

**Fixed-Price Contract
FOR SODEXO
FOOD SERVICE MANAGEMENT COMPANY**

**Saratoga Union School District
FOOD SERVICE PROGRAM**



**Saratoga Union School District
20460 Forrest Hills Drive
Saratoga, CA 95070
408-867-3424
408-867-7777**

Fixed-Price Contract Table of

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Contract Summary

FOOD SERVICES CONTRACT		CONTRACT NUMBER	
		070120	
		REGISTRATION NUMBER	
1 This contract is entered into between the school food authority and the food service management company named below:			
SCHOOL FOOD AUTHORITY NAME			
SARATOGA UNION SCHOOL DISTRICT			
FOOD SERVICE MANAGEMENT COMPANY NAME			
SODEXO AMERICA, LLC.			
2 The term of this Contract is for one year, commencing on July 1, 2019 and ending on June 30, 2020			
3 The maximum dollar amount of this Contract is equal to the fixed price per meal multiplied by the number of meals served \$254,185			
4 The parties herein agree to comply with the terms and conditions of the following exhibits, which are by this reference made a part of the Contract.			
Request for Proposal Released		02/19/2019	
Contractor Proposal Received		03/20/2019 @ 12:40 P.M.	
Attached Terms and Conditions		Page 2	
Exhibit A: Scope of Work		Page 23	
Exhibit B: Schedule of Fees		Page 28	
IN WITNESS WHEREOF, the parties hereto have executed this Contract.			
FOOD SERVICE MANAGEMENT COMPANY			California Department of Education Use Only
NAME of FSMC (if other than an individual, state whether a corporation, partnership, etc.) Sodexo America, LLC			
BY (Authorized Signature) 		DATE SIGNED (do not type)	
PRINTED NAME AND TITLE OF PERSON SIGNING Leslie Milinkovic, Regional Vice President			
ADDRESS 9801 Washingtonian Boulevard, Gaithersburg, MD 20878, Attn: Legal Department			
SCHOOL FOOD AUTHORITY			
NAME of SFA SARATOGA UNION SCHOOL DISTRICT 20460 Forrest Hills Drive, Saratoga CA 95070			Exempt per:
BY (Authorized Signature) 		DATE SIGNED (do not type)	
PRINTED NAME AND TITLE OF PERSON SIGNING JEAN ALDRETE, CHIEF BUSINESS OFFICIAL			

Model Fixed-Price Contract

I. Introduction

The Saratoga Union School District, hereinafter referred to as the school food authority (SFA), enters into this Contract with Sodexo America. LLC., hereinafter referred to as the food service management company (FSMC) to provide food service management assistance for the SFA's food service program, hereinafter referred to as "Services." **During the term of this Contract, the FSMC will provide services to the SFA as described in the Scope of Work (Exhibit A) of this Contract.**

II. General Terms and Conditions

A. Term

The term of this contract is one year. The FSMC shall commence providing Services under the Contract on July 1, 2019 and continue through June 30, 2020. After careful consideration, the SFA may annually renew this Contract for four additional one year periods upon agreement between both parties. Execution of all contracts and amendments is contingent on approval by the California Department of Education (CDE). The SFA may cancel this Contract upon notification from the CDE that it or any part of the bidding process has been determined noncompliant with state and federal laws and regulations (Title 7, *Code of Federal Regulations* [7 CFR], Section 210.16[d]).

B. Designated Contract Liaisons

SFA Liaison for Services		FSMC Liaison for Services	
Name: Jean Aldrete		Name: Chris Battaglia	
Title: Chief Business Official		Title: Area General Manager	
Phone: 408-867-3424	Cell Phone: 760-524-6788	Phone: 408-607-3476	Cell Phone:
Fax: 408-867-0777	E-mail: jaldrete@saratogausd.org	Fax: 925-265-9006	E-mail: Christopher.battaglia@so dexo.com

Respondents shall serve or deliver by postal mail all legal notices to:

SFA	FSMC
Name: Saratoga Union School District Attn: Jean Aldrete	Name: Martha O'Rourke
Title: Chief Business Official	Title: District Manager
Address: 20460 Forrest Hills Drive Saratoga, CA 95070	Address: 305 Vineyard Town Ctr. #185 Morgan Hill, CA 95037

C. Fees

1. Fixed-price Contracts

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

2. Payment Terms

The FSMC shall submit monthly invoices by 10th of the following month that reflect all activity for the previous calendar month. The FSMC must submit detailed cost documentation monthly to support all charges to the SFA. Charges and expenses are included in the Schedule of Fees (Exhibit B). All costs, charges, and expenses must be mutually agreeable to the SFA and the FSMC, and must be allowable costs consistent with the cost principles in 2 CFR, parts 200 or 400, as applicable. The SFA will pay invoices submitted by the FSMC within 30 calendar days of the invoice date. The SFA will pay invoices received by its accounting department by the invoice due date, if the invoices pass the SFA's audit (7 CFR, sections 210.14[a] 210.19[a], 210.21[c][3]). The SFA will notify the FSMC of invoices that do not pass audit, which the SFA will not pay until the invoices have passed audit, with no penalty accruing to the SFA (7 CFR, sections 210.19[a][1], 210.14[a], 210.21[f]).

3. Interest, Fines, Penalties, and Finance Charges

Interest, fines, penalties, and finance charges that may accrue under this contract are not allowable expenses to the nonprofit school food service (cafeteria fund). The SFA will not pay unallowable expenses from the SFA's cafeteria fund (2 CFR, Section 200.449).

4. Spoiled or Unwholesome Food

The SFA shall make no payment to the FSMC for food that, in the SFA's determination, is spoiled or unwholesome at the time of delivery, does not

meet detailed food component specifications as developed by the SFA for the meal pattern or does not otherwise meet the requirements of this Contract (7 *CFR*, Section 210.16[c][3]).

D. Contract Cost Adjustment

The contract price (which can include General and Administrative Expense and Management Fees) may be increased on an annual basis by the Yearly Percentage Change in the Consumer Price Index for All Urban Consumers, as published by the U.S. Department of Labor, Bureau of Labor Statistics, Food Eaten Away from Home [San Francisco (CPI)]. Such increases shall be effective on a prospective basis on each anniversary date of this Contract and will be allowed only if approved in advance by the SFA. CPI Fee increases for the upcoming Contract renewal year must be submitted to SFA.

E. Availability of Funds

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

F. Timeliness

Time is of the essence in this Contract.

G. Approval

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

H. Amendment

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

I. Substantive Changes to Contract

Any change to this Contract that results in a material change or any proposed renewals of this Contract may, at the determination of the CDE, either void this Contract or require the SFA to rebid the Contract. Following are examples of substantive changes that could require the SFA to rebid the Contract (7 *CFR*,

Section 200.3245 [b][5]):

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

J. Subcontract/Assignment

No provision of this Contract shall be assigned or subcontracted without prior written approval of the SFA. If subcontracts are let, the FSMC should have taken steps to contract with small and minority businesses, women's business enterprises, and labor surplus area firms when possible.

K. Written Commitments

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

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

L. Trade Secrets/Copyrights

The FSMC and SFA shall designate any information they consider confidential or proprietary—including recipes, surveys and studies, management guidelines, operational manuals, and similar documents—that the SFA and FSMC regularly use in the operation of their business or that they develop independently during the course of this Contract. Information so designated and identified shall be treated as confidential by the FSMC and the SFA, and the FSMC and the SFA shall exercise

the same level of care in maintaining the confidences of the other party as they would employ in maintaining their own confidences, unless disclosure is otherwise required under the law. All such materials shall remain the exclusive property of the party that developed them and shall be returned to that party immediately upon termination of this Contract. Notwithstanding, the federal awarding agency reserves a royalty-free, nonexclusive, and irrevocable license to reproduce, publish, or otherwise use, and authorize others to use, the following for federal government purposes [7CFR Section 200.315(b)]:

- The copyright in any work developed under a federal grant, subgrant, or contract under a grant or subgrant.
- Any rights of copyright to which a grantee, subgrantee, or a contractor purchases ownership with federal grant support (2 CFR, Section 200.315[B])

M. Severability

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

N. Counterparts

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

O. Silence/Absence/Omission

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

P. Indemnification

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

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

Q. Penalties

For the breach of the Contract and associated benefits:

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

Cost resulting from the SFA's violations, alleged violations of, or failure to comply with, Federal, State, tribal, local, or foreign laws and regulations are unallowable, except when incurred as a result of compliance with specific provisions of the federal award, or with prior written approval of the federal awarding agency (2 *CFR*, Section 200.441).

R. Small and Minority Businesses - Prime Contractors and Subcontractors

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

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

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

T. Force Majeure

1. Neither party shall be liable to the other for delay in, or failure of, performance nor shall any such delay in, or failure of, performance constitute default if such delay or failure is caused by force majeure. Force majeure means an occurrence that is beyond the control of the party affected and occurs without its fault or negligence. Force majeure may include, but is not restricted to, acts of God, the public enemy, acts of the state in its sovereign capacity, fires, floods, power failure, disabling strikes, epidemics, quarantine restrictions, and freight embargoes.
2. Force majeure does not include any of the following occurrences:
 - Late delivery of equipment or materials caused by congestion at a manufacturer's plant or elsewhere, or an oversold condition of the market
 - Late performance by a subcontractor, unless the delay arises out of a force majeure occurrence
 - Inability of either the FSMC or any of its subcontractors to acquire or maintain any required insurance, bonds, licenses, or permits
3. If either party is delayed at any time in the progress of work by force majeure, the delayed party shall notify the other party in writing of such delay, as soon as practicable and no later than the following work day or the commencement thereof, and shall specify the causes of such delay. Such notice shall be delivered by hand or sent by postal mail with a certified return receipt requested and shall make a specific reference to this article, thereby invoking its provisions. The delayed party shall cause such delay to cease as soon as practicable and shall notify the other party in writing when it has done so. The time for completion shall be extended by contract amendment, as long as the amended period does not violate 7 *CFR* Section 210.16(d).
4. Any delay or failure in performance by either party caused by force majeure shall not constitute default, nor give rise to any claim for damages or loss of anticipated profits.

U. Nondiscrimination

Both the SFA and FSMC agree that no child who participates in the National School Lunch Program (NSLP), School Breakfast Program (SBP), Summer Food Service Program (SFSP), or Child and Adult Care Food Program (CACFP) will be discriminated against on the bases of race, color, national origin, age, disability, sex, gender identity, religion, reprisal, and where applicable, political beliefs, marital status, familial or parental status, sexual orientation, or all or part of an individual's income derived from any public assistance program or protected genetic information in employment or in any program or activity conducted or

funded by the USDA. (Not all prohibited bases will apply to all programs and/or employment activities (2 *CFR*, Section 210.23[b])

V. Compliance with the Law

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

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

W. Choice of Law

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

X. Advice of Counsel

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

III. Relationship of the Parties

- A.** The FSMC's relationship with the SFA will be that of an independent contractor and not that of an employee of or supervisor for the SFA. The FSMC will not be eligible for any employee benefits, nor will the SFA make deductions from payments made to the FSMC for taxes; all of which will be the FSMC's responsibility. The FSMC agrees to indemnify and hold the SFA harmless from any liability for, or assessment of, any such taxes imposed on the SFA by relevant taxing authorities. The FSMC will have no authority to enter into contracts that bind the SFA or create obligations on the part of the SFA (*EC* Section 45103.5).

- B.** Where the SFA is a public school district, the FSMC, as an independent contractor, shall have no authority to supervise food service classified personnel operating the NSLP, SBP, or Afterschool Meal Supplements (AMS) under the NSLP (EC Section 45103.5).
- C.** All services to be performed by the FSMC will be as agreed between the FSMC and the SFA. The FSMC will be required to report to the SFA concerning the services performed under this Contract. The SFA shall determine the nature and frequency of these reports.
- D.** The SFA is the responsible authority, without recourse to USDA or CDE, for the settlement and satisfaction of all contractual and administrative issues arising in any way from this Contract. Such authority includes, but is not limited to, source evaluation, protests, disputes, claims, or other matters of a contractual nature.

IV. Food Service Program

A. Food Service Management Company Responsibilities

- 1. The FSMC will provide the SFA with an electronic Point of Service (POS) meal/milk counting system. Such meal/milk counting system must eliminate any potential for the overt identification of free and reduced-price eligible students under 7 CFR, Section 245.8. This POS system will be used for the duration of this Contract and the SFA will not take an ownership interest or option in the POS system provided. Included in the fixed price per meal is the rental of Titan hardware and software, office computer and printer, 1 Chromebook, and 1 printer for each school site. Annual cost is \$6,801 for the hardware, software, and licensing. All hardware will be replaced every 3 years.
- 2. The FSMC will not, directly or indirectly restrict the sale or marketing of fluid milk at any time or in any place on school premises or at any school-sponsored event [7 CFR, Section 210.21(e)].
- 3. The FSMC shall have State or local health certification for any facility outside the school in which it proposes to prepare meals and the FSMC shall maintain this health certification for the duration of the contract (7 CFR, Section 210.16[c][2]).

B. School Food Authority Responsibilities

- 1. The SFA shall ensure that the food service operation is in conformance with the SFA's Permanent Single Agreement with the CDE and will

monitor the food service operation through periodic on-site visits (7 *CFR*, sections 210.16[a][2] and 210.16[a][3]).

2. The SFA shall retain control of the quality, extent, and general nature of the food service program and establish all program and non-program meal and a la carte prices (7 *CFR*, sections 210.09(b)(1) and 210.16[a][4]).
3. SFAs with more than one school shall perform no less than one on-site review of the lunch counting and claiming system employed by each school under its jurisdiction. The on-site review shall take place prior to February 1 of each school year. Further, if the review discloses problems with a school's meal counting or claiming procedures, the SFA shall ensure that the school implements corrective action and, within 45 days of the review, conduct a follow-up on-site review to determine that the corrective action resolved the problem. Each on-site review shall ensure that the school's claim is based on the counting system authorized by the CDE under 7 *CFR*, Section 210.7(c) and that the counting system, as implemented, yields the actual number of reimbursable free, reduced-price, and paid lunches respectively, served for each day of operation (7 *CFR*, Section 210.8[a][1]).
4. The SFA shall retain control of the nonprofit school service account and overall financial responsibility for the nonprofit food service operation; the quality, extent, and the general nature of its food service; and the prices children are charged for meals (7 *CFR*, Section 210.16[a][4]).
5. The SFA shall retain responsibility for developing the meal pattern for students with disabilities, when their disability restricts their diet, and for those students without disabilities who are unable to consume the regular lunch because of medical or other special dietary needs (7 *CFR*, Section 210.10[m]).
6. The SFA shall retain signature authority for the food services application, agreements, Free and Reduced-Price Policy Statement, monthly Claim for Reimbursement, reports, program renewal, the verification of applications, letters to households, and all correspondence to the CDE relating to the food service program (7 *CFR*, Section 210.16[a][5]).
7. The SFA shall retain signature authority and be responsible for all contractual agreements entered into in connection with the food service program (7 *CFR* Section 210.21).
8. The SFA shall be responsible for the establishment and maintenance of the free and reduced-price meals eligibility roster (*EC* Section 49558).

9. The SFA shall be responsible for the development, distribution, and collection of the letter to households and Application for Free and Reduced-Price Meals and/or Free Milk. (*EC* Section 49558 and 7 *CFR*, Section 245.6).
10. If the SFA uses direct certification of eligibility, the SFA shall be responsible for obtaining the direct certification list at least annually (*EC* Section 49558).
11. The SFA shall be responsible for the determination of eligibility for free and reduced-price meals and shall disclose the eligibility status of individual students or confidential information provided on the application for free or reduced-price meals to the FSMC, to the extent that such information is necessary for the FSMC to fulfill its obligations under this Contract. The FSMC will not disclose the eligibility status of individual students or confidential information provided.
12. The SFA shall be responsible for conducting any hearings related to determinations regarding free and reduced-price meal eligibility (*EC* Section 49558 and 7 *CFR*, Section 245.7).
13. The SFA shall be responsible for verifying applications for free and reduced-price meals as required by federal regulations (7 *CFR*, sections 245.6 and 245.6a).
14. The SFA shall establish and maintain an advisory board composed of parents, teachers, and students to assist with menu planning (7 *CFR*, Section 210.16[a][8]).
15. The SFA shall maintain applicable health certification and ensure that all state and local regulations are being met at an SFA facility (7 *CFR*, Section 210.16[a][7]). Meals are prepared by the SFA on-site.

V. Buy American Requirements

a. Food Service Management Company Responsibilities

1. The Food Service Management Company (FSMC) must submit statements for all processed agricultural products to the SFA at the time of delivery for each processed agricultural product certifying that the food product was processed 100 percent domestically and that the percentage of domestic content in the food component of the processed food product is over 51 percent, by weight or volume (USDA Policy Memo [Sp 38-2017](#)).

2. The FSMC must notify the SFA in writing at least 10 days **prior** to delivering a nondomestic agricultural commodity or product and request prior approval for delivery of a nondomestic agricultural commodity or product. This written notification must list alternative domestic substitutes for the SFA to consider and provide an explanation for the following:
 - a) Why the domestic product is not produced or manufactured in sufficient and reasonably available quantities of a satisfactory quality; and/or
 - b) Why competitive bids reveal the cost of domestic product are significantly higher than the nondomestic product.
 - c) The FSMC will provide certification of domestic origin for products which do not have country of origin labels.

B. School Food Authority Responsibilities

1. The SFA shall maintain documentation outlining the justification for supporting their use of an exception to the Buy American requirement **prior** to accepting nondomestic agricultural commodities or products. This documentation will be kept on file for the term of the contract plus any extensions and three additional school years thereafter. This will be made available during an onsite administrative review and an offsite procurement review.
2. The SFA shall monitor the contract to ensure that the correct domestic food components contracted for are delivered as required by 2 *CFR*, Section 200.318(b) unless the FSMC has received prior approval from the SFA for nondomestic agricultural commodity or product.
3. The SFA must ensure FSMC compliance with the Buy American Provision in accordance with their procurement procedures. These procedures, at a minimum, must include the requirement to include Buy American Provision language in solicitations and contracts as well as the process for requiring FSMCs to certify the domestic percentage of the agricultural food component of products.

VI. U.S. Department of Agriculture Foods

A. Food Service Management Company Responsibilities

1. The FSMC shall fully use, to the maximum extent possible, USDA Foods made available by the SFA solely for the purpose of providing

benefits for the SFA's nonprofit school food program (7 *CFR*, Section 210.16[a][6]).

2. In accordance with 7 *CFR* Section 250.53, the FSMC shall comply with the following provisions relating to the use of USDA Foods, as applicable:
 - a. The FSMC must credit the SFA for the value of all USDA Foods (including both entitlement and bonus foods) received for use in the SFA's meal service in the school year or fiscal year. The credit must include the value of USDA Foods contained in processed end products if the FSMC procures processed end products on behalf of the SFA, or acts as an intermediary in passing on the USDA Food value of processed end products to the SFA (7 *CFR*, Section 250.51[a])
 - b. The FSMC shall account for the full value of USDA Foods (7 *CFR*, Section 250.51) by:
 - i) Subtracting the value of all USDA Foods received for use in the SFA's food service from the SFA's monthly invoice, and
 - ii) Using the Average Price File for the school year that the USDA Foods are received by the SFA. This listing is available from the USDA Food Distribution Web page at <http://www.fns.usda.gov/fdd/processor-pricing-reports>
3. The FSMC will be responsible for any activities relating to USDA Foods in accordance with 7 *CFR*, Section 250.50(d)(2), (3), and (4), and will ensure that such activities are performed in accordance with the applicable requirements in 7 *CFR*, Part 250.
4. The FSMC shall accept liability for any negligence on its part that results in any loss of, improper use of, or damage to USDA Foods.
5. The FSMC must use all donated ground beef and ground pork products, and all processed end products, in the SFA's food service (7 *CFR*, Section 250.51[d]).
6. In accordance with 7 *CFR* Section 250.51(d), the FSMC may, in most cases, use commercially purchased foods of the same generic identity, of U.S. origin and of equal or better quality, in place of donated foods. Exceptions are donated ground beef, donated ground pork, and all processed end products, which contain donated foods that may not be replaced with commercial substitutes. The SFA must ensure that such

substitution has been made and that it has received credit for the value of all donated foods received, in accordance with review requirements in 7 *CFR*, Section 250.54(c).

7. According to 7 *CFR*, Section 250.53(a)(7), the FSMC shall ensure that the processing agreement's value will be used in crediting the SFA for the value of USDA Foods contained in end products.
8. The FSMC will provide assurance that it will not itself enter into the processing agreement with the processor required in subpart C of 7 *CFR* Part 250.
9. The FSMC will provide assurance that it will comply with the storage and inventory requirements for USDA Foods (7 *CFR*, Section 250.53[a][9]).
10. The distributing agency, sub-distributing agency, the CDE, SFA, the Comptroller General, the USDA, or their duly authorized representatives, may perform on-site reviews of the FSMC's food service operation, including the review of records, to ensure compliance with requirements for the management and use of USDA Foods (7 *CFR*, Section 250.53[a][10]).
11. The FSMC will maintain records to document its compliance with requirements relating to USDA Foods, in accordance with 7 *CFR*, Section 250.54(b).
12. Any extensions or renewals of the Contract, if applicable, are contingent upon the fulfillment of all Contract provisions relating to USDA Foods (7 *CFR*, Section 250.53[a][12]).

B. School Food Authority Responsibilities

1. The SFA will not extend or renew any Contract if the FSMC did not fulfill all Contract provisions relating to donated foods. (7 *CFR*, Section 250.53[a][12])
2. The SFA shall retain title to all USDA Foods and ensure that all USDA Foods received by the SFA and made available to the FSMC accrue only for the benefit of the SFA's nonprofit school food service and are fully used therein (7 *CFR*, Section 210.16[a][6]).
3. The SFA shall accept and use, in as large quantities as may be efficiently used in its nonprofit food service program, such foods as may be offered as a donation by USDA (7 *CFR*, Section 210.9[b][15]).

4. The SFA will maintain records to document its compliance with requirements relating to USDA Foods and conduct reconciliation (at least annually and upon termination of the Contract) to ensure that the FSMC has credited the value of all USDA Foods in accordance with 7 *CFR*, sections 250.54(a) and (c).

VII. Meal Responsibilities

A. The SFA shall:

1. Offer free, reduced-price, and paid reimbursable meals to all eligible children through the SFA's food service program (7 *CFR*, Section 210.16[a]).
2. Provide meals through the SFA's food service program that meet the requirements as established in 7 *CFR*, Part 210.
3. Retain sole control of the preparation, delivery, and service of meals.

VIII. Food Service Management Company Employees

- A.** The FSMC shall only place employees for work in the SFA that meet the minimum professional standards outlined in 7 *CFR*, Section 210.30 which can be viewed at the following Web page: http://www.fns.usda.gov/sites/default/files/cn/pofstandards_flyer.pdf.

The SFA shall ensure that all employees the FSMC proposes for placement meet the minimum professional standards. The FSMC shall ensure their employees take the required annual training as outlined in the professional standards. The FSMC shall track the trainings completed by each employee and maintain documentation to validate that training was completed. The FSMC shall remove from the SFA premises any employee who fails to take the required training.

The FSMC shall provide the SFA with a list of employees and evidence that they meet the professional standards.

- A.** The SFA reserves the right to interview and approve the on-site food service consultant(s)/employee(s).
- B.** The FSMC shall provide the SFA with a schedule of employees, positions, assigned locations, salaries, and work hours. The FSMC will provide specific

locations and assignments to the SFA two (2) calendar weeks prior to the commencement of operation.

- C. The FSMC shall comply with all wage and hours of employment requirements of federal and state laws. The FSMC will be responsible for supervising and training their personnel.
- D. The FSMC agrees to assume full responsibility for the payment of all contributions and assessments, both state and federal, for all of its employees engaged in the performance of this Contract.
- E. The FSMC agrees to furnish the SFA, upon request, a certificate or other evidence of compliance with state and federal laws regarding contributions, taxes, and assessments on payroll.
- F. The FSMC will be solely responsible for all personnel actions regarding employees on its respective payroll. The FSMC shall withhold and/or pay all applicable federal, state, and local employment taxes and payroll insurance with respect to its employees, insurance premiums, contributions to benefit and deferred compensation plans, licensing fees, and workers' compensation costs, and shall file all required documents and forms. The FSMC shall indemnify, defend, and hold the SFA harmless from and against any and all claims, liabilities, and expenses related to, or arising out of, the indemnifying party's responsibilities set forth herein.

IX. Books and Records

- A. The SFA and the FSMC must provide all documents as necessary for an independent auditor to conduct the SFA's single audit. The FSMC shall maintain such records as the SFA will need to support its Claims for Reimbursement. Such records shall be made available to the SFA upon request and shall be retained in accordance with 7 *CFR*, Section 210.16(c)(1).
- B. The SFA and the FSMC shall, upon request, make all accounts and records pertaining to the nonprofit food service program available to the CDE and USDA FNS for audit or review at a reasonable time and place. Each party to this Contract shall retain such records for a period of three (3) years after the date of the final Claim for Reimbursement for the fiscal year in which this Contract is terminated, unless any audit findings have not been resolved. If audit findings have not been resolved, then records shall be retained beyond the three-year period as long as required for resolution of issues raised by the audit (7 *CFR*, Section 210.9(b)(17) and 2 *CFR*, Section 200.336[a]).

- C. The FSMC shall not remove state or federally required records from the SFA premises upon contract termination.
- D. The SFA and the FSMC shall allow the CDE, USDA, the Comptroller General of the United States, or any of their duly authorized representatives access to any books, documents, papers, and records of the FSMC that are directly pertinent to the Contract for the purpose of making any audit, examination, excerpts, and transcriptions (2 *CFR*, Section 200.336[a]).

X. Monitoring and Compliance

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

XI. Equipment, Facilities, Inventory, and Storage

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

XII. Certifications

- A.** The FSMC warrants and certifies that in the performance of this Contract, it will comply with the rules and regulations of the CDE and the USDA, and any additions or amendments thereto, including but not limited to 2 *CFR*, Part 200 and 7 *CFR*, parts 210, 215, 220, 225, 245, 250, and USDA FNS Instruction and policy, as applicable. The FSMC agrees to indemnify the SFA and the CDE against any loss, cost, damage, or liability by reason of the FSMC's violation of this provision.
- B.** The FSMC shall comply with Title VI of the Civil Rights Act of 1964, as amended; USDA regulations implementing Title IX of the Education Amendments; Section 504 of the Rehabilitation Act of 1973; and any additions or amendments to any of these regulations.
- C.** The SFA and FSMC shall comply with all applicable standards, orders, or regulations issued, including:
 - A.** Section 306 of Clean Air Act (42 *U.S.C.* 1847[h]):
<http://www.gpo.gov/fdsys/pkg/USCODE-2013-title42/pdf/USCODE-2013-title42-chap85-subchapIII-sec7602.pdf>
 - B.** Section 508 of the Clean Water Act (33 *U.S.C.* 1368):
<http://www.gpo.gov/fdsys/pkg/USCODE-2013-title33/pdf/USCODE-2013-title33-chap26.pdf>
 - C.** Executive Order 11738: <http://www.epa.gov/isdc/eo11738.htm>
 - D.** Environmental Protection Agency (EPA) regulations at Title 40, *Code of Federal Regulations*, Part 15, et seq. (http://www.ecfr.gov/cgi-bin/text-idx?SID=9ed90ed6fc9c89c5c8465c743584c79a&tpl=/ecfrbrowse/Title40/40tab_02.tpl). Environmental violations shall be reported to the USDA and the U.S. EPA Assistant Administrator for Enforcement, and the FSMC agrees not to use a facility listed on the EPA's List of Violating Facilities
- D.** Debarment Certification

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

E. Lobbying

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

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

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

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

XIII. Insurance

The parties shall maintain the following insurances:

A. Workers' Compensation Insurance

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

B. Comprehensive or Commercial Insurance

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

C. Property Insurance

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

XIV. Termination

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

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

Scope of Work

1. Overview of Saratoga Union School District Food Service Program

A. Scale.

Argonaut Elementary School 13200 Shadow Mountain Dr Saratoga, CA 95070	Food Prepared on-site	TK - 5	<ul style="list-style-type: none"> • Breakfast at Recess • Lunch
Foothill Elementary School 13919 Lynde Ave Saratoga, CA 95070	Food Prepared on-site	TK - 5	<ul style="list-style-type: none"> • Breakfast at Recess • Lunch
Saratoga Elementary School 14592 Oak St. Saratoga, CA 95070	Food Prepared on-site	TK - 5	<ul style="list-style-type: none"> • Breakfast at Recess • Lunch
Redwood Middle School 13925 Fruitvale Ave Saratoga, CA 95070	Food Prepared on-site	6 - 8	<ul style="list-style-type: none"> • Lunch

The SFA employs **6** persons who provide food service to approximately **1,765 (FY 18-19)** children at **4** sites. The food service prepares approximately **76,500** meals annually (meal break down on Exhibit B.)

B. Financial Goals.

1. Financially sustainable program, meeting the overall objectives of the school district.
2. FSMC's ability to make program recommendations, ensuring financial objectives of the district are met and the district is fully compliant with California Education Codes and Child Nutrition Regulations.

C. Management Goals . The FSMC shall work cooperatively with the Food Service Staff and/or the Chief Business Official in maintaining a high quality food program. Providing a professional environment where compliance and quality control is monitored with a high degree of accountability.

D. Food Service Office and Staff. The food service office is located at 13925 Fruitvale Ave., Saratoga, CA 95070. The number of food service staff is 2.

1. SFA participates in the following programs: FSMC must have experience with National Lunch Program (NSLP) and the School Breakfast Program (SBP).

PROGRAM	GRADES	MAX ENROLLMENT*	AVERAGE DAILY PARTICIPATION	FULL PAY*	FREE*	REDUCED*
National School Lunch (NSLP)	K-8	1953	361	346	13	2
School Breakfast Program (SBP)	K-5	1085	64	56	6	2

*These numbers are based on full enrollment as of October 31 for the 2017-2018 school year. There is no guarantee these numbers will be met.

2. Description of FSMC Responsibilities

- General: under the direction of the SFA's Food Service Director, the FSMC selected pursuant to this RFP will provide the following Assist and monitor for compliance related matter, including but not limited to the food regulations as defined by USDA, California Retail Food Code, and/or other compliance related matter as outlined by the Santa Clara County Environmental Health Department.
- Provide Point-of-Sale equipment and price into the fixed price per meal. This will allow the SFA to continue to have the equipment necessary to be efficient and effective in providing the highest accountability standards in the most efficient way possible.
- Fully train SFA staff in all child nutrition regulations, monitor for compliance
- Make program recommendations that keep the program financially sustainable
- Prepare an annual board report, updating the board as it pertains to their food service program

In addition, the FSMC consultant will be on site half time to manage responsibilities as outlined in the RFP.

Responsibilities of the FSMC shall include:

A. Purchasing of Supplies for the Food Service Program

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

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

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

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

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

A. Facility or Site Operations

The FSMC shall recommend:

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

B. Menus

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

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

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

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

C. Quality Control

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

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

D. Staff

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

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

E. Records

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

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

F. Education

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

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

G. Reports

Collect and provide, in the required format, information necessary for school food service claims for reimbursement from state and federal agencies and maintain records of past information; at the end of each month the number of meals to be claimed will be submitted to the SFA contact by the FSMC consultant/representative on or before the 15th of each month (7 CFR, 210.16[c][1]).

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

H. Point of Service

Provide and/or implement an accurate point of service meal/milk count; such meal/milk counting system must eliminate the potential for the overt identification of free and reduced-price eligible students under 7 *CFR*, Section 245.8

3. Specific FSMC Tasks

- A. The FSMC must propose a fixed price per meal that uses minimally processed foods. Minimally processed foods is defined as products that are prepared commercially without large amounts of fat, salt, and sugar added to the product. This group includes basic whole foods such as vegetables, fruits, nuts, eggs, meat and milk. If processing is used it is to preserve shelf life, such as freezing and vacuum-sealing, with a short ingredient list of added flavor enhancers and preservatives. FSMC recipes for the menu provided in the RFP shall include a list of specific ingredients used in the recipes.
- B. The FSMC must provide the efficiency and cost factors that allow the Food Service Fund to maximize its revenue potential.
- C. The FSMC must show meal participation data and meals per labor hour data to the Chief Business Official on a Monthly Basis.
- D. The FSMC may make recommendations based on the best practices to increase efficiency and reduce costs while maintaining high quality meals. All recommendations shall be submitted in writing to the Chief Business Official. The FSMC understands recommendations may or may not lead to action by the SFA.

Exhibit B

Schedule of Fees

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

All costs are based on average daily participation of 1092 number of meals served on 180 number of school days.

Cost per Meal

Note: Prices must **not** include values for USDA Foods, and must include all meal programs.

LINE ITEM	UNITS*	RATE	TOTAL
Breakfast	11,473	\$2.0507	\$ 23,528
Lunch	65,016	\$2.0507	\$133,328
Non-reimbursable Meals \$1.00 meal equivalent	119,937	\$0.8115	\$ 97,329
TOTAL	196,426	\$1.2940	\$254,185

*Units to be provided by SFA

Drug Free Workplace

Certification regarding state and federal drug-free workplace requirements.

Note: Any entity, whether an agency or an individual, must complete, sign, and return this certification with its grant application to the California Department of Education.

Grantees Other Than Individuals

As required by Section 8355 of the *California Government Code* and the Drug-Free Workplace Act of 1988, and implemented at 34 *Code of Federal Regulations (CFR)* Part 84, Subpart F, for grantees, as defined at 34 *CFR* Part 84, Sections 84.105 and 84.110

- A. The applicant certifies that it will or will continue to provide a drug-free workplace by:
 - a. Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the grantee's workplace and specifying the actions that will be taken against employees for violation of such prohibition
 - b. Establishing an on-going drug-free awareness program to inform employees about:
 - 1. The dangers of drug abuse in the workplace
 - 2. The grantee's policy of maintaining a drug-free workplace
 - 3. Any available drug counseling, rehabilitation, and employee assistance programs
 - 4. The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace
 - c. Making it a requirement that each employee to be engaged in the performance of the grant be given a copy of the statement required by paragraph (a)
 - d. Notifying the employee in the statement required by paragraph (a) that, as a condition of employment under the grant, the employee will:
 - 1. Abide by the terms of the statement
 - 2. Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five calendar days after such conviction
 - e. Notifying the agency, in writing, within 10 calendar days after receiving notice under subparagraph (d)(2) from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position title, to every grant officer or other designee. Notice shall include the identification number(s) of each affected grant.
 - f. Taking one of the following actions, within 30 calendar days of receiving notice under subparagraph (d)(2), with respect to any employee who is so convicted:
 - 1. Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; or
 - 2. Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a federal, state, or local health, law enforcement, or other appropriate agency
 - g. Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (a), (b), (c), (d), (e), and (f).

- B. The grantee may insert in the space provided below the site(s) for the performance of work done in connection with the specific grant:

Place of Performance (street address, city, county, state, zip code) Check [] if there are workplaces on file that are not identified here.

Grantees Who Are Individuals

As required by Section 8355 of the *California Government Code* and the Drug-Free Workplace Act of 1988, and implemented at 34 *CFR* Part 84, Subpart F, for grantees, as defined at 34 *CFR* Part 84, Sections 84.105 and 84.110

- A. As a condition of the grant, I certify that I will not engage in the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance in conducting any activity with the grant; and
- B. If convicted of a criminal drug offense resulting from a violation occurring during the conduct of any grant activity, I will report the conviction to every grant officer or designee, in writing, within 10 calendar days of the conviction. Notice shall include the identification number(s) of each affected grant.

As the duly authorized representative of the applicant, I hereby certify that the applicant will comply with the above certifications.

Name of Organization: Sodexo America, LLC.

Name of Program: Food Nutrition Services

Printed Name and Title of Authorized Representative: Leslie Milinkovic, Vice President

Signature:  Date: 01-01-2019

Debarment, Suspension, and Other Responsibility Matters

As required by Executive Order 12549, Debarment and Suspension, for prospective participants/Respondents in primary covered transactions:

A. The Respondent certifies 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 application 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 had one or more public transactions (federal, state, or local) terminated for cause or default.

B. Where the Respondent is unable to certify to any of the statements in this certification, he or she shall attach an explanation to this application.

Sodexo America LLC
Contractor/Company Name

Saratoga Union School District
Award Number, Contract Number, or Project Name

Leslie Milinkovic
Name(s) and Title(s) of Authorized Representatives


Signature(s)

March 1, 2019
Date

**Certifications Regarding Lobbying, Debarment, Suspension,
and Other Responsibility Matters**

CERTIFICATION REGARDING 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 grant, the making of any Federal loan, the entering into 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 of Lobbying Activities," in accordance with its instructions.
- (3) The undersigned shall require that the language of this certification be included in the award documents of all sub-awards at all tiers (including subcontracts, 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, United States 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.


Organization: Sodexo Operations, LLC

Street address: 9801 Washington Blvd.

City, State, Zip: Gaithersburg, Maryland 20878

CERTIFIED BY: (Type or Print)

TITLE: Leslie Milinkovic, SVP



March 1, 2019
(Date)

(Signature)

Approved by OMB

0348-0046

Disclosure of Lobbying Activities

Complete this form to disclose lobbying activities pursuant to 31 U.S.C. 1352 (See reverse for public burden disclosure)

1. Type of Federal Action: a. contract <u>A</u> b. grant c. cooperative agreement d. loan e. loan guarantee f. loan insurance	2. Status of Federal Action: a. bid/offer/application <u>A/B</u> b. initial award c. post-award	3. Report Type: a. initial filing <u>A</u> b. material change For material change only: Year _____ quarter _____ Date of last report _____
4. Name and Address of Reporting Entity: <u>X</u> Prime _____ Subawardee Tier _____, if Known: Congressional District, if known:		5. If Reporting Entity in No. 4 is Subawardee, Enter Name and Address of Prime: Congressional District, if known:
6. Federal Department/Agency: U.S. Congress Department of Defense USDA	7. Federal Program Name/Description: CFDA Number, if applicable: _____	
8. Federal Action Number, if known: UNKNOWN	9. Award Amount, if known: UNKNOWN \$	
10. a. Name and Address of Lobbying Registrant (if individual, last name, first name, MI): Sodexo Operations, LLC, on behalf of itself and all its subsidiaries. 9801 Washingtonian Blvd. Gaithersburg, Maryland 20878	b. Individuals Performing Services (including address if different from No. 10a) (last name, first name, MI): Montoya, Jessica Bukar, Nancy	
11. Information requested through this form is authorized by title 31 U.S.C. section 1352. This disclosure of lobbying activities is a material representation of fact upon which reliance was placed by the tier above when this transaction was made or entered into. This disclosure is required pursuant to 31 U.S.C. 1352. This information will be reported to the Congress semi-annually and will be available for public inspection. Any person who fails to file the required disclosure shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.	Signature: <u>Leslie Milinkovic</u> Print Name: <u>Leslie Milinkovic</u> Title: <u>SVP</u> Telephone No.: <u>425-2134393</u> Date: <u>3-1-2019</u>	
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