indemnify and hold the SFA harmless from any liability for, or assessment of, any such taxes imposed on the SFA by relevant taxing authorities. The VENDOR will have no authority to enter into contracts that bind the SFA or create obligations on the part of the SFA (*EC Section 45103.5*).
- B. Where the SFA is a public school district or program operated by the county Office of Education, the VENDOR, as an independent contractor, shall have no authority to supervise food service classified personnel operating the NSLP, SBP, or Afterschool Meal Supplements (AMS) under the NSLP (*EC Section 45103.5*).
- C. All services to be performed by the VENDOR will be as agreed between the VENDOR and the SFA. The VENDOR will be required to report to the SFA concerning the services performed under this Contract. The SFA shall determine the nature and frequency of these reports.
- D. The SFA is the responsible authority, without recourse to USDA or CDE, 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.

## ■ Food Service Program

### A. Vended Meal Provider Responsibilities

1. The VENDOR will provide vended meals to the SFA pursuant to the vendor's response to SFA's Request for Proposal.
2. The SFA participates in meal programs that require the use the nonprofit food service funds, to the maximum extent practicable, 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 (51% or more by weight or volume) using agricultural commodities that are produced in the U.S. as provided in 7 CFR 210.21(d) and 220.16[d]).

### B. School Food Authority Responsibilities

1. The SFA shall ensure that the food service operation is in conformance with the SFA's Permanent Single Agreement with the CDE and will monitor the food service operation through periodic on-site visits (7 CFR, sections 210.16[a][2] and 210.16[a][3]).
2. The SFA shall retain control of the quality, extent, and general nature of the food service program and establish all program and nonprogram meal and a la carte prices (7 CFR, sections 210.09(b)(1) and 210.16[a][4]).

3. SFAs with more than one school shall perform no less than one on-site review of the lunch counting and claiming system employed by each school under its jurisdiction. The on-site review shall take place prior to February 1 of each school year. Further, if the review discloses problems with a school's meal counting or claiming procedures, the SFA shall ensure that the school implements corrective action and, within 45 days of the review, conduct a follow-up on-site review to determine that the corrective action resolved the problem. Each on-site review shall ensure that the school's claim is based on the counting system authorized by the CDE under 7 *CFR*, Section 210.7(c) and that the counting system, as implemented, yields the actual number of reimbursable free, reduced-price, and paid lunches respectively, served for each day of operation (7 *CFR*, Section 210.8[a][1]).
4. The SFA shall retain control of the nonprofit school service account and overall financial responsibility for the nonprofit food service operation; the quality, extent, and the general nature of its food service; and the prices children are charged for meals (7 *CFR*, Section 210.16[a][4]).
5. The SFA shall retain responsibility for developing the meal pattern for students with disabilities, when their disability restricts their diet, and for those students without disabilities who are unable to consume the regular lunch because of medical or other special dietary needs (7 *CFR*, Section 210.10[m]).
6. The SFA shall retain signature authority for the food services application, agreements, Free and Reduced-Price Policy Statement, monthly Claim for Reimbursement, reports, program renewal, the verification of applications, letters to households, and all correspondence to the CDE relating to the food service program (7 *CFR*, Section 210.16[a][5]).
7. The SFA shall retain signature authority and be responsible for all contractual agreements entered into in connection with the food service program (7 *CFR* Section 210.21).
8. The SFA shall be responsible for the establishment and maintenance of the free and reduced-price meals eligibility roster (*EC* Section 49558).
9. The SFA shall be responsible for the development, distribution, and collection of the letter to households and Application for Free and Reduced-Price Meals and/or Free Milk. (*EC* Section 49558 and 7 *CFR*, Section 245.6).
10. If the SFA uses direct certification of eligibility, the SFA shall be responsible for obtaining the direct certification list at least annually (*EC* Section 49558).
11. The SFA shall be responsible for the determination of eligibility for free and reduced-price meals and shall disclose the eligibility status of individual students or confidential information provided on the application for free or reduced-price meals to the VENDOR, to the extent that such information is necessary for the VENDOR to fulfill its obligations under this Contract. The VENDOR will not disclose the eligibility status of individual students or confidential information provided.

12. The SFA shall be responsible for conducting any hearings related to determinations regarding free and reduced-price meal eligibility (*EC* Section 49558 and *7 CFR*, Section 245.7).
13. The SFA shall be responsible for verifying applications for free and reduced-price meals as required by federal regulations (*7 CFR*, sections 245.6 and 245.6a).
14. The SFA shall establish and maintain an advisory board composed of parents, teachers, and students to assist with menu planning (*7 CFR*, Section 210.16[a][8]).

**V. Meal Responsibilities**

**A. The VENDOR shall (*7 CFR*, Section 250.54[a] and [c]):**

1. Provide meals on such days and at such times as requested by the SFA.
2. Offer free, reduced-price, and paid reimbursable meals to all eligible children through the SFA's food service program (*7 CFR*, Section 210.16[a]).
3. Provide meals through the SFA's food service program that meet the requirements as established in *7 CFR*, Part 210.

**VI. Books and Records**

- A.** The SFA and the VENDOR must provide all documents as necessary for an independent auditor to conduct the SFA's financial audit. The VENDOR shall maintain such records as the SFA will need to support its Claims for Reimbursement. Such records shall be made available to the SFA upon request and shall be retained in accordance with *7 CFR*, Section 210.16(c)(1).
- B.** The SFA and the VENDOR shall, upon request, make all accounts and records pertaining to the nonprofit food service program available to the CDE and USDA FNS for audit or review at a reasonable time and place. Each party to this Contract shall retain such records for a period of three (3) years after the date of the final Claim for Reimbursement for the fiscal year in which this Contract is terminated, unless any audit findings have not been resolved. If audit findings have not been resolved, then records shall be retained beyond the three-year period as long as required for resolution of issues raised by the audit (*7 CFR*, Section 210.9(b)(17) and *2 CFR*, Section 200.336[a]).
- C.** The VENDOR shall not remove state or federally required records from the SFA premises upon contract termination.
- D.** The SFA and the VENDOR shall allow the CDE, USDA, the Comptroller General of the United States, or any of their duly authorized representatives access to any books, documents, papers, and records of the VENDOR that are directly pertinent to the

Contract for the purpose of making any audit, examination, excerpts, and transcriptions (2 *CFR*, Section 200.336[a]).

**VII. Monitoring and Compliance**

- A.** The SFA shall monitor the food service operation through periodic on-site visits in order to develop recommendations for improvement of the food service program
- B.** The VENDOR warrants and certifies that in the performance of this Contract it will comply with all applicable statutes, rules, regulations, and orders of the United States and the state of California.
- C.** The SFA shall establish internal controls that ensure the accuracy of lunch counts prior to the submission of the monthly Claim for Reimbursement in accordance with 7 *CFR*, Section 210.8(a). At a minimum, these internal controls shall include all of the following:
  - An on-site review of the lunch counting and claiming system employed by each school within the jurisdiction of the SFA (7 *CFR*, Section 210.8[a][1])
  - Comparisons of daily free, reduced-price, and paid lunch counts against data that will assist with the identification of lunch counts in excess of the number of free, reduced-price, and paid lunches served each day to children eligible for such lunches
  - A system for following up on lunch counts that suggest the likelihood of lunch counting problems.

**VIII. Equipment, Facilities, Inventory, and Storage**

- A.** The SFA will make available to the VENDOR, without any cost or charge, area(s) of the premises agreeable to both parties in which the VENDOR shall render its services. The SFA shall not be responsible for loss or damage to equipment owned by the VENDOR and located on the SFA's premises. Meals are prepared by the Vendor, off-site.
- B.** The VENDOR shall notify the SFA of any equipment belonging to the VENDOR on the SFA's premises within 10 days of its placement on the SFA's premises.
- C.** The premises and equipment provided by the SFA for use in its nonprofit food service program shall be in good condition and maintained by the SFA to ensure compliance with applicable laws concerning building conditions, sanitation, safety, and health including, without limitation, Occupational Safety and Health Administration regulations. The SFA further agrees that any structural or nonstructural modifications or alterations to the workplace or the premises necessary to comply with any statute or governmental regulation shall be the responsibility of the SFA and shall be at the SFA's expense. This provision shall survive termination of this Contract.
- D.** The SFA shall have access, with or without notice, to all of the SFA's facilities used by the VENDOR for purposes of inspection and audit.
- E.** Ownership of the beginning inventory of food and supplies shall remain with the SFA.
- F.** All USDA Foods shall remain with the SFA (7 *CFR*, Section 210.16[a][6]).
- G.** Ownership of all nonexpendable supplies and capital equipment shall remain with the SFA. However, the VENDOR must take such measures as may be reasonably required by the SFA for protection against loss, pilferage, and/or destruction.

IX. **Certifications**

- A. The VENDOR warrants and certifies that in the performance of this Contract, it will comply with the rules and regulations of the CDE and the USDA, and any additions or amendments thereto, including but not limited to 2 *CFR*, Part 200 and 7 *CFR*, parts 210, 215, 220, 225, 245, 250, and USDA FNS Instruction and policy, as applicable. The VENDOR agrees to indemnify the SFA and the CDE against any loss, cost, damage, or liability by reason of the VENDOR's violation of this provision.
- B. The VENDOR shall comply with Title VI of the Civil Rights Act of 1964, as amended; USDA regulations implementing Title IX of the Education Amendments; Section 504 of the Rehabilitation Act of 1973; and any additions or amendments to any of these regulations.
- C. The SFA and VENDOR shall comply with all applicable standards, orders, or regulations issued, including:
  - A. Section 306 of Clean Air Act (42 *U.S.C.* 1847[h]):
  - B. Section 508 of the Clean Water Act (33 *U.S.C.* 1368)
  - C. Executive Order 11738:
  - D. Environmental Protection Agency (EPA) regulations at Title 40, *Code of Federal Regulations*, Part 15, et seq.
- D. Debarment Certification

The USDA Certification Regarding Debarment must accompany each subsequent four (4) additional one-year renewals (2 *CFR*, sections 180 and 417). Contract renewals that do not include this certification will not be accepted for consideration.

**E. Lobbying**

The Certification Regarding Lobbying and a Disclosure of Lobbying Activities form (2 *CFR*, Section 418) must accompany each subsequent four (4) additional one-year renewals (2 *CFR*, sections 180 and 417). Contract renewals that do not include this certification will not be accepted for consideration.

**F. Energy Policy and Conservation Act:** <http://legcounsel.house.gov/Comps/EPCA.pdf>.

The SFA and the VENDOR shall recognize mandatory standards and policies relating to energy efficiency which are contained in the state conservation plan issued in compliance with the Energy Policy and Conservation Act.

**G. Contract Work Hours and Safety Standards Act Compliance:**  
<http://www.dol.gov/compliance/laws/comp-cwhssa.htm> .  
VENDOR will comply with Sections 103 and 107 of the Contract Work Hours and Safety Standard Act.

**X. Insurance**

The parties shall maintain the following insurances:

**A. Workers' Compensation Insurance**

Each party shall maintain Workers' Compensation Insurance coverage as required by state law, and Employers' Liability in the amount of one million dollars (\$1,000,000.00) for each accident covering all employees employed in connection with child nutrition program operations.

**B. Comprehensive or Commercial Insurance**

The VENDOR shall maintain during the term of this Contract, for protection of the SFA and the VENDOR, Comprehensive or Commercial General Bodily Injury and Property Damage Liability Insurance with a Combined Single Limit of not less than five million dollars (\$5,000,000.00) for each occurrence, including, but not limited to, Personal Injury Liability, Broad Form Property Damage Liability on the VENDOR-owned property, Blanket Contractual Liability, and Products Liability, covering only the operations and activities of the VENDOR under the Contract and, upon request, shall provide the SFA with a certificate evidencing such policies. The insurance policies shall contain covenants by the issuing company that the policies shall not be canceled without 30 days prior written notice of cancellation to the SFA. With the exception of Workers' Compensation Insurance, the SFA shall be named as an additional insured under the VENDOR's policies of insurance to the extent the SFA is indemnified pursuant to this Contract.

**C. Property Insurance**

The SFA shall maintain, or cause to be maintained, a system of coverage either through purchased insurance, self-insurance, or a combination thereof to keep the buildings, including the premises, and all property contained therein insured against loss or damage by fire, explosion, or other cause normally covered by standard broad form property insurance.

## **XI. Termination**

Either party may terminate this Contract at any time upon 60-days' written notice (7 *CFR*, Section 210.16[d]).

Either party may cancel for cause with a 60-day notification if either party breaches a provision of this Contract (7 *CFR*, Section 210.16[d]). The nonbreaching party shall give the other party notice of such cause. If the cause is not remedied within 10 days, the nonbreaching party shall give a 60-day notice to the breaching party of their intent to terminate this Contract upon expiration of the 60-day period (2 *CFR*, Section 200.339[a][3]). This Contract may be terminated, in whole or in part, for convenience by the SFA with the consent of the VENDOR, in which case the two parties shall agree upon the termination conditions, including the effective date and, in the case of partial termination, the portion to be terminated (2 *CFR*, Part 200). The Contract may also be terminated, in whole or in part, by the VENDOR upon written notification to the SFA, setting forth the reasons for such termination, the effective date, and, in the case of partial termination, the portion to be terminated. However, in the case of a partial termination, if the SFA determines that the remaining portion of the Contract will not accomplish the purposes for which the Contract was made, the SFA may terminate the Contract in its entirety under 2 *CFR*, Part 200, Appendix II(B). The rights of termination referred to in this Contract are not intended to be exclusive and are in addition to any other rights or remedies available to either party at law or in equity.

Exhibit A  
**Scope of Work**

**1. Overview of American Indian Model Schools 's Food Service Program**

- A. Scope. The Vended Meal company shall provide vended breakfast, lunch and snack service at American Indian Public Charter School I, located at 171 12<sup>th</sup> St. Oakland, CA 94607, American Indian Public Charter School II, located at 1929 E 19<sup>th</sup> St. Oakland, CA 94606 and American Indian Public High School, located at 746 Grand Ave, Oakland CA, 94610.
- B. Time. Delivery is to take place a time mutually agreeable between VENDOR and SFA.
- C. Services. VENDOR will deliver services pursuant to its proposal provided to SFA.

**2. Description of VENDOR Responsibilities**

General: under the direction of the SFA's Food Service Director, the VENDOR selected pursuant to this RFP will provide the following. [Enter general description of goals and objectives that the VENDOR is expected to meet.] In addition, the VENDOR will employ (a) qualified professional(s) to [describe general duties and title of person(s)].

Responsibilities of the VENDOR shall include: [Shown as examples only by categories; the SFA should combine, modify, delete, and/or expand as needed.]

**A. Purchasing of Supplies for the Food Service Program**

Recommend (or be responsible for) purchasing standards and specifications that will result in the best quality of products and services at the lowest price for the food service program.

All transactions shall be conducted in a manner so as to provide maximum open and free competition as provided by statute and regulation.

The grade, purchase unit, style, weight, ingredients, formulation, etc., shall be in compliance with applicable statutes and regulations.

Purchase food and/or supplies (if applicable); if authorized by the SFA, the VENDOR shall purchase food used by the food service operation and the purchasing of food shall not displace SFA staff or delegate responsibilities of the SFA to the VENDOR.

Recommend new or improved procedures for the requisition, receipt, and verification of all supplies used by the food service operation

**B. Facility or Site Operations**

The VENDOR shall recommend:

- Safety programs for employees

- Sanitation standards for housekeeping, preparation, storage, and equipment
- Adjustments to practices and operation of equipment as required
- A Food Safety Plan and participate in the development, implementation, and maintenance of said plan
- Methods to increase participation at all levels of the SFA's food service programs, improve food quality, and upgrade equipment and facilities
- Hours and number of positions at each site to meet food service operational needs

### **C. Menus**

Adhere to the 21-day cycle menu for the first 21 days of meal service; thereafter, the VENDOR may only make changes with the SFA's approval (7 CFR, 210.16[b][1] and 220.80.)

Provide recommendations for menu development that will result in the best quality of products and services at the lowest price for the food service program.

Seek student and parent input on successful menu variation and planning.

Provide, upon request by the SFA, recommended menus to assure compliance with all applicable statutes and regulations; include menu recommendations to meet the needs of students with special dietary needs or disabilities

### **D. Quality Control**

Recommend or establish a formal structure to routinely and continuously gather input from students, staff, and parents about food services.

Recommend or establish a structure or process to routinely and continuously gather input from food service employees to ensure the most effective and efficient operation possible.

### **E. Staff**

Recommend management staff and structure that will enhance the SFA's food service programs and ensure that the SFA's food service programs are of consistent top quality and held in positive regard by students, staff, and the public.

Recommend or establish and conduct management and staff training programs that will ensure staff development, proper supervision, professional/health certification, and consistent quality control both in production and service

### **F. Records**

Maintain full and complete financial and inventory records sufficient to meet federal and state requirements and that are in accordance with generally accepted accounting procedures.

Maintain employment records that show VENDOR staff have all professional and health certifications as required by federal or state law and the SFA

#### **G. Education**

Recommend actions or events to promote the nutrition education aspects of the food service program, and recommend or cooperate with efforts to merge these actions or events with classroom instruction; the VENDOR will work in partnership with the SFA to educate students, parents, teachers, and the community about efforts to promote better nutrition and health.

Coordinate meeting times with the Food Service Director, other SFA staff, and parents or students to discuss ideas to improve the food service program; arrange meetings between an acceptable management representative of the VENDOR and the Food Service Director, other SFA staff, and/or the school board, upon request

#### **H. Reports**

Collect and provide, in the required format, information necessary for school food service claims for reimbursement from state and federal agencies and maintain records of past information; at the end of each month the number of meals to be claimed will be submitted to the SFA contact by the VENDOR consultant/representative on or before the 7<sup>th</sup> of each month (7 *CFR*, 210.16[c][1]).

Provide the SFA with monthly operating statements and other information determined by the SFA regarding the food service programs

Exhibit B

**Schedule of Fees**

The costs included in the Cost per Meal table comprise the fixed price per meal. The fees are agreed upon by both parties and represent allowable food service costs in accordance with 2 CFR, Part 200.

**Cost per Meal**

LINE ITEM	UNITS*	RATE	TOTAL
Breakfast	181,080	\$2.00	\$362,160.00
Lunch	190,800	\$2.88	\$549,504.00
Snacks	134,100	\$0.82	\$109,962.00
Seamless Summer Feeding Option		\$	\$
Child and Adult Care Food Program Supper		\$	\$
Nonreimbursable Meals		\$	\$
TOTAL			\$ 1,021,626.00

\*Units to be provided by SFA

This contract is agreed upon on the \_\_\_\_\_ day of \_\_\_\_\_, 2018.

THE LUNCH MASTER  
Name – Vended Meal Company

[Signature]  
Signature – Vended Meal Company

G.M  
Position

\_\_\_\_\_  
Name – School Food Authority Rep

\_\_\_\_\_  
Signature – School Food Authority Rep

\_\_\_\_\_  
Position