

NC Department of Public Instruction/School Nutrition Services

Request for Proposal (RFP) and Contract for Catering Services in the National School Lunch and/or Breakfast Program(s)

Date Issued:

Description: **Kestrel Heights School** is seeking Caterers to provide lunch and /or breakfast meals for the 2021-2022 school year. We are currently soliciting competitive proposals and wish to invite your company to submit a proposal. The attached Request for Proposal will also serve as the official Contract once the Contract is successfully executed. The RFP/Contract provides a detailed description of our lunch and/or breakfast program and services that we require, along with Contract terms and conditions, nutrition requirements and a sample four-week cycle menu.

It is important to note the Caterer/Contractor is responsible for any reclaims that may result from a Federal and/or State review resulting from inadequate portion sizes, missing meal components, missing or incomplete production records, standardized recipes, or the absence of any other supporting documentation required under program regulations. Therefore, it is critical that all meals provided include all meal components in the exact portion size. In the event of a reclaim, the SFA will present an invoice to the Caterer/Contractor requiring payment for disallowed meals. Please note that if the Caterer/Contractor adheres to the specific terms and conditions of the Contract, there is minimum risk of a reclaim. It is the responsibility of the SFA to monitor the contract to ensure the terms and conditions are adhered to by all parties (SFA and Caterer/Contractor).

Date Proposal Opens:

Time Proposal Opens:

Proposal Procedure

Submit each Proposal with original signatures and the complete RFP along with the accompanying proposal documents. The Caterer shall complete the attached Proposal/Contract document, indicating the proposed portion sizes and component contribution for each menu item, meeting the USDA meal pattern requirements and indicating the price per meal.

Submit TWO (2) original copies in a SEALED envelope. The sealed package shall be labeled as follows:

Kestrel Heights SCHOOL NUTRITION PROGRAM Request for Proposal/Contract Maureen Gordon 4900 Prospectus Dr. Durham NC 27713	
Name of Company	
Person authorized to sign the Proposal/Contract	

The Proposals/Contracts received will be reviewed for responsiveness by members of the **Kestrel Heights School** Proposal/Contract Evaluation Team. Please review the Proposal/Contract terms and conditions carefully. When the document is signed by the school administration it becomes the official Contract. Please feel free to contact **Maureen Gordon**, gordon@kestrelheights.org 919-484-1300 ext 300 if you have any questions.

PROPOSALS RECEIVED AFTER WEDNESDAY, MARCH 17, 2021 AT 2:30PM WILL NOT BE OPENED.

Special Conditions/Required procedures:

- Monthly menus will be submitted to Kestrel Heights School no later than the **15th** of each month, for menus proposed for the following month.
- Monthly/Daily orders will be provided to the Caterer by Kestrel Heights School no later than **5pm** prior to the first day of service.
- All food is to be delivered in a **hot holding** or **cold holding** unit that will maintain food temperature in the safe zones until served at these times:
Breakfast: 7:00 a.m. Lunch 10:30am-1pm
- Caterer/Contractor completes and delivers to Kestrel Heights School each day, the Daily Meal Production Plan or Delivery Ticket (a form required by the NCDPI). Kestrel Heights School will provide for Caterer the form to record the amount of food prepared and delivered each day.
- Caterer will provide all nutrition information needed for the required nutrient analysis upon request.

In compliance with this Proposal/Contract, and subject to all conditions required herein, the undersigned offers and agrees to furnish and deliver, any or all items upon which prices are proposed, at the prices set correlating to each item, within the time specified.

By responding to this Proposal/Contract, the Caterer certifies that the Proposal is made without prior arrangements, agreements, or connection with any firm, corporation, or person submitting a Proposal for the same items, and is in all respects fair and without collusion or fraud. The Caterer/Contractor also certifies no one connected to this company has had any connection with the development or drafting of this Proposal/Contract. Under penalty of perjury, the undersigned Caterer/Contractor certifies that this Proposal/Contract has not been arrived at collusively or otherwise in violation of Federal or State (North Carolina) laws or regulations.

By signing this Proposal/Contract Certification, the individual assures that the Caterer has read and understands all the General Terms and Conditions in this RFP/Contract and agrees to be bound by them, and is authorized to submit Proposals on behalf of the Caterer.

The award shall be made to the qualified responsive and responsible offeror whose proposal is most responsive to this solicitation. A responsible offeror is a Caterer whose financial, technical and other resources indicate an ability to perform the services established by the SFA and required by this solicitation and whose responses best meet the criteria contained throughout the RFP. The award may be made to other than the lowest monetary proposal. If the caterer receives a discount, rebate, allowance, or incentive from any supplier, the caterer must disclose and return to the SFA the full amount of the discount, rebate, or applicable credit that is received based on the purchases made on behalf of the SFA.

The Kestrel Heights School reserves the right to reject any, and all, Proposals and to cancel this solicitation if it is in the best interest of the SFA. Kestrel Heights School shall not be held responsible for any expenses incurred in the preparation or subsequent presentation of the Caterer's response to this solicitation.

No indebtedness of any kind incurred or created by Kestrel Heights School shall constitute an indebtedness of the State or its political subdivisions, and no indebtedness of the school shall involve or be secured by the faith, credit, or taxing power of the State or its political subdivisions

If any or all parts of the Caterer's Proposal are accepted by Kestrel Heights School, an authorized representative of Kestrel Heights School shall affix their signature hereto and collectively this RFP and any attachments or certifications shall become the Contract and shall represent the entire agreement between the Kestrel Heights School and the Caterer.

Kestrel Heights School (SFA)
School Nutrition Services
Request for Proposal/Contract

I. PURPOSE AND AUTHORITY

This Contract, dated _____, between **Kestrel Heights School**, hereinafter referred to as the SFA, and the _____ **{INERT NAME of the SERVICE PROVIDER}**, hereinafter referred to as the Caterer, authorizes that the Caterer shall provide meals to the school, in accordance with applicable regulations for the Federally-assisted USDA School Nutrition Program(s) referred to below, for the period, not to exceed one year, **from August 18, 2021 through June 10, 2022**. The Contract may be renewed on an annual basis for a four-year period from the date the first Contract was signed. ***If renewed for additional years, a contract amendment will be mutually agreed upon by both parties and approved, prior to signature of both parties, by the Zone Operations and Management Consultant assigned to the Zone.***

The Caterer will provide meals to the following school location(s):

Breakfast will be delivered to 4700 S. Alston Ave (6-8 Campus) and 4900 Prospectus Dr. (K-5 Campus)
 Lunch will be delivered to 4700 S. Alston Ave (6-8 Campus) and 4900 Prospectus Dr. (K-5 Campus)

Federal Regulations for USDA School Nutrition Programs

National School Lunch Program: 7 CFR 210

School Breakfast Program: 7 CFR 220

Special Milk Program: 7 CFR 215

Procurement Regulations 7 CFR 210.16, 7 CFR 210.21, 2 CFR 200.318-326

II. MEALS

A. The Caterer will provide the following types of meals:

(Indicate breakfasts, lunches, snacks, suppers, milk. If more than one site, indicate any differences between sites.)

Breakfast will be delivered to 4700 S. Alston Ave (6-8 Campus) and 4900 Prospectus Dr. (K-5 Campus)

Lunch will be delivered to 4700 S. Alston Ave (6-8 Campus) and 4900 Prospectus Dr. (K-5 Campus)

The SFA will be operating under the National School Lunch Meal Pattern. The SFA is not eligible to operate under the Summer Food Service Program Meal Pattern.

B. The Caterer will also provide:

(Indicate items such as condiments, eating utensils, paper items, extra milk, and transportation containers, if applicable. If more than one site, indicate any differences between sites.)

Condiments, eating utensils, paper items, extra milk, and transportation containers

C. The Caterer will provide meals that meet USDA meal pattern requirements, in accordance with meal patterns in program regulations and attached as *Attachment A (lunch)* and *Attachment C (breakfast)* to this Contract, for the following Federally-assisted School Nutrition program(s):

(Indicate which USDA programs will provide reimbursements for catered meals – National School Lunch Program, School Breakfast Program, Afterschool Snack Program, Special Milk Program). If more than one site, indicate any differences between sites.) The Caterer agrees to use the USDA Food Buying Guide, CN Labels, manufacturer's specifications, or Product Formulation Statements to determine that adequate amounts of foods are provided to meet the serving sizes required by the meal pattern:

School Breakfast Program and National School Lunch Program will be to scholars at Elementary Campus 4900 Prospectus Dr. Durham NC and Middle School Campus 4700 S. Alston Ave. Durham NC.

The SFA has provided at least four weeks of menus for the Caterer *that indicates specific foods/portions* that are to be included in each meal or snack. The Caterer has agreed to provide the foods shown on the menus, in the required portion size. The menu is attached as *Attachment B (lunch)* and *Attachment D (breakfast)* to this Contract and will become part of the Contract. **Any change in the menu, including any substitution of one food for another similar food, must be approved, in writing, in advance, by the SFA.**

The meal pattern for the National School Lunch Program is attached as *Attachment A (lunch)* and *Attachment C (breakfast)* to this Contract. If the Caterer will provide meals or snacks that will be claimed through any other School Nutrition Programs, the applicable meal patterns have been attached to this Contract.

D. The Caterer will prepare meals for the school in the following manner:

(Describe whether Caterer will serve meals, or provide unitized meals, or provide bulk quantities accompanied by written instruction regarding the planned portion size to be served of each food component needed to meet meal pattern requirements. If more than one site, indicate any differences between sites.)

Caterer will provide unitized meals in sealed containers.

E. If applicable, the Caterer will utilize any USDA Foods made available by the SFA to the maximum extent possible and solely for providing benefits for the school's School Nutrition Program.

III. ORDERING AND DELIVERY

A. The SFA will notify the Caterer 1 hours/days in advance of the number of meals needed, as described:

(Indicate deadline(s) for School to send meal orders, such as by a set time on the previous day or the same day of the meal service, and how notice will be provided, by telephone or in person. Also indicate timeline(s) for increasing and decreasing an order that has been made. If more than one site, indicate any differences between sites.)

Parents will have until the previous day to order meals for their scholar. The school will use pre-ordering data to communicate a base number to the caterer. The order will be finalized at the end of the previous school day.

B. The Caterer will deliver meals as described:

(For each site and meal service, indicate time(s) that each meal will be delivered, or time(s) that the School will pick up meals at Caterer's site. If more than one site, indicate any differences between sites.)

Breakfast will be delivered by 7am, serving breakfast 7:20-8:00am at the Elementary and Middle School Campus
 Elementary School Lunch will be delivered by 10:15am, serving lunch 10:30am-12pm at 4900 Prospectus Dr.
 Middle School Lunch Lunch will be delivered by 12:30pm, serving lunch 12:50-1:30pm at 4700 S. Alston Ave.

C. Responsibility for transport containers will be as described:

(Indicate whether the Caterer or School will be responsible for cleaning transport containers and, if applicable, schedule for Caterer to pick up or School to return transport containers. If more than one site, indicate any differences between sites.)

Caterer will be responsible for cleaning transport containers. The Caterer will pick up containers daily.

IV. MEAL PRICES AND BILLING

A. The SFA will pay the following prices for meals:

TO BE COMPLETED BY CATERER: *Caterer must indicate price for each meal type (breakfast, lunch, snack, adult) provided by the Caterer. If applicable, indicate charges for extra milk, adult meals, or other. If more than one site, indicate any differences between sites.) (Note: if adult meals will be provided by the Caterer, these meals must be invoiced separately from those meals/snacks prepared for children/students.)*

B. The Caterer will invoice the SFA as described:

TO BE COMPLETED BY CATERER: *Caterer must indicate whether Caterer will bill on weekly, bi-weekly, or monthly basis and when payment is due.)*

V. ADDITIONAL PROVISIONS MUTUALLY AGREED UPON BY THE SCHOOL FOOD AUTHORITY AND THE CATERER

The SFA is responsible for producing a nutrient analysis of meals offered to students, using USDA-approved nutrient analysis software, annually and during reviews conducted by the State Agency. The SFA may wish to negotiate with the Caterer to provide the nutrient analyses, including the Meal Component and Quantity Worksheets. Planned menus for breakfast and lunch must include all required components and meet specified calorie ranges, targets for sodium and saturated fat, and must exclude all Trans-fat.

Caterer will provide the nutrient analysis

Caterer will not provide the nutrient analysis

Other special provisions:

VI. SCHOOL FOOD AUTHORITY CONTROL OF THE SCHOOL NUTRITION PROGRAM

The School Food Authority (SFA) will maintain its responsibilities for administration of the food service, in accordance with regulations and policies for the Federally-assisted School Nutrition Program(s). The SFA will:

- A. Retain control of the quality, extent, and general nature of the School Nutrition Program, including counting and claiming meals, and ordering and accounting for USDA Foods.
- B. Ensure that the School Nutrition Program conforms to the School's Agreement with the NC Department of Public Instruction/State Board of Education to participate in the Federally-assisted School Nutrition Programs.
- C. Retain control of the nonprofit School Nutrition Program account and overall financial responsibility for the nonprofit School Nutrition Program.

- D. Retain signature authority on the School Nutrition Program agreement. Retain signature authority for the annual School Nutrition Program application and monthly claims by electronically submitting required information to the NC Department of Public Instruction/State Board of Education.
- E. Retain control of the establishment of all prices, including price adjustments, for meals served under the nonprofit School Nutrition Program account, e.g., pricing for reimbursable meals, a la carte service including vending machines, and adult meals.
- F. Retain title to USDA Foods and ensure that all USDA Foods made available to the Caterer accrue only to the benefit of the SFA's nonprofit School Nutrition Program.
- G. Review, approve or deny, certify and verify applications for free and reduced-price school meals in accordance with 7 CFR 245. Provide hearings related to eligibility determinations in accordance with 7 CFR 245.7. Provide hearings related to adverse actions resulting from verification in accordance with 7 CFR 245.6a (e).
- H. Prepare all catering Contract documents.
- I. Ensure the Caterer maintains all applicable health certifications and assure all State and local health regulations are being met by the Caterer if preparing or serving meals at a school or other facility. The SFA will also maintain all applicable health certifications required to serve catered meals to students.
- J. Monitor catered meals to ensure the preparation and service of food is in conformance with program regulations.
- K. Protect the confidentiality of all proprietary records (including standardized recipes) and ensure such records are not shared with any party outside of the regulatory agencies and agents of these agencies as stipulated in this Contract.
- L. Comply with Federal regulations for accommodating students with special dietary needs and will provide specific meal preparation instructions to the Caterer to ensure reimbursable meals are prepared that meet the child's specific dietary restrictions.

VII. HEALTH AND SANITATION

Non-permitted food establishments cannot prepare food on site. A Food Establishment Permit is required when open or unpackaged food is prepared on site or served by anyone other than food employees of the contracted food establishment providing the catering services.

- A. The SFA and the Caterer agree that Federal, State and local health and sanitation requirements will be met at all times. The Caterer will obtain and maintain all Federal, State and local health certifications and regulations that apply to school facilities and any other facilities in which meals are prepared or packaged. The Caterer will maintain applicable health certifications for any facilities outside the school in which meals are prepared. All food will be properly stored, prepared, packaged and transported free of contamination and at appropriate temperatures.
- B. The Caterer shall furnish to the SFA a copy of the current health certification issued by the Department of Environmental Health which shall be included with the Contract and any

amendments or renewals. If Time as a Public Health Control (TPHC) procedure is used as a food safety practice, a current copy is to be provided to the SFA.

The Caterer agrees to maintain a minimum of an “A” Health Inspection Grade throughout the Contract. In the event the Catering facility receives a rating of less than an “A” Health Inspection Grade, the Caterer agrees to contact the SFA immediately and take immediate corrective action to return the rating to an “A”. If the “A” Health Inspection Grade is not restored within thirty days, the SFA may cancel the Contract and enter into an emergency Contract with another Caterer.

- C. All food must arrive at the school site at the temperatures safe for consumption as required by the North Carolina Food Code. All hot food must arrive at temperatures 135 degrees F (135F) or higher and all cold foods at temperatures of 41 degrees F (41F) or below. All food temperatures shall be verified and documented upon delivery by the SFA. Any food not meeting the required temperatures can be rejected. All food will arrive free of contamination and in sanitary temperature-gauge containers. Food items or whole meals must be placed in hot or cold holding units that are under proper holding temperatures at the school to maintain proper temperatures unless a written TPHC procedure is followed.
- D. The SFA will not pay for meals or snacks that are unwholesome or spoiled at time of delivery. Meals must be prepared under properly controlled temperatures and in accordance with all applicable health and sanitation regulations. The Caterer is responsible for the quality and wholesomeness of meals up to and including delivery to the SFA. The SFA, the NC Department of Public Instruction, and the US Department of Agriculture reserve the right to inspect the Caterer’s preparation and storage facilities and transporting vehicles, without notice at any time.
- E. The Caterer will collaborate with the SFA to develop approved Hazard Analysis and Critical Control Point (HACCP) procedures using the NCDPI provided templates (or approved equivalent) to assure that safe meals are served to students.

VIII. RECORDKEEPING

- A. The Caterer agrees to maintain full and accurate records, which the SFA must keep in order to meet its accountability records for claiming Federal meal reimbursement funds. Required records include: 1) standardized recipes, Nutrition facts labels, ingredient lists, and/or manufacturer’s specification sheets or Product Formulation Statements for each product; 2) daily production records using the NCDPI prototype form unless prior approval has been granted for alternate form(s); or a daily delivery ticket (if the SFA elects to complete the production record) which includes daily quantities of food prepared, by type of meal; and daily number of meals furnished, by type of meal.
- B. The Caterer shall submit at the end of each month, copies of the month’s menus, production records or delivery tickets for menus served, and numbers of meals furnished to the SFA.
- C. The Caterer agrees that a SFA-approved catered meal delivery ticket or production record must accompany the meals to the site(s) each day so that they may be used to document time and temperature of meals upon arrival at the site(s). The Delivery Ticket and/or Production Record shall also be used to determine whether the Caterer provides a sufficient quantity of food to meet the minimum meal component requirements to ensure reimbursable meals. This daily practice will

enable the SFA to document leftover amounts and disposition of foods at the end of the meal service.

- D. The Caterer agrees that all records (including but not limited to those records listed in Item A above) pertaining to the Caterer's preparation, delivery and service of meals and snacks for the SFA's School Nutrition Program will be made available to the SFA upon request and agrees to retain all records for inspection and audit by representatives of the School, the NC Department of Public Instruction/State Board of Education, U.S. Department of Agriculture, and U.S. General Accounting Office, at any reasonable time and place for a period of three (3) years after the final payment for the Contract, except that in circumstances where audit findings have not been resolved, the records must be retained beyond the 3-year period until resolution of the audit.
- E. The Caterer agrees **to provide a copy of a current license to do business** in North Carolina. This copy shall be attached to the Contract.
- F. The Caterer also agrees to undergo at least two, preferably more, food safety inspections each year; the Caterer will provide the food safety inspection report to the SFA and to the NCDPI upon request. The SFA reserves the right to inspect the catering food preparation, transportation and storage facilities at any time during the course of the Contract, including prior to the award of the Contract.

IX. ADDITIONAL CATERER RESPONSIBILITIES

The Caterer agrees to the following, as required by USDA regulations for operating the Federally-Assisted School Nutrition Programs. The Caterer will:

- A. Provide on-site access to all records and food storage, preparation and service areas of the Caterer's operations facility to the SFA and the State Agency (NC Department of Public Instruction) upon request and as deemed necessary and appropriate at any time during the Contract period to monitor safe food-handling procedures, food production, food quality and other parameters incumbent in purchasing, storing, preparing, transporting and serving meals in conjunction with the SFA's School Nutrition Program
- B. Not offer A la Carte food service unless free, reduced price and full price reimbursable meals are offered to all eligible children.
- C. Abide with the Buy American provision which requires SFAs to purchase, to the maximum extent practicable, domestic commodities or products for use in their School Nutrition Programs. Domestic products are those that are produced in the United States and a food product that is processed in the United States substantially (51 percent or more) from American products. Therefore, over 51% of the final processed product (by weight or volume) must consist of agricultural commodities that were grown domestically. Thus, for foods that are unprocessed, agricultural commodities must be domestic, and for foods that are processed, they must be processed domestically using domestic agricultural food components that are comprised of over 51% domestically grown item[s], by weight or volume as determined by the SFA. All food and beverages for use in the SFA's School Nutrition Program must be purchased from approved sources. All non-domestic foods used in the preparation and service of meals to students shall be approved, in writing, by the School Nutrition Administrator of the SFA. Any non-domestic food product used in the SFA's School Nutrition Program must be documented to the satisfaction of the

School Nutrition Director and the use of all non-domestic foods must receive prior written approval from the School Nutrition Director.

- D. Comply with the following as applicable, incorporated into the Contract by reference:
1. For Contracts in excess of \$2,500: Sections 103 and 107 of the Contract Work Hours and Safety Standards Act (40 USC 327-330) as supplemented by Department of Labor regulations (29 CFR Part 5);
 2. For Contracts in excess of \$10,000: Executive Order 11246, entitled "Equal Employment Opportunity," as amended by Executive Order 11375, and as supplemented in Department of Labor regulations (41 CFR Part 60);
 3. For Contracts in excess of \$100,000: All applicable standards, orders, and requirements issued under Section 306 of the Clean Air Act (42 USC 1857(h)), Section 508 of the Clean Water Act (33 USC 1368), Executive Order 11738, and Environmental Protection Agency regulations (40 CFR Part 15) which prohibit the use of facilities included on the EPA List of Violating Facilities. Contractor shall report all violations to the grantor agency and to the USEPA Administrator for Enforcement (EN-329).
 4. The Contractor acknowledges that N.C. General Statute 14-208.18 prohibits anyone required to register as a sex offender under Article 27A of Chapter 14 of the General Statutes from knowingly being on the premises of any school. This prohibition applies to persons required to register under Article 27A who have committed any offense in Article 7A of Chapter 14 or any offense where the victim of the offense was under the age of 16 years at the time of the offense. Therefore, the Contractor shall conduct criminal background checks on each of its employees who, pursuant to this Agreement, engage in any services on school property or at school events. The Caterer shall provide documentation that criminal background checks were conducted on each of its employees prior to hiring, and shall refuse employment to any person convicted of a felony or any other crime, whether misdemeanor or felony, that indicates the person poses a threat to the physical safety of students, school personnel or others. Such check shall include an annual check of the State Sex Offender and Public Protection Registration Program, the State Sexually Violent Predator Registration Program, and the National Sex Offender Registry. The Contractor shall not assign any employee or agent to provide services pursuant to this Contract if (1) said worker appears on any of the listed registries; (2) said worker has been convicted of a felony; (3) said worker has been convicted of any crime, whether misdemeanor or felony, involving sex, violence, or drugs; or (4) said worker has engaged in any crime or conduct indicating that the worker may pose a threat to the safety or well-being of student or school personnel. School officials reserve the right to prohibit any individual employee of Caterer from providing services on school property if school officials determine, in its sole discretion, that such employee poses a threat to the safety or well-being of students, school personnel or others.
 5. Abide with Iran Divestment Act as established by the NC General Assembly.

X. CANCELLATION

This Contract may be terminated in whole or in part by either party in the event of substantial failure by the other party to fulfill its obligations under this Contract through no fault of the terminating party; provided that no such termination may be implemented unless and until the other party is given 1) at least thirty (30) days written notice (delivered by certified mail, return receipt requested) of intent to terminate, and 2) an opportunity for consultation with the terminating party, followed by a reasonable

opportunity, of not more than ten (10) working days, to rectify the defects in products or performance, prior to termination.

Valid causes for termination of this Contract will include, but are not limited to:

- (1) the Caterer's failure to adhere to any of the provisions of this Contract;
- (2) the Caterer delivering any product(s) that fail to meet the specifications included in this Contract;
- (3) the Caterer delivering any substitution(s) of product(s) different than those agreed upon by the SFA and the Caterer prior to any substitution;
- (4) the Caterer's failure to meet the required delivery schedules as identified in the Contract;
- (5) the Caterer's failure to maintain an "A" Sanitation Grade; and
- (6) the Caterer's violation of any other provision contained within the Contract.

In the event of the Caterer's breach of any provision in this Contract, the SFA reserves the right to enforce the performance of this Contract in any manner prescribed by law or deemed to be in the best interest of the SFA, including, but not limited to, the purchase of other products of like type and quality from other sources in the open market. In the event the SFA elects to purchase other products from other sources, the SFA will invoice the Caterer for any increased costs to the SFA, and the Caterer agrees, by signing this Contract, to promptly pay any such charges invoiced.

XI. CATERER CERTIFICATION STATEMENTS

- A. If the Contract is for more than \$25,000, Caterer has completed and attached a signed copy of the "Debarment, Suspension, Ineligibility and Voluntary Exclusion – Lower Tier Covered Transactions" form.
- B. If the Contract is for more than \$100,000, Caterer has completed and attached the "Certification Regarding Lobbying" form and, if applicable as described on the "Certification Regarding Lobbying" form, the "Disclosure of Lobbying Activities" form.
- C. The Caterer's signature on this Contract indicates there is no conflict of interest associated with the award of this Contract. No one employed by the SFA is related to or has any other personal or professional relationship with the Caterer and/or his/her family.

Please insert the approximate number of meals you are requesting the Caterer provide each day:

Approximate enrollment: **480** (ADM)
 Approximate volume for lunch: **70** to **100** students daily
 Approximate volume for breakfast: **20** to **50** students daily

(These numbers are estimates only and do not guarantee that number will be ordered.)

Lunch Meal Pattern

Amount of Food per Week (Minimum per Day) for Lunch

Meal Pattern	Grades K-5	Grades 6-8 or K-8	Grades 9 – 12
Fruit (cups)	2 ½ cups (1/2 cup minimum per day)	2 ½ cups (1/2 cup minimum per day)	5 cups (1 cup minimum per day)
Vegetables (cups)	3 ¾ cups (3/4 cup minimum per day)	3 ¾ cups (3/4 cup minimum per day)	5 cups (1 cup minimum per day)
Dark Green	½ cup	½ cup	½ cup
Red/Orange	¾ cup	¾ cup	1 ¼ cups
Legumes	½ cup	½ cup	½ cup
Starchy Vegetables	½ cup	½ cup	½ cup
Other Vegetables	½ cup	½ cup	¾ cup
Additional Vegetables to Reach Total	1 cup	1 cup	1 ½ cups
Grains (oz. equivalent)	8 oz eq minimum per week (1 oz eq minimum per day)	8 oz eq minimum per week (1 oz eq minimum per day)	10 oz eq minimum per week (2 oz eq minimum per day)
Meats/Meat Alternates (oz. equivalent)	8 oz eq minimum per week (1 oz eq minimum per day)	9 oz eq minimum per week (1 oz eq minimum per day)	10 oz eq minimum per week (2 oz eq minimum per day)
Fluid Milk (cups)	5 cups (1 cup minimum per day)	5 cups (1 cup minimum per day)	5 cups (1 cup minimum per day)

- All five meal components (fruits, vegetables, grains, meat/meat alternate and milk) must be offered at lunch.
- A daily serving of fruit is required. Fruits may be fresh, frozen, canned in water/ juice/light syrup or dried. One quarter-cup of dried fruit counts as ½ cup of fruit. No more than half of the fruit offerings may be in the form of fruit juice. All juice must be 100% full strength juice. One-eighth cup of fruit is the minimum creditable amount. Fresh fruits should be offered at least 2-3 times per week.
- Vegetable sub-groups must be offered weekly in the amount specified in the chart above. One cup of leafy greens counts as ½ cup of vegetables. No more than half of the vegetable offerings may be in the form of vegetable juice. All juice must be 100% full strength juice. One eighth cup of vegetables is the minimum creditable amount. “Additional Vegetables” may be added from any of the subgroups to meet the total weekly required servings.

4. All grains offered must be whole grain rich, unless the SFA has an approved WG-rich waiver from the SA. Grains include, but are not limited to, breads, rolls, buns, rice, pasta, crackers, tortillas, and breadings on entrees.
5. Fluid milk must be low-fat (unflavored 1% milk fat or less) or fat-free (unflavored or flavored). At least two types of milk must be offered at each meal. Milk may be unflavored or flavored provided that unflavored milk is offered at each meal service. Milk must be pasteurized fluid milk that meets State standards.
6. Lunch must be priced as a unit in order to be claimed for reimbursement.
7. The Offer vs Serve (OVS) provision at Lunch is required for high schools, but is optional for elementary and middle schools. Under OVS at lunch, students may decline up to 2 of the 5 components offered, but are required to select a minimum of ½ cup serving of fruit or vegetable to be a reimbursable meal. The Caterer must offer the full component amounts to meet the meal pattern for each grade group. Without OVS, students must select full planned servings of all 5 components.
8. In order to offer a la carte meal service, all eligible children must be offered free, reduced price and full price reimbursable meals. Students may select additional servings of the food offered and pay for them at the A la Carte (Supplemental Sales) price schedule established by the SFA. A la Carte items will comply with applicable Federal and State regulations, including Smart Snacks nutrition standards.
9. If a school population includes more than one grade grouping, menus must be planned for each grade group. There is an optional lunch meal pattern for grades K-8 that is available upon request. The SFA and the Caterer must agree upon and identify the specific meal patterns that will be used for meal planning. Menus should be planned to meet student and local geographic food preferences as much as possible within the requirements of the meal patterns. Caterers must provide written notification to the SFA before making substitutions to the planned menu.
10. Nutrition analysis, using USDA approved software, will document that all program meals are planned and served to meet the meal pattern requirements and dietary specifications for the duration of the Contract. The Contract will specify either the Caterer or the SFA will be responsible for completing the nutrient analysis and the Meal Component and Quantity Worksheets.
11. Water must be available to students at no charge in the area where lunch meals are served and during the lunch period.

NOTE: All Caterers must make their proposal based on the same menu AND must indicate the portion/serving size beside of each item AND indicate the component contribution beside each item, using the following key:

M/MA – meat/meat alternative; **V** – vegetable; **F** – fruit; **G** – bread/grain; **M** – milk.

*Refer to the Lunch meal pattern chart above for components and serving sizes required for each specific grade group. An additional daily fruit choice may be added for grades 9-12

This lunch menu MUST be served as written until the SFA approves any changes in writing and must include the specific component contribution and portion size.

<p>1 Chicken Filet Sandwich Mixed Vegetables Seasoned Broccoli Chilled Mixed Fruit Low fat or skim milk</p>	<p>2 Cheeseburger Baked French Fries Baby Carrots/Dressing Pineapple Tidbits Low fat or skim milk</p>	<p>3 Baked Beefaroni with Cheese & Whole Wheat Dinner Roll Seasoned Green Beans with Diced Tomatoes Normandy Blend Veg Apple Quick Crisp Low fat or skim milk</p>	<p>4 Chicken Tacos w/ Lettuce, Tomato, Shredded Cheese Glazed Carrots Mexican Pinto Beans Fresh Apple Low fat or skim milk</p>	<p>5 Cheese Pizza Seasoned Collard Greens Peas & Carrots Fresh Orange Wedges Low fat or skim milk</p>
<p>8 Meatball Sub Sandwich Golden Corn California Mix Veg Chilled Tropical Fruit Low fat or skim milk</p>	<p>9 Baked Chicken with Roll Turnip Greens Sweet Potato Souffle Cinnamon Apples Low fat or skim milk</p>	<p>10 Turkey and Cheese Wrap Seasoned Green Beans Cauliflower/Cheese Sauce Chilled Peaches Low fat or skim milk</p>	<p>11 Hot Dog Bkd Sweet Potato Fries Baked Beans Fresh Banana Low fat or skim milk</p>	<p>12 Cheese Pizza Garden Salad w Grape Tomatoes & Dressing Blackeyed Peas/Snaps Chilled Mixed Fruit Low fat or skim milk</p>
<p>15 Cheeseburger Oven Potato Wedges Seasoned Broccoli Applesauce Low fat or skim milk</p>	<p>16 Turkey and Cheese Hoagie Seasoned Spinach Golden Corn Chilled Pears Low fat or skim milk</p>	<p>17 Cheese Quesadillas Brown Rice Glazed Carrots Black Beans Chilled Pineapple Low fat or skim milk</p>	<p>18 Baked Spaghetti Seasoned Broccoli Lima Beans Peach Quick Crisp Low fat or skim milk</p>	<p>19 Cheese Pizza Garden Salad w/Dressing Seasoned Green Beans Fresh Orange Wedges Low fat or skim milk</p>
<p>22 Chicken Filet Sandwich Baby Carrots/Dressing Mixed Vegetables Chilled Pears Low fat or skim milk</p>	<p>23 Hot Dog Baked French Fries Baked Beans Coleslaw Cherry Crisp Low fat or skim milk</p>	<p>24 Macaroni & Cheese & Roll Seasoned Peas & Carrots Seasoned Turnip Greens Fresh Apple Low fat or skim milk</p>	<p>25 Chicken Tacos w/ Lettuce, Tomato, Shredded Cheese Fiesta Brown Rice Black Beans/Corn Chilled Applesauce Low fat or skim milk</p>	<p>26 Cheese Pizza Baked Sweet Potato Fries Garden Salad/Dressing Fresh Banana Low fat or skim milk</p>

Breakfast Meal Pattern

Amount of food per week (Minimum per day) for Breakfast

Food Group	Grades K – 5	Grades 6 – 8	Grades 9 – 12	Grades K – 12
Fruits (cups)	5 cups (1 cup minimum per day)			
Grains (oz. equivalent) and Meat/Meat Alternate*	7 ounces minimum for week (1 oz minimum per day) *M/M/A may be substituted for grains after the minimum daily grains requirement is met.	8 ounces minimum for week (1 oz minimum per day) *M/M/A may be substituted for grains after the minimum daily grains requirement is met.	9 ounces minimum per week (1 oz minimum per day) *M/M/A may be substituted for grains after the minimum daily grains requirement is met.	9 ounces minimum per week (1 oz minimum per day) *M/M/A may be substituted for grains after the minimum daily grains requirement is met.
Fluid Milk (cups)	5 cups (1 cup minimum per day)			

- The minimum creditable serving of fruit and vegetables is 1/8 cup. One quarter-cup of dried fruit credits as 1/2 cup of fruit; 1 cup of leafy greens credits as 1/2 cup of vegetables. No more than half of the fruit or vegetable offerings may be in the form of juice. All juice must be 100% full strength juice.
- For breakfast meal service, vegetables may be substituted for fruits, but the first two cups per week of any such substitution must be from the dark green, red/orange, beans and peas (legumes) or “other vegetables” subgroups.
- All grains offered must be whole grain-rich, unless the SFA has been approved for a WG-rich waiver. These include, but are not limited to, breads, biscuits, rolls, crackers, and cereals.
- Fluid milk must be low-fat (1% milk fat or less unflavored) or fat-free (unflavored or flavored). At least two types of milk must be offered at each meal. Milk may be unflavored or flavored provided that unflavored milk is offered at each meal service. Milk must be pasteurized fluid milk that meets State standards.
- At breakfast, the full component amounts that meet the breakfast meal pattern(s) being used must be offered. Offer v Serve (OVS) is optional at Breakfast for all grade levels. Without OVS, students must select full planned servings of all 4 items (from the 3 component groups and 1 full cup of fruit/vegetable is to be served). With OVS, students may decline 1 of the 4 items offered; however, students are required to take full planned servings of 3 items, including a minimum of 1/2 cup fruit or vegetable for a reimbursable meal.
- In order to offer a la carte meal service, all eligible children must be offered free, reduced price and full price reimbursable meals. Students may select additional servings of menu items offered and pay for them at the A la Carte (Supplemental Sales) price schedule established by the SFA. A la Carte items will comply with applicable Federal and State regulations, including Smart Snacks standards.
- If a school population includes more than one grade grouping, menus must be planned for each grade group. There is an optional breakfast meal pattern for grades K-12 that is available upon

request. The SFA and the Caterer must agree upon and identify the specific meal patterns that will be used for meal planning. Menus should be planned to meet student preferences and local geographic food preferences as much as possible within the requirements of the meal patterns. Caterers must provide written notification to the SFA before making substitutions to the planned menu.

NOTE: All Caterers must make their proposal based on the same menu AND must indicate the portion/serving size beside each item AND indicate the component contribution beside of each item using the following key:

F – fruit; G – bread/grain; M – milk.

**Refer to the Breakfast meal pattern chart above for components and serving sizes required for each specific grade group.*

This breakfast menu MUST be served as written until the SFA approves any changes in writing.

1 Muffin Cereal Fresh Fruit Juice Low fat or skim milk	2 Donut Cereal Fresh Fruit Juice Low fat or skim milk	3 Chicken Biscuit Cereal Fresh Fruit Juice Low fat or skim milk	4 Breakfast Pizza Cereal Fresh Fruit Juice Low fat or skim milk	5 Cinnamon Bun Cereal Fresh Fruit Juice Low fat or skim milk
8 Poptart Cereal Fresh Fruit Juice Low fat or skim milk	9 Mini Waffles Syrup Cereal Fresh Fruit Juice Low fat or skim milk	10 Turkey Sausage Biscuit Cereal Fresh Fruit Juice Low fat or skim milk	11 Breakfast Pizza Cereal Fresh Fruit Juice Low fat or skim milk	12 Cinnamon Bun Cereal Fresh Fruit Juice Low fat or skim milk
15 Muffin Cereal Fresh Fruit Juice Low fat or skim milk	16 Donut Cereal Fresh Fruit Juice Low fat or skim milk	17 Chicken Biscuit Cereal Fresh Fruit Juice Low fat or skim milk	18 Breakfast Pizza Cereal Fresh Fruit Juice Low fat or skim milk	19 Cinnamon Bun Cereal Fresh Fruit Juice Low fat or skim milk
22 Poptart Cereal Juice Fruit Low fat or skim milk	23 Mini Waffles Syrup Cereal Fresh Fruit Juice Low fat or skim milk	24 Turkey Sausage Biscuit Cereal Fresh Fruit Juice Low fat or skim milk	25 Breakfast Pizza Cereal Fresh Fruit Juice Low fat or skim milk	26 Cinnamon Bun Cereal Fresh Fruit Juice Low fat or skim milk

Contract Certification

SIGNATURES

On Behalf of the School Food Authority (SFA):

School Food Authority *(Name of School)*

SFA Number

Responsible Authority Printed Name
(Note: Must be member of the Governing Board)

Title

Responsible Authority Signature

Phone Number

Date

On-site Contact Person Name

Phone Number

On Behalf of the Catering Company Submitting the Proposal:

Catering Company *(Insert legal name of company)*

Catering Company Address

Responsible Authority Printed Name
(Note: Must be authorized to commit the resources and assume legal responsibility on behalf of the Company.)

Title

Responsible Authority Signature

Phone Number

Date

On-site Contact Person Name

Phone Number

USDA NONDISCRIMINATION STATEMENT

In accordance with Federal civil rights law and U.S. Department of Agriculture (USDA) civil rights regulations and policies, the USDA, its Agencies, offices, and employees, and institutions participating in or administering USDA programs are prohibited from discriminating based on race, color, national origin, sex, disability, age, or reprisal or retaliation for prior civil rights activity in any program or activity conducted or funded by USDA.

Persons with disabilities who require alternative means of communication for program information (e.g. Braille, large print, audiotape, American Sign Language, etc.), should contact the Agency (State or local) where they applied for benefits. Individuals who are deaf, hard of hearing or have speech disabilities may contact USDA through the Federal Relay Service at (800) 877-8339. Additionally, program information may be made available in languages other than English.

To file a program complaint of discrimination, complete the USDA Program Discrimination Complaint Form, (AD-3027) found online at: http://www.ascr.usda.gov/complaint_filing_cust.html , and at any USDA office, or write a letter addressed to USDA and provide in the letter all of the information requested in the form. To request a copy of the complaint form, call (866) 632-9992. Submit your completed form or letter to USDA by:

- (1) mail: U.S. Department of Agriculture
Office of the Assistant Secretary for Civil Rights
1400 Independence Avenue, SW
Washington, D.C. 20250-9410;
- (2) fax: (202) 690-7442; or
- (3) email: program.intake@usda.gov.

This institution is an equal opportunity provider.



Kestrel Heights Charters School

STANDARD TERMS AND CONDITIONS

A. Scope and Purpose

It is the intent of the SFA to contract with an interested party or parties for the purchase of **breakfast and lunch meals** for the students of Kestrel Heights School Public Schools that fall within Federal regulations and State statutes that will be provided at an economical price for the SFA.

The section titles contained in this General Terms and Conditions document are for convenience and reference only, and in no way, define, describe, extend, or limit the scope or intent of the provisions of any section of this document.

Unless otherwise stated, any listing of factors or criteria in this document does not constitute an order of preference or importance.

The term "Contract," as used in this document, means the comprehensive collection of:

- (1) this General Terms and Conditions document, including any attachments and or amendments thereto,
- (2) the Item Specifications included in the RFP and any subsequent addenda thereto, the offeror's signed Proposal Certification, which must be completed, signed by an authorized representative of the offering entity, and returned with the offeror's response, along with this ENTIRE Terms and Conditions document and all other forms and information collection pages included with this RFP,
- (3) the offeror's response to the RFP,
- (4) the offeror's Notice of Award document, and
- (5) any additional terms, conditions, or instructions issued by the SFA.

Collectively, these documents represent the entire agreement between the parties.

B. Contract Time Period

The time period for purchases covered by a Contract resulting from an award under this RFP is stated in the Proposal Certification. The SFA reserves the right to award the Contract to a vendor for a longer initial term period than the time period stated in the Proposal Certification if it is determined to be in the best interest of the SFA. Unless otherwise indicated in these General Terms and Conditions, all pricing will be firm throughout the entire contract period.

Upon mutual written agreement of both parties, this Contract may be extended beyond the expiration of the contract time period in accordance with the General terms and Conditions document entitled "Extension Clause."

The transfer, assignment, or subcontracting of contracts is prohibited, and the offeror agrees not to sell, assign, transfer, convey, or subcontract any portion of this contract resulting from this RFP without the prior written consent of the SFA.

C. Addendum

In the event any changes to this RFP occur subsequent to the mailing or other delivery of the original RFP, the changes or corrections to this Proposal request will be made by addendum, and any updated information contained in any addendum will prevail over the information contained in the original RFP or any previous addendum. Each addendum will be mailed to all entities that are known to have received a copy of this RFP. The SFA is the sole authority for the issuance of any addendum related to this RFP. Any communications from any person or entity other than the SFA regarding any matters related to this proposal are invalid and will have no influence on this RFP.

Each addendum must be acknowledged on the acknowledgement form provided with the addendum. Any required acknowledgement form must be submitted along with the submission of any proposal response.

D. Specifications

Catalog numbers, brand names, or manufacturer's product or reference numbers used in the item specifications are intended to be descriptive, not restrictive. These references, as well as "approved brands" listed, are intended to identify and indicate the type of product being sought, and establish the level of quality desired. If any conflict exists in the item specifications between the product descriptions and any brand names or model or reference numbers used, the product descriptions will override the brand names or product number references.

In most cases, proposals on brands of equivalent nature and quality will be considered, provided they are regularly produced products from a reputable manufacturer. However, in some cases, the SFA may find it advantageous to standardize equipment and/or supplies by manufacturer in order to achieve efficiencies in procurement, repair, and operation, to match existing stock, or to satisfy other requirements. In these cases, preferences will be given to the specific products identified as "approved brands" especially if all other evaluation factors are deemed to be equal. For this reason, where specific brands or products are identified, it is preferable for the offeror to propose the exact item specified, in addition to an alternate brand or model where desired.

All proposals must identify the manufacturer, brand, portion size, etc. of the product being offered. **“Pre-Approved Equal”** Brands may be allowed where indicated. To offer “Pre-Approved Equal” items rather than any “approved brand” specified, the offeror must supply a complete description and sufficient data for the SFA to properly analyze the product being compared. Samples may be requested for items other than “approved brands”. These “Pre-Approved Equal” brands must be approved by the SFA **before** the proposal opening. The SFA reserves the right to reject any brand submitted if the SFA does not have sufficient information or time to conduct taste-testing in order to deem the product as a “Pre-approved Equal”.

If the offeror fails to identify the manufacturer, brand, portion size, etc. for any item included in the proposal, the SFA will assume the offeror is proposing **the exact brand/product and portion size identified in the specification**, and if awarded, the offeror will be required to furnish the **exact brand names, portion sizes, etc. as specified. Substitutions will not be allowed.**

The apparent silence of the specifications as to any detail or the apparent omission from any specification of a detailed description concerning any point shall be regarded as meaning that only the best communication practices shall prevail. All interpretations of the specifications shall be made on the basis of this statement.

*If you discover or suspect error in the item specifications in this RFP, please note it as part of your proposal response.

General Specification Provisions:

1. Quantities

Quantities reflected in this RFP are estimates based on the combined projected needs for the SFA during the contract period. Quantities are the best estimate of anticipated needs available at the time of publication of this RFP, but the accuracy of this estimate of these quantities may be affected by numerous factors including but not limited to, budgetary adjustments, availability of Federal funds or other subsidies, changing market forces, or unintentional errors or omissions. Actual needs may be greater or less than the estimated quantities provided.

2. Packaging

Unless otherwise provided for in this RFP, all products supplied under any Contract resulting from this RFP must be packaged in containers that are new, appropriately designed for the products involved, and sturdy enough to protect the products involved in loading, transit, unloading, and storage. Any products supplied under Contract resulting from this RFP for which palletizing is appropriate must be delivered on standard 48” 4-way pallets in good, serviceable condition.

3. Pricing

All “Line Item” proposals must be for a specific price for the unit of measure specified for that item. The offeror is responsible for clearly noting any differences in proposed packaging and/or units of measure in the proposal response, and the offeror shall understand that if the item in question is awarded to the offeror, the quantity specified for that item will be adjusted to achieve an approximately equivalent amount of the product.

In cases where another price is requested for comparison purposes (e.g., “portion price” or “price per ounce”), such price is for comparison purposes only. Purchases will be made in the increments of the unit of measure specified. In the case of any discrepancy or error in comparison price calculations, the price for the unit of measure specified will prevail. Excessive errors in comparison price calculations will be sufficient grounds for rejection of the entire proposal.

“Discount from Catalog” RFPs require a single discount percentage to be applied to all items in the offeror’s published catalog, which must be supplied with the proposal response.

“Cost Plus” proposals will not be accepted unless otherwise requested in this RFP.

Proposed prices must be firm for acceptance for at least 90 days from the proposal opening date, unless otherwise specified in this RFP or in the offeror’s response.

If during the term of the Contract, a successful offeror’s net prices to any or all of its other customers in similar market circumstances for any of the same items awarded under this RFP are reduced below the contracted price, it is understood and agreed that the benefits of such price reduction shall be extended to the SFA.

4. Delivery and Transportation

Unless otherwise noted in these General Terms and Conditions or the Purchase Order, or unless prior approval has been obtained from the SFA, all deliveries shall be made between the hours of 7:30 A.M. and 2 P.M. Monday through Friday, except holidays.

Unless otherwise noted in this RFP or in the Purchase Order, the offeror must deliver products awarded under this RFP within ten (10) working days after receipt of a Purchase Order. The vendor must immediately notify the SFA, by telephone and/or fax, if any delays occur. The SFA will have the option to cancel the order if unable to accept the delay. At the discretion of the SFA, items received after the due date, for which the SFA has not been notified regarding the delay, may be returned at the vendor’s expense with no penalty to the SFA.

Repeated failure to meet delivery dates will constitute a breach of Contract by the vendor, and may result in the initiation of actions covered in this General Terms and Conditions document entitled “Remedies for Non-Performance of Contract”, and “Contract Termination” and the associated financial impacts attached thereto, as well as jeopardize any future business from the SFA.

All freight, delivery, and handling charges are the responsibility of the offeror, and all proposal prices must be quoted freight prepaid, F.O.B. destination, and shall include all freight, delivery, and handling charges, including unloading and inside deliveries where required.

Cartons must be marked with appropriate product identifying information as indicated on the Purchase Order. Each shipment must include a packing list and waybill or delivery ticket.

If the vendor is delivering products out of more than one warehouse or distribution center, all warehouses or distribution centers involved in the distribution plan MUST carry or have timely access to all awarded items and MUST be able to respond to orders in a timely manner. Unless otherwise specified in this RFP, product substitutions are not allowed, and the involvement of multiple distribution centers will not be construed as to alter the restrictions against product substitutions. In the event the vendor uses multiple distribution centers, the SFA will have ONE CONTACT PERSON for overall Contract management relative to any Contract resulting from any award under this RFP, and the SFA WILL NOT be required to deal with multiple Contacts for overall contract management.

When the needs of the SFA require immediate response, the right to pick up products awarded under this RFP on an "over the counter" basis must be available for the majority of the items awarded to a vendor. Under such circumstances, the SFA's personnel may pick up products at the vendor's warehouse location at the agreed-upon price with no minimum purchase required.

Except for items that have hidden defects or that do not meet specification, title to all products shall pass to the SFA upon receipt and acceptance at the time of delivery.

5. Quality

Unless otherwise indicated in the RFP, all items proposed must be new and in highest quality condition and must conform to the highest standards of manufacturing practice, including containers suitable for shipment and storage. Unless otherwise requested, the SFA will not accept "factory seconds" or otherwise inferior goods, and reserves the right to return any such item(s) within (30) days of receipt at vendor's expense.

All electrical items must meet all applicable OSHA standards and regulations, and must bear the appropriate listing from US, FMRC, NEMA, or U L Laboratories.

Material Safety Data Sheets (MSDS) on chemicals or any other products customarily requiring MSDS must be provided to the SFA with the first shipment to the SFA at the beginning of the contract period. Promptly and at no additional costs, the offeror will provide additional Materials Safety Data Sheets to the SFA upon request. Providing a web site access location to MSDS information is an acceptable alternative.

6. Product Inspection, Testing, and Defective Items

All products supplied under this contract should arrive in the best possible condition and will be subject to inspection, testing, and approval by the SFA. Tests may be performed on any samples submitted as part of the proposal or evaluation process, or on samples taken from any regular shipment. In the event any product tested fails to meet or exceed all requirements of the proposal item specifications or the General Terms and Conditions of the RFP, the cost of the samples used and the cost of the testing shall be borne by the supplier, and upon notification to the vendor, the defective product(s) will be picked up and replaced by the vendor. Repeated incidents of delivery of products that fail to pass product inspection and/or testing by a vendor will warrant cancellation of the Contract in addition to the remedies outlined above. Furthermore, future business from the SFA could be jeopardized.

Products damaged in shipment will be considered as defective products and will be subject to the same remedies outlined above.

The failure of any consumable products (food items) to meet specifications or acceptable chemical or bacterial levels may result in cancellation of the contract in addition to the remedies outlined above. Furthermore, future business from the SFA could be jeopardized. All products in the SFA's warehouse at the time of any such cancellation must be picked up and credit issued to the SFA. Latent defects discovered after delivery and acceptance of any products may result in revocation of the acceptance.

The SFA shall have access to any supplier's place of business during normal business hours for the purpose of inspecting merchandise.

7. Samples

If samples are needed for proposal evaluation, they will be requested as part of the RFP or in a separate communication. Unless otherwise indicated in the request for the samples, the samples must be received by the requestor within 72 hours from the time of the request.

Samples must be furnished free of expense to the SFA. Samples must be labeled with the SFA Proposal Name, Item Number, Product Identification number(s), and the name of the offering entity. Do not include samples with the proposal response unless otherwise instructed in the RFP.

All samples will be retained by the SFA for a sufficient length of time for proper evaluation. If not destroyed or consumed during examination of testing, samples will be returned to the offeror at the offeror's expense, but only upon written request submitted with the samples at the time the samples were submitted. However, notwithstanding the above samples from the successful offeror may be retained permanently by the SFA for the purpose of determining the quality of the delivered items are comparable to the samples. The SFA shall incur no liability for any samples that are damaged, destroyed or consumed during examination or testing.

Failure by any offeror to submit samples when requested will result in the items in question not being considered for award to that offeror.

8. Warranties

By submission of a proposal, the offeror warrants that he/she is an authorized dealer, distributor, or manufacturer for the product(s) being offered, that all items proposed conform to the specifications for which the items are being offered, and that all items supplied under any contract related to this RFP will be free from all defects in material, and title.

A minimum of 90-days product guarantee or the manufacturer's standard commercial warranty, whichever is greater, shall apply to all products purchased under this RFP. This warranty shall provide for replacement of defective merchandise from the SFA location and delivery of the replacement(s) to the same location. The warranty shall be effective from the date of acceptance of the merchandise.

E. Certification

1. Buy American provision

SFAs participating in the National School Lunch and School Breakfast programs in the contiguous United States are required to purchase, to the maximum extent practicable, domestic products for use in meals served under the programs. Regulations define "domestic products" as one that is produced in the United States and is processed in the United States, substantially using agricultural commodities that are produced in the United States. "Substantially" means over 51 percent of the final processed product consists of agricultural commodities that were grown domestically.

2. Contracts Exceeding Simplified Acquisition Threshold

For contracts for more than the simplified acquisition threshold currently set at \$150,000, (or less depending upon local policy – replace the \$150,000 with the actual amount approved locally), in the event of the selected caterer's nonperformance under this Awarded Contract and/or the violation or breach of the Awarded Contract terms, the SFA shall have the right to pursue all administrative, contractual, and legal remedies against the selected caterer and shall have the right to seek all sanctions and penalties as may be appropriate. [2 CFR 200 Appendix II(A)]

3. Davis-Bacon Act

The selected caterer shall comply with the Davis-Bacon Act (40 U.S.C. 276a to 276a-7) as supplemented by Department of Labor regulations (29 CFR Part 5).

4. Rights to Inventions

The caterer shall comply with 2 CFR 200, Appendix II to Part 200—Contract Provisions for Non-Federal Entity Contracts Under Federal Awards, subsection F, *Rights to Inventions Made Under a Contract or Agreement*. If the Federal award meets the definition of "funding agreement" under 37 CFR § 401.2(a) and the recipient or subrecipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that "funding agreement," the recipient or subrecipient must comply with the requirements of 37 CFR Part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," and any implementing regulations issued by the awarding agency.

5. Procurement of Recovered Materials.

In the performance of this contract, the Contractor shall make maximum use of products containing recovered materials that are EPA-designated items unless the product cannot be acquired competitively within a time-frame providing for compliance with the contract performance schedule; meeting contract performance requirements; or at a reasonable price.

F. Proposal Evaluation and Award

All proposals received in response to this RFP which are submitted in accordance with the instructions and restrictions contained in this General Terms and Conditions document entitled "Proposal Preparation and Submission Procedures" will initially be considered for award; however, initial consideration of any proposal will not constitute an assessment of its meeting the necessary qualifications, and any proposal may be disqualified at any time during the process of evaluating proposals for failure to meet any other terms or conditions contained anywhere else in the proposal request.

The SFA reserves the right to waive any or all proposal irregularities, formalities, or other technicalities, to be the sole and independent judge of quality and suitability of any products offered, and may accept or reject any proposals in their entirety, or may reject any part of any proposal without affecting the remainder of that proposal, and may award the individual items included in the proposal in any combination or any way to best serve the interests of its members as it perceives those interests to be in its sole discretion.

It is not the policy of the SFA to purchase on the basis of low proposal price alone. All proposal items are subject to evaluation and approval by the SFA. In evaluating the proposals received and determining the best value for the SFA, the SFA may consider any combination of the following criteria: (1) the purchase price; (2) the reputation of the vendor and of the vendor's goods and/or services; (3) the extent to which the goods and/or services meet the needs of the SFA; (4) the vendor's location, service, and delivery capabilities; (5) the vendor's past performance with the SFA; (6) student preferences; (7) the warranties offered and the vendor's warranty service history; (8) the probability of continuous availability of the goods and/or services offered; (9) the impact on the ability of the SFA to comply with any applicable laws or rules; (10) the total long-term cost to the SFA to acquire the vendor's goods and/or services; (11) packaging of the products and in some

cases preference is given to a vendor who provides all the components relative to the complete package, and (12) any other relevant factor that a public or private entity could consider in selecting a vendor.

It is understood that the SFA may use all means at their collective disposal to evaluate the proposals received on these criteria, and the final decision as to the best overall offer, both as to price and to suitability of the products and/of services offered to fit the needs of the SFA, will be made by the School Nutrition Director, the SFA Purchasing Officer, the SFA Finance Officer and/or SFA designee.

Unless otherwise indicated in this RFP, "all or nothing" proposals are not acceptable and will be rejected. The offeror must be willing to accept a partial award for any combination of the items and/or services proposed and must be willing to share the business with any other successful offerors.

The successful offeror(s) will be notified by "Notice(s) of Award" issued by the SFA.

The SFA reserves the right to require a performance bond as it is deemed necessary.

G. Substitutions

The SFA will not accept any substitutes after items(s) have been awarded as specified, unless such substitutions are deemed to be in the best interest of the SFA, and unless prior agreements have been reached and reduced to writing regarding such substitutions. Substituting without the prior approval of the SFA will constitute a breach of contract by the vendor which may result in the initiation of actions covered in this General terms and Conditions document entitled "Remedies for Non-Performance of Contract, and Contract Termination" and the associated financial impacts attached thereto, and may jeopardize any future business from the SFA.

H. Deviations from Item Specification or General Terms and Conditions

Any and all limitations, expectations, qualifications, special conditions, or deviations from these General Terms and Conditions or any of the item specifications, including the offering of any alternate to the "approved brand and/or model" (where identified) must be clearly noted in detail by the offeror at the time of submission of the proposal. The absence of such limitations, exceptions, qualifications, special conditions, or deviations being submitted in writing with the offeror's response will hold the offeror accountable to the SFA to perform in strict accordance with all these General Terms and Conditions and all the item specifications as written, including any such limitations, exceptions, qualifications, special conditions, or deviations with the proposal response may place the offeror at a competitive disadvantage or otherwise prevent the SFA from considering the affected items(s).

Any deviation from any of the item specifications, including the delivery of any product other than the specific brand of the product awarded, will be grounds for rejection of the product(s) when delivered, and will expose the vendor to the remedies identified in this General Terms and Conditions document entitled "Remedies for Non-Performance of Contract, and Contract Termination" and may jeopardize future business from the SFA.

I. Contract and Purchase Order Requirements

A response to this RFP is an offer to contract with the SFA based upon the Item Specifications and the General Terms and Conditions contained in the RFP. Offers do not become Contracts unless and until they are both accepted by the SFA through an Award Notice to the offeror, and put into effect by the issuance of a Purchase Order(s) signed by an authorized representative of the SFA.

This contract shall collectively include (1) the General Terms and Conditions and the Item Specifications included in the RFP and any subsequent addenda thereto, (2) the offeror's signed Proposal Certification and any subsequent addenda thereto, (3) the offeror's entire response to the RFP, (4) the offeror's Notice of Award document, (5) and any additional terms, conditions, or instructions contained in each individual Purchase Order. All binding agreements should be submitted as part of the proposal packet. The contract shall be interpreted by and governed under the laws of the State of North Carolina.

J. Invoices, Packing Lists, and Payment Conditions

Packing Lists or other suitable shipping documents must accompany each shipment and must identify (a) the name and address of the vendor, (b) the name and address or delivery location of the receiving entity, (c) the Purchase Order Number, and (d) detailed descriptive information identifying the item(s) delivered, including quantity, item number, product code, item description, number of containers, etc.

All Invoices must reflect (a) the name and address of the vendor, (b) the name and address or delivery location of the receiving entity, (c) the appropriate Purchase Order Number, and (d) detailed descriptive information identifying the item(s) delivered, including quantity, item number, product code, item description, etc., and must include a properly signed copy of the delivery receipt. Invoices must be mailed directly to the SFA.

The SFA will not be held responsible for any products delivered or invoiced without a valid current Purchase Order Number.

Notwithstanding the above, the payments stated on each individual Purchase Order will be the controlling factor in the determination of payment terms. Each Invoice should include the vendor's normal payment terms in the event that any Purchase Order fails to address the subject.

In any case, payment will be made only after satisfactory delivery and acceptance of merchandise in good order, including the necessary documentation indicated above, and only after receipt of a correct Invoice form the vendor, including the necessary information indicated above.

At the option of the SFA, invoices with incorrect prices or other errors or inconsistencies will not be paid until corrected, whether by credit memo(s) or issuance of a corrected invoice. At the option of the SFA, invoices may be corrected upon receipt and payment may be made based upon their corrections.

K. Records Retention Requirements

By signing this proposal, the offeror understands that the SFA, the U.S. Department of Agriculture, the NC Department of Public Instruction, the Comptroller General of the United States, or any of their duly authorized representatives, shall have access to any books, documents, papers, and records of the contractor which are directly pertinent to the specific contract, for the purpose of audits, examinations, excerpts, and transcriptions.

Additionally, the offeror must provide all documents as necessary for the independent auditor to conduct the SFA's single audit. The SFA will contract to have the single audit conducted as a regular, direct expense to the SFA; School Nutrition funds may not be used for this purpose.

The offeror must retain pertinent records identified by source, type, and category of beverages for a minimum of three years after the SFA makes final payments. In the event of any unresolved audit findings, the records shall be retained beyond the three (3) year period for as long as required for resolution of the issues raised by the audit.

L. Remedies for Non-Performance of Contract, and Termination of Contract

If the vendor cannot comply with the terms and conditions in fulfilling its Contract as anticipated, the vendor must supply the same products or services contracted from other sources at the contract price. The vendor's delay in the above will constitute the vendor's material breach of contract, whereupon the SFA may terminate the vendor's contract for cause as provided by the remainder of this section.

Unless this Contract is extended by mutual agreement of the parties beyond the expiration of the contract time period as stated on the Proposal Certification, this Contract shall terminate upon the expiration of the contract term as stated on the Proposal Certification.

If any delay or failure of performance is caused by a Force Majeure event as described in the General Terms and Conditions document entitled "Force Majeure," the SFA may, in its sole discretion, terminate this contract in whole or part, provided such termination follows the remaining requirements of this section.

Except as otherwise provided within the General Terms and Conditions of this document, this Contract may be terminated in whole or in part by either party in the event of substantial failure by the other party to fulfill its obligations under this contract through no fault of the terminating party; provided that no such termination may be implemented unless and until the other party is given 1) at least thirty (30) days written notice (delivered by certified mail, return receipt requested) of intent to terminate, and 2) an opportunity for consultation with the terminating party, followed by a reasonable opportunity, of not more than ten (10) working days, to rectify the defects in products or performance, prior to termination.

Valid causes for termination of this Contract will include, but are not limited to:

- (1) the vendor's failure to adhere to any of the provisions of the General Terms and Conditions of this RFP,
- (2) the vendor delivering any product(s) that fail to meet the Item Specifications included in this RFP relating to the awarded product(s),
- (3) the vendor delivering any substitution(s) of product(s) different than those originally proposed and awarded without the prior written approval of the SFA, the vendor's failure to meet the required delivery schedules as identified in
- (4) the contract documents, or
- (5) the vendor's violation of any other provision contained within these General Terms and Conditions or any attachment thereto which provides for contract termination as a remedy.

Notwithstanding anything contained in this section, in the event of the vendor's breach of any provision in this contract, the SFA reserves the right to enforce the performance of this contract in any manner prescribed by law or deemed to be in the best interest of its members, including, but not limited to, the purchase of other products of like type and quality from other sources in the open market. In the event the SFA elects to purchase other products from other sources, the SFA will invoice the vendor for any increased costs to the SFA, and the vendor agrees, by submission of a proposal response, to promptly pay any such charges invoiced.

In the event the SFA terminates this Contract, in whole or in part, for any reason provided for within the contract, the SFA reserves the right to award the canceled Contract, or any portion thereof, to the next lowest or most responsible offeror as it deems such award to be in the best interest of the SFA.

Any Contract termination resulting from any cause other than a Force Majeure event will be deemed valid reason for not considering any future proposal from the defaulting vendor.

In the performance of this contract, time is of the essence and these General Terms and Conditions are of the essence.

M. Force Majeure Consideration

The term Force Majeure shall include, but is not limited to, governmental restraints or decrees, provided they affect all companies in the vendor's industry equally and are not actions taken solely against the vendor; acts of God (except natural phenomena, such as rain, wind or

flood, which are normally expected in the locale in which performance is to take place); work stoppages due to labor disputes or strikes; fires; explosions; epidemics; riots; war; rebellion; or sabotage.

The parties to this Contract will be required to use due caution and preventative measures to protect against the effects of Force Majeure, and the burden of proving that Force Majeure has occurred shall rest on the party seeking relief under this section. The party seeking relief due to Force Majeure will be required to promptly notify the other party in writing, citing the details of the Force Majeure event, and will be required to use due diligence to overcome obstacles to performance created by the Force Majeure event, and shall resume performance immediately after the obstacles have been removed, provided the Contract has not been terminated in the interim.

Delay or failure of performance, by either party to this contract, caused solely by the Force Majeure event shall be executed for the period of delay caused solely by the Force Majeure event, provided the affected party has promptly notified the other party in writing. Neither party shall have any claim for damages against the other resulting from delays caused solely by Force Majeure.

The SFA will not be responsible for any costs incurred by the vendor because of the Force Majeure event unless the SFA has requested, in writing, that the vendor incur such costs in connection with any delay or work stoppage caused by the Force Majeure event, and the SFA has agreed in writing to incur such additional costs.

Notwithstanding any other provision of this section, in the event the vendor's performance of its obligations under this contract is delayed or stopped by a Force Majeure event, the SFA shall have the option to terminate this contract in accordance with the General Terms and Conditions document entitled "Remedies for Non-Performance of Contract, and Contract Termination." Furthermore, this section shall not be interpreted as to limit or otherwise modify any of the SFA's rights as provided elsewhere in this contract.

N. Venue

This agreement will be construed and governed according to the laws of the State of North Carolina. Both parties agree that the venue for any litigation arising from this contract shall lie in Durham County, North Carolina.

O. Waiver

No claims or rights arising out of a breach of this Contract can be discharged in whole or part by a waiver or renunciation of the claim or right unless the waiver or renunciation is supported by consideration and is in writing signed by the aggrieved party.

P. Right to Assurance

Whenever one party to this contract in good faith has reason to question the other party's intent to perform the questioning party may demand that the other party give a written assurance of his intent to perform. In the event that a demand is made and no assurance is given within five (5) days, the demanding party may treat this failure as an anticipatory repudiation of the contract.

Q. Extension Clause

This contract may be extended annually for up to four (4) additional years from the expiration of the Contract period, unless sooner terminated in accordance with the provisions of this Contract, if the vendor and the SFA mutually agree, and no increases in costs are incurred, and the maximum allowable escalation price is capped by the annual national Consumer Price Index, *Cost of Food Away from Home*, increase.

R. Regulatory Compliance

- (1) The offeror and SFA mutually agree to comply with all applicable standards, orders or requirements issued pursuant to Section 306 of the Clean Air Act (42 USC 1857 [h]), Section 508 of the Clean Water Act (33 USC 1368), Executive Order 117389 and Environmental Protection Agency regulations (40 CFR Part 15). Any violations thereof shall be reported to the Administrator for Enforcement or other appropriate authority. Each party shall not be responsible to the other for acts beyond its control or acts caused by the negligence of the other party.
- (2) The offeror agrees to comply with all mandatory standards and policies relating to energy efficiency as cited in the State Energy Conservation Plan issued in compliance with the Energy Policy and Conservation Act (P.L. 94 – 163).
- (3) The offeror 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) The offeror shall comply with the following civil rights laws as amended: Title VI of the Civil Rights Act of 1964; Title IX 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 Instruction 113-6, "Civil Rights Compliance and Enforcement in School Nutrition Programs".

- (5) The offeror shall comply with the "Buy American" provision for Contracts that involve the purchase of food and/or beverages as per 7 CFR Part 250.
- (6) The offeror shall comply with the provisions of the Consumer Product Safety Act.
- (7) The offeror shall complete and sign the *Certification of Independent Price Determination* form; *Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion* form; and *Disclosure Form to Report Lobbying* and shall include these documents as part of the Agreement. (See Attachments)
- (8) The offeror shall abide by all applicable State and Federal laws and policies of the State Board of Education when providing services under this Contract.

S. Assurance of Non-Collusion

By signing this proposal, the offeror assures that, to the best of his/her knowledge:

- (1) Neither the offeror nor any business entity represented by the offeror has received compensation for participation in the preparation of the items specifications or the General Terms and Conditions related to this RFP,
- (2) This proposal has been arrived at independently and is submitted without collusion with any other offeror, with any competitor or potential competitor, or with any other person or entity to obtain any information or gain any special treatment or favoritism that would in any way limit competition or give any offeror an unfair advantage over any other offeror with respect to this RFP.
- (3) The offeror has not accepted, offered, conferred or agreed to confer, and will not in the future accept, offer confer, or agree to confer any benefit or anything of value to any person or entity related to the SFA or any of its members in connection with any information or submission related to this proposal, any recommendations, decision, vote or award related to this proposal, or the exercise of any influence or discretion concerning the sale, delivery, or performance of any product or served related to this proposal,
- (4) Neither the offeror, nor any business entity represented by the bidder, nor anyone acting for such business entity, has violated the Federal Antitrust Laws or the antitrust laws of the state of North Carolina with regard to this proposal, and this proposal has not been knowingly disclosed, and will not be knowingly disclosed to another offeror, competitor, or potential competitor prior to the opening of proposals.
- (5) No attempt has been or will be made to induce any other person or entity to submit or to not submit a proposal.

T. Assurances regarding Legal and Ethical Matters

By signing this proposal, the offeror assures that:

- (1) he/she has read and understands all the General Terms and Conditions in this document and agrees to be bound by them, and is authorized to submit proposals on behalf of the offering entity,
- (2) the offeror has noted any and all relationships that might be conflicts of interest and included such information with his/her proposal response,
- (3) the proposal submitted conforms with all item specification, these General Terms and Conditions, and any other instructions, requirements, or schedules outlined or included in this RFP,
- (4) if this proposal is accepted, in whole or in part, the offering entity will furnish any item(s) awarded to them under this RFP to the SFA at the proposed price and in accordance with the item specifications and the terms and conditions contained in this RFP,
- (5) the offering entity has, or has the ability to obtain, such financial and other resources, including inventories, as may be required to fulfill all the responsibilities associated with this proposal,
- (6) the offering entity has a high degree of integrity and business ethics, and a satisfactory record of performances, and has not been notified by any local, state or federal agency with competent jurisdiction that its standing in any matters whatsoever would preclude it from participating in this proposal, it would in no other way whatsoever be disqualified to propose or receive any award or contract related to this proposal, and the offeror will comply with any reasonable request from the SFA to supply any information sufficient to substantiate the proposing entity's ability to meet these minimum standards,
- (7) concerning paragraph (6) above, the offering entity has identified and disclosed in this written proposal any and all known suspected matters that would disqualify it from participating in this proposal or receiving any award or contract related to this proposal, recognizing that the offer's failure to identify and disclose any such matters constitutes its affirmation that no such matters exist, and that failure to disclose in this proposal any such matters which do exist is a material breach of contract which would void the submitted proposal or any resulting contracts, and subject the offeror to removal from all procurement lists and possible criminal prosecution
- (8) the offering entity has obtained, and will continue to maintain during the entire term of this contract, all permits, approvals or licensed necessary for lawful performance of its obligations under this contract,
- (9) the prices, prompt payment discount terms, delivery terms, distribution allowances, and the quality and/or performance of the products offered in the proposal are and will remain the same or better than those offered to the vendor's most favored customer under equivalent circumstances,
- (10) the offering entity will comply with all laws relating to intellectual property, will not infringe on any third party's intellectual property rights, and will indemnify, defend and hold the SFA and its members harmless against any claims for infringement of any copyrights, patents, or other infringements related to its activities under this contract,
- (11) the offering entity will maintain, at the offering entity's expense, any

- insurance necessary to protect the SFA and its members from all claims for bodily injury, death, or property damage that might arise from the performance by the offering entity or the offering entity's employees or its agents or any service required of the offering entity under this contract; however, the existence of such insurance will not relieve the offering entity of full responsibility and liability for damages, injury, death or loss as described or as otherwise provided for by law,
- (12) neither the SFA nor any of its members shall be liable to the offering entity for any damages (including, but not limited to, loss of profits or loss of business, or any special, consequential, exemplary, or incidental damages) in the event that the SFA declares the offering entity in default,
 - (13) he/she understands that by signing the proposal with any false statement is a material breach of the contract which will void the submitted proposal or any resulting contract(s), and subject the bidder to removal from all procurement lists, and possible criminal prosecution,
 - (14) Offerors must comply with the State of North Carolina Conflict of Interest requirement as defined in General Statutes, Chapter 14-234.

U. Proposal Acceptance

The period for acceptance of this proposal will be thirty (30) calendar days unless a different period is indicated by the offeror.

V. Protest Procedure

Protests of awards exceeding \$10,000 in value must be submitted to the issuing Agency at the address given on Page of this document. Protests must be received in this office within 15 calendar days from the date of the Contract award and provide specific reasons and any supporting documentation for the protest.

W. Questions Regarding Request for Proposal

Questions or requests for additional information concerning this proposal or the specifications should be addressed to:

Mauren Gordon
4900 Prospectus Dr.
Durham NC 27713

USDA NONDISCRIMINATION STATEMENT

In accordance with Federal civil rights law and U.S. Department of Agriculture (USDA) civil rights regulations and policies, the USDA, its Agencies, offices, and employees, and institutions participating in or administering USDA programs are prohibited from discriminating based on race, color, national origin, sex, religious creed, disability, age, political beliefs, or reprisal or retaliation for prior civil rights activity in any program or activity conducted or funded by USDA.

Persons with disabilities who require alternative means of communication for program information (e.g. Braille, large print, audiotape, American Sign Language, etc.), should contact the Agency (State or local) where they applied for benefits. Individuals who are deaf, hard of hearing or have speech disabilities may contact USDA through the Federal Relay Service at (800) 877-8339. Additionally, program information may be made available in languages other than English.

To file a program complaint of discrimination, complete the [USDA Program Discrimination Complaint Form](#), (AD-3027) found online at: [How to File a Complaint](#), and at any USDA office, or write a letter addressed to USDA and provide in the letter all of the information requested in the form. To request a copy of the complaint form, call (866) 632-9992. Submit your completed form or letter to USDA by:

- (1) mail: U.S. Department of Agriculture
Office of the Assistant Secretary for Civil Rights
1400 Independence Avenue, SW
Washington, D.C. 20250-9410;
- (2) fax: (202) 690-7442; or
- (3) email: program.intake@usda.gov.

This institution is an equal opportunity provider.

Historically Underutilized Business (HUB) Certification

Companies submitting proposals that have been certified by the North Carolina Department of Administration as Historically Underutilized Business (HUB) entities are encouraged to indicate their HUB status when responding to this Request for Proposal.

I certify that my company has been certified by the North Carolina Department of Administration as a Historically Underutilized Business (HUB), and I have attached a copy of our HUB Certification to this form. **(Required documentation for recognition as a HUB).**

- Minority
- Small Business
- Woman Owned

My company has NOT been certified by North Carolina as a Historically Underutilized Business (HUB).

Company Name (Please Print)

Signature of Authorized Representative

Date

CERTIFICATION FOR CONTRACTS, GRANTS, LOANS
AND
COOPERATIVE AGREEMENTS
Lobbying

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, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any 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, or an employee of a Member of Congress in connection with this Federal contract, grant, loan or 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 sub-awards at all tiers (including sub-contracts, sub-grants and contracts under grants, loans and cooperative agreements) and that all sub-recipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31 U.S. Code. 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.

Company Name (Please Print)

Signature of Authorized Representative

Date



Kestrel Heights Charters School

RETURN THIS DOCUMENT IN SEALED PROPOSAL PACKET

Certification Regarding Debarment, Suspension, and Other

Responsibility Matters - Primary Covered Transactions

- (1) The prospective primary participant certifies to the best of its knowledge and belief, that it and its principals:
 - (a) are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;
 - (b) have not within a three-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or Local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
 - (c) are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or Local) with commission of any of the offenses enumerated in paragraph (1) (b) of this certification; and
 - (d) have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State or Local) terminated for cause or default.

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

Company Name (Please Print)

Signature of Authorized Representative

Date

RETURN THIS DOCUMENT IN SEALED PROPOSAL PACKET

Instructions for Certification

1. By signing and submitting this form, the prospective lower tier participant is providing the certification set out in this document in accordance with these instructions.
2. The certification in this clause is a material representation of fact upon which reliance was placed when this 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 tier 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 form that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier 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 it is not debarred, suspended, ineligible, or voluntarily excluded from the 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 Nonprocurement List.
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.

Form AD-1048 (2/89)

Kestrel Heights School

LUNSFORD ACT: The Vendor acknowledges that N.C. General Statute 14-208.18 prohibits anyone required to register as a sex offender under Article 27A of Chapter 14 of the General Statutes from knowingly being on the premises of any school. This prohibition applies to persons required to register under Article 27A who have committed any offense in Article 7A of Chapter 14 or any offense where the victim of the offense was under the age of 16 years at the time of the offense.

CRIMINAL BACKGROUND CHECKS: The Vendor shall conduct criminal background checks on each of its employees who, pursuant to this Agreement, engage in any services on (name of SFA) property or at **Kestrel Heights School** events. The Vendor shall provide documentation that criminal background checks were conducted on each of its employees prior to hiring, and shall refuse employment to any person convicted of a felony or any other crime, whether misdemeanor or felony, that indicates the person poses a threat to the physical safety of students, school personnel or others. Such check shall include an annual check of the State Sex Offender and Public Protection Registration Program, the State Sexually Violent Predator Registration Program, and the National Sex Offender Registry. Vendor shall not assign any employee or agent to provide services pursuant to this contract if (1) said worker appears on any of the listed registries; (2) said worker has been convicted of a felony; (3) said worker has been convicted of any crime, whether misdemeanor or felony, involving sex, violence, or drugs; or (4) said worker has engaged in any crime or conduct indicating that the worker may pose a threat to the safety or well-being of student or school personnel. **Kestrel Heights School** reserves the right to prohibit any individual employee of Vendor from providing services on **Kestrel Heights School Campuses** events if **Kestrel Heights School** determines, in its sole discretion, that such employee poses a threat to the safety or well-being of students, school personnel or others.

Name of Caterer/Contractor: _____

Signature of Authorized Representative: _____

Printed Name of Authorized Representative: _____

Date: _____

Certification of Compliance with the Iran Divestment Act

Name of Caterer/Contractor: _____

Assures compliance with the IRAN DIVESTMENT ACT CERTIFICATION REQUIRED BY N.C.G.S. 147-86.59 (see https://www.nctreasurer.com/inside-the-department/OpenGovernment/Iran%20Divestment%20Act%20Resources/Iran_Final_Divestment_List.pdf)

As of the date listed below, the Caterer/Contractor listed above is not listed on the Final Divestment List created by the State Treasurer pursuant to N.C.G.S. 147-86.58. (Note: The Department of State Treasurer will update the Final Divestment List at least every 180 days. The list will be published on the State Treasurer's website at www.nctreasurer.com/Iran and periodically circulated to Local Government Units.)

The undersigned hereby certifies that he or she is authorized by the vendor or bidder listed above to make the foregoing statement.

Signature Date: _____

Printed Name Title: _____

Notes to persons signing this form:

N.C.G.S. 147-86.59(a) requires this certification for bids or contracts with the State of North Carolina, a North Carolina local government, or any other political subdivision of the State of North Carolina. The certification is required at the following times:

- When a bid is submitted
- When a contract is entered into (if the certification was not already made when the vendor made its bid)
- When a contract is renewed or assigned

N.C.G.S. 147-86.59(b) requires that contractors with the State, a North Carolina local government, or any other political subdivision of the State of North Carolina must not utilize any subcontractor found on the State Treasurer's Final Divestment List.

The State Treasurer's Final Divestment List can be found on the State Treasurer's website at the address www.nctreasurer.com/Iran and will be updated every 180 days.

The Iran Divestment Act of 2015 can be found online at:

http://www.ncga.state.nc.us/EnactedLegislation/Statutes/PDF/ByArticle/Chapter_147/Article_6_E.pdf **The Act's requirements use the term "State agency." G.S. 147-86.57(7) provides that

in the Act, the term "State agency" includes not only State departments, boards, commissions, executive departments, officers and institutions, but also "any political subdivision of the State" such as a Local Government Unit.

CRITERIA FOR SELECTION OF CATERER FOR PROVIDING MEALS SERVICE

The criteria for evaluation of proposals shall be as follows:

- A. The price per meal - Lowest price per meal that meets provisions in the Request for Proposal AND that meets the meal pattern requirements and USDA regulatory provisions for meals served as part of the National School Lunch Program (NSLP), School Breakfast Program (SBP) and/or After-School Snack Program (ASSP). Maximum fifty (50) points.
- B. Meal pattern and all menus submitted meet the applicable meal pattern per USDA regulations, including designation of the component contribution and portion size. Caterer demonstrates the ability to comply with USDA regulations in meeting meal pattern and menu compliance. Maximum of thirty (30) points.
- C. Proposal Responsiveness and compliance with submitting all requested documentation, including menus, product specifications, recipes, health inspection, business license and other required documents. Maximum ten (10) points.
- D. Additional Services - Caterer will supply all eating utensils, paper products, condiments; Caterer will provide adult meals, extra milk and additional food items for students and staff. Caterer will complete and submit nutrient analysis (as applicable). Maximum of ten (10) points.

EVALUATION SCORE SHEET*

Name of Catering Company: _____

Evaluation Criteria	Maximum Score	Catering Company Score
A. Price Per Meal	50	
B. Meal Pattern and Menu Compliance with designated component contribution and portion size; Ability of Caterer to comply with USDA regulations.	30	
C. Proposal Responsiveness and compliance with submitting requested documentation, including menus, product specifications, recipes, health inspection, business license and other required documents	10	
*D Additional Services	10	
Total	100	

I certify that I have read the guidance, reviewed the potential Contractor's proposal and completed a checklist for each proposal.

Evaluator: _____

Signature

Date

****Each RFP Selection Committee member must refer to specific criteria for selection of contractor. Each committee member must be knowledgeable with all contractors' proposals submitted to the SFA. A checklist with contract requirements must be completed by each member to use when reviewing each Catering Company's submitted contract. The original score sheets must be completed and kept on file by the SFA for review purposes.***