

**Rescue Union School District**  
**2390 Bass Lake Road, Rescue, California 95672**  
**BOARD OF TRUSTEES**  
**REGULAR MEETING MINUTES**

Tuesday, June 11, 2019 - 6:30 p.m. Open Session (Closed Session at 5:30 p.m.)  
Rescue District Office Board Room

**DISTRICT MISSION**

Rescue Union School District, in partnership with families and the community, is dedicated to the success of every student by providing a challenging, comprehensive, and quality education in a safe environment in which all individuals are respected, valued, connected, and supported.

<b>ITEM</b>	<b>ITEM DESCRIPTION</b>
<b>CALL TO ORDER:</b>	Board president called the meeting to order at 5:32 p.m.
<b>ROLL CALL:</b>	<ul style="list-style-type: none"> <li>✓Kim White, President</li> <li>✓Stephanie Kent, Vice President</li> <li>✓Tagg Neal, Clerk</li> <li>✓Nancy Brownell, Member</li> <li style="padding-left: 20px;">Suzanna George, Member</li> <li>✓Cheryl Olson, Superintendent and Board Secretary</li> <li>✓Sean Martin, Assistant Superintendent of Business Services</li> <li>✓Dave Scroggins, Assistant Superintendent of Curriculum and Instruction</li> </ul>
<b>PUBLIC COMMENT:</b>	There were no public comments concerning items on the Closed Session Agenda.
<b>CLOSED SESSION: District Conference Room</b>	The Board adjourned to closed session to discuss matters of personnel, security, negotiations, student discipline, litigation, or other matters as authorized by Government Code Sections 3549.1, 54956.9, 54956.8, 54957, and 54957.6 and Education Code Sections 35146 and 48918.
Public Employee Performance Evaluation/Contract	Superintendent
Public Employee Discipline/Dismissal/Release	The Board reviewed personnel matters pursuant to Government Code 54957.
<b>OPEN SESSION:</b>	Reconvene to open session in the Board Room at 6:30 p.m.
Welcome	The Board president provided an introduction to Board meeting proceedings.
Flag Salute	Trustee Brownell led the flag salute.
1. Adoption of Agenda (Consideration for Action)	Trustee Kent moved and Trustee Neal seconded to approve the agenda as presented. The motion passed 4-0.
<b>REPORTS AND COMMUNICATION:</b>	
Report from Closed Session	Board president reported no action taken in closed session.

2. Board Member Reports	This item is provided as an opportunity for trustees to give District related reports.
3. Superintendent's Report (Supplement)	<p>Superintendent Olson reported we had a great end of the year with all the programs, promotions, concerts, plays, science and art fairs as well as many other important, special events. She thanked <i>all</i> staff for their efforts through the incredibly busy spring, right up to the end!</p> <p>She also recognized Brandon Page and Chuck Pearson for the transformation they made to the new SDC classrooms at Lake Forest and reported that the district office staff continues to work diligently to hire and process new staff for the upcoming year, as well as prepare for the big change in insurance carriers. Everyone in the district works hard and is dedicated to our district students.</p> <p>Mrs. Olson shared a little bit about the focus for 2019-2020 school year. After soliciting input and feedback from students, teachers, classified staff, administrators, and parents, there are several key areas that came forward loud and clear from all stakeholder groups and have been incorporated into the LCAP as our road map for next year.</p> <ul style="list-style-type: none"> <li>• Administrators will go through the revised process developed by West Ed to analyze this year's state test data. They will then take all teachers through the same process in the fall, guiding them to develop their goals and action plans for student achievement improvement. Focusing on collaborating together to move to the next level of continuous improvement.</li> <li>• Kelly Rizzi will come to work with a small group on August 2 to help us truly understand the WHY of restorative practices and restorative discipline. She will provide training in some powerful strategies in restorative practices and also talk about how to foster resilience in our students.</li> <li>• October 14 Ms. Rizzi will return on our professional development day to train our entire staff (teachers, aides, yard supervisors, cafeteria workers, everyone in these key areas)</li> <li>• Matt McCue from the El Dorado County Office of Education will come to train our entire district in verbal de-escalation strategies on August 12.</li> <li>• RUSD will be in year 2 of PBIS training. The second year is more specific and will provide methods and strategies to use with students to re-direct and help them self-regulate.</li> <li>• August 12 we will also be providing a menu of possible ideas for a Tiered approach to Self-Care. We value our students and our families, but we must take care of ourselves if we expect to have energy and the ability to care effectively for our students. Self-Care is critical!</li> </ul> <p>Mrs. Olson went on to share that we are very excited that we are able to hire our own Behaviorist along with three behavior aides to provide support to teachers, aides, students, and classrooms with children who struggle with behavior and self-regulation. Currently we contract out for a Behaviorist. For the same amount we have spent on about 30 days of service, we will now have a fulltime position and three aides. In addition, we have hired the Occupational Therapist and are seeking a Certified Occupational Therapist Aide (COTA), to provide far more service than we have in the past because we have had to contract with an outside agency, which is far more expensive.</p> <p>Lastly, Superintendent Olson talked about taking a team through training at the county on Improvement Science, so we can take a close look at our systems, both academic and social emotional, conduct a root cause analysis and then create a subsequent action plan to address our weaker areas. The training begins June 13-14 and then will also be held on July 15-19.</p>

<b>PUBLIC COMMENTS:</b>	There were no public comments.
<b>GENERAL</b>	
4. Public Hearing – Local Control Accountability Plan (LCAP)  (Supplement)  (Hearing) Superintendent	The governing board of a school district shall hold at least one public hearing to solicit the recommendations and comments from the public regarding the specific actions and expenditures proposed to be included in the Local Control Accountability Plan.  OPEN PUBLIC HEARING: 6:49 p.m.  CLOSE PUBLIC HEARING: 6:50 p.m.  There were no comments.
5. Community Relations through Social Media Service Agreement for Rescue Union  (Supplement)  (Consideration for Action)	The Board will consider approval of the Community Relations through Social Media Service Agreement for 2019-2020.  Trustee Brownell moved and Trustee Neal seconded to approve the Community Relations through Social Media Service Agreement for August 2019 to June 2020. The motion passed 4-0.
<b>BUSINESS AND FACILITIES ITEMS:</b>	These items are provided for Board information, discussion, and/or action.
6. Public Hearing – Proposed Budget 2019-2020  (Supplement)  (Hearing) Assistant Superintendent of Business Services	Each year the governing board of each school district shall hold a public hearing on the budget to be adopted for the subsequent fiscal year.  OPEN PUBLIC HEARING: 8:07 p.m.  CLOSE PUBLIC HEARING: 8:08 p.m.  There were no comments.
7. Statement of Reasons for Assigned and Unassigned Reserves Above the State Recommended Minimum Level  (Supplement)  (Discussion Only) Assistant Superintendent of Business Services	The Board reviewed and discussed Statement of Reasons for Assigned and Unassigned Reserves Above the State Recommended Minimum Level. Per Education Code Section 42127(a)(2)(B) school districts are required to include this statement with the presentation of the adopted budget.
<b>CONSENT AGENDA:</b>    (Consideration for Action)	All matters listed under Consent Agenda are considered to be routine or sufficiently supported by prior or accompanying reference materials and information as to not require additional discussion. A motion as referenced below will enact all items.  Item #8 pulled for separate vote  Trustee Kent moved and Trustee Brownell seconded to approve the balance of the Consent Agenda. The motion passed 4-0.

<p>8. Board Meeting Minutes (Supplement)</p>	<p>Minutes of May 21, 2019 Regular Board Meeting.</p> <p>Trustee Kent moved and Trustee Neal seconded to approve the minutes of the May 21, 2019 Regular Board Meeting. The motion passed 3-0 with 1 abstention.</p> <p>Ayes: Trustee Neal, Kent and White Abstention: Trustee Brownell</p>
<p>9. Board Study Session Minutes (Supplement)</p>	<p>Minutes of May 28, 2019 Board Study Session.</p>
<p>10. District Expenditure Warrants (Supplement)</p>	<p>Warrants must regularly be presented to the Board of Trustees for ratification. Detailed warrant order listings are available at the District Office. The supplement reflects expenditures from 5/8/19 through 5/24/19.</p>
<p>11. District Purchase Orders</p>	<p>Purchase orders must regularly be presented to the Board of Trustees for ratification. The supplemental reflects expenditures from 5/7/19 through 6/3/19.</p>
<p>12. Personnel (Supplement)</p>	<p>Rescue Union School District’s long-range goal is to recruit a diverse, high quality staff whose goals and philosophies are student focused. Periodically, changes in staffing occur due to need for additional positions, resignations, or requests for leaves of absence. All positions listed are within current budget allocations.</p>
<p>A. Classified Personnel  Employment:          Resignation:</p>	<p>Janice Araujo, Lead Custodian, (1.0 FTE), Marina Village, effective 7/1/19 Jo Ann De Roco, IA Bilingual, (.75 FTE), Pleasant Grove, effective 8/13/19 Sarah Haliday, Student Services Secretary, (1.0 FTE), Marina Village, effective 5/26/19 Kelly Howard, Payroll Technician, (1.0 FTE), Business Services, effective 6/1/19</p> <p>Lynn Book, Bus Driver, (.63 FTE), Transportation, effective 6/30/19 Kelly Howard, Account Technician, (1.0 FTE), Business Services, effective 5/31/19 Lindy Murray, Yard Supervisor, (.32 FTE), Green Valley, effective 6/30/19</p>
<p>13. Library Services MOU – RUSD and the El Dorado County Office of Education (Supplement)</p>	<p>The District has identified the El Dorado County Office of Education as the entity that will provide general oversight of school library services. Administration recommends approval of the Memorandum of Understanding (MOU).</p>
<p>14. Eagle Scout Project Pleasant Grove Middle School (Supplement)</p>	<p>The Board will consider approval of the Eagle Scout project for the installation of a shot put throwing section at the Pleasant Grove field.</p>

15. PTC Beautification Project at Jackson Elementary (Supplement)	The Board will consider approval of the request from the Jackson Parent Teacher Club (PTC) to complete a beautification project at the entry of the school.
16. Contract: Joint Food Services Director (Supplement)	A joint Food Service Director from Buckeye and Rescue School Districts has been found to be cost effective and efficient. Administration recommends approval of the joint Food Service Director Agreement.
17. Contract: Sacramento Emergency Clean Air Transportation Program Grant (SECAT) (Supplement)	The Board will consider approval of the contract for the replacement of six M&O vehicles with funds from the SECAT grant.
18. Contract: Electric School Bus Purchase San Joaquin Valley Air Pollution Control District Grant (SJVAPCD) (Supplement)	The Board will consider approval of the contract from the San Joaquin Valley Air Pollution Control District (SJVAPCD) Grant prior to the order or purchase of a new all electric school bus.
19. Donations (Supplement)	The Board and District appreciate and accept the following donations:  <u>Food Service Middle School</u> - \$200.00 from Wallace and Jenny Richardson - \$100.00 from Henry and Bonny Horita - \$100.00 from Rayona Sharpnack  <u>Rescue Elementary School</u> - \$5,840.00 through the Intel Involved Volunteer Matching Grant Program (VMGP)
<b>CLOSED SESSION:</b>	The Board may reconvene to closed session as authorized by Government Code Sections 3549.1, 54956.9, 54956.8, 54957, and 54957.6 and Education Code Sections 35146 and 48918.
<b>OPEN SESSION:</b>	Reconvene open session
<b>REPORT FROM CLOSED SESSION:</b>	The Board president will report any action taken in closed session.
<b>ADJOURNMENT:</b>	Trustee Kent moved to adjourn the meeting at 8:14 p.m. and Trustee Neal seconded the motion.

Tagg Neal, Clerk

Date

Kim White, President

**RESCUE UNION SCHOOL DISTRICT**

**AGENDA ITEM: Administrative Personnel**

**BACKGROUND:**

Periodically changes in administrative staffing occur due to hiring, promotions, resignations or requests for leaves of absence. The Board must formally approve these requests.

**STATUS:**

The following administrative personnel changes are listed on the agenda.

<b>Name</b>	<b>Personnel Action</b>	<b>FTE</b>	<b>Position</b>	<b>School or Dept.</b>	<b>Effective Date</b>
Alisha Manzella	Employment	1.0	Psychologist	Pleasant Grove - DO	7/1/19

**FISCAL IMPACT:**

Fiscal impact will be reflected in the 2019-2020 budget.

**BOARD GOAL:**

Board Focus Goal IV – STAFF NEEDS:

Attract and retain diverse, knowledgeable, dedicated employees who are skilled and supported in their commitment to providing quality education for our students.

**RECOMMENDATION:**

The Superintendent recommends the Board approve the above personnel actions.

RESCUE UNION SCHOOL DISTRICT

**AGENDA ITEM:**      **Certificated Personnel**

**BACKGROUND:**

Periodically changes in certificated staffing occur due to hiring, resignations or request for leaves of absence. The Board must formally approve these requests.

**STATUS:**

The following certificated personnel changes are listed on the agenda.

<b>Name</b>	<b>Personnel Action</b>	<b>Position FTE</b>	<b>Position</b>	<b>School or Dept.</b>	<b>Effective Date</b>
Terri Courtwright	Employment	1.0	Teacher	Pleasant Grove	8/12/19
Ashley Crane	Employment	1.0	Teacher	Lakeview	8/12/19
Megan Ellis	Employment	1.0	Teacher	Marina Village	8/12/19
Megan Foster	Employment	1.0	Teacher	Pleasant Grove	8/12/19
Anna Knox	Employment	1.0	Teacher	Green Valley	8/12/19
Tara Lubic	Employment	1.0	Teacher	Marina Village	8/12/19
Karen Magallanes	Employment	1.0	Teacher	Jackson	8/12/19
Joseph Malecke	Employment	1.0	Teacher	Pleasant Grove	8/12/19
Georgina McBee	Employment	1.0	Teacher	Marina Village	8/12/19
Jamie Olson	Employment	1.0	Teacher	Marina Village	8/12/19
Julie Parsley	Employment	1.0	Teacher	Green Valley	8/12/19
Anne Schreiber	Employment	1.0	Teacher	Jackson	8/12/19
Rebecca Butcher	Employment (Temp)	1.0	Teacher	Green Valley	8/12/19
Amanda Crowley	Employment (Temp)	.50	Teacher	Marina Village	8/12/19
Sara Dull	Employment (Temp)	1.0	Teacher	Rescue	8/12/19
Shannon Grover	Employment (Temp)	1.0	Teacher	Jackson	8/12/19
Kristin Morones	Employment (Temp)	.49	Teacher	Rescue	8/12/19
Catherine Mueller	Employment (Temp)	.49	Teacher	Green Valley	8/12/19
Carmen Glaister	Resignation	1.0	Teacher	Jackson	6/30/19

**FISCAL IMPACT:**

Fiscal impact will be reflected in the 2019-20 budget.

**BOARD GOAL:**

Board Focus Goal IV – STAFF NEEDS:

Attract and retain diverse, knowledgeable, dedicated employees who are skilled and supported in their commitment to providing quality education for our students.

**RECOMMENDATION:**

The Superintendent recommends the Board approve the above personnel actions.

RESCUE UNION SCHOOL DISTRICT

**AGENDA ITEM:**      **Classified Management**

**BACKGROUND:**

Periodically changes in classified staffing occur due to hiring, resignations or requests for leaves of absence. The Board must formally approve these requests.

**STATUS:**

The following classified management changes are listed on the agenda:

<b>Name</b>	<b>Personnel Action</b>	<b>POS. FTE</b>	<b>Position</b>	<b>School/Dept.</b>	<b>Effective Date</b>
Cahill, Patrick	Retirement	1.0	Transportation Director	Transportation	9/03/19

**FISCAL IMPACT:**

Fiscal impact will be reflected in the 2019-20 budget year.

**BOARD GOAL:**

Board Focus Goal IV – STAFF NEEDS:

Attract and retain diverse, knowledgeable, dedicated employees who are skilled and supported in their commitment to providing quality education for our students.

**RECOMMENDATION:**

The Superintendent recommends the Board approve the above personnel actions.



RESCUE UNION SCHOOL DISTRICT

**AGENDA ITEM:**      **Classified Personnel**

**BACKGROUND:**

Periodically changes in classified staffing occur due to hiring, resignations or requests for leaves of absence. The Board must formally approve these requests.

**STATUS:**

The following classified personnel changes are listed on the agenda:

<b>Name</b>	<b>Personnel Action</b>	<b>POS. FTE</b>	<b>Position</b>	<b>School/Dept.</b>	<b>Effective Date</b>
Chavero, Claudia	Employment	.04	Itnrnt. Indep. Facilitator (short term)	Green Valley	7/08/19
Quinn, Blandine	Employment	.04	Itnrnt. Indep. Facilitator (short term)	Green Valley	7/08/19
Aguayo, Raquel	LOA	.77	Bus Driver	Transportation	8/14/19
Heinlein, Amber	Resignation	1.0	School Secretary	Marina Village	6/14/19
Tomasello, Lisa	Resignation	1.0	School Secretary	Pleasant Grove	6/14/19
Employee #2565	Dismissal	.50			5/30/19

**FISCAL IMPACT:**

Fiscal impact will be reflected in the 2019-20 budget year.

**BOARD GOAL:**

Board Focus Goal IV – STAFF NEEDS:

Attract and retain diverse, knowledgeable, dedicated employees who are skilled and supported in their commitment to providing quality education for our students.

**RECOMMENDATION:**

The Superintendent recommends the Board approve the above personnel actions.



## AGREEMENT FOR LEGAL SERVICES

THIS AGREEMENT is effective July 1, 2019, between the RESCUE UNION SCHOOL DISTRICT (“Client”) and the law firm of LOZANO SMITH, LLP (“Attorney”) (each a “Party” and collectively the “Parties”). Attorney shall provide legal services as requested by Client on the following terms and conditions:

1. **ENGAGEMENT.** Client hires Attorney on an as-requested basis as its legal counsel with respect to matters the Client refers to Attorney. When Client refers a matter to Attorney, Attorney shall confirm availability and ability to perform legal services regarding the matter. After Attorney has completed services for the specific matter referred by Client, then no continuing attorney-client relationship exists until Client requests further services and Attorney accepts a new engagement. If Attorney undertakes to provide legal services to represent Client in such matters, Attorney shall keep Client informed of significant developments and respond to Client’s inquiries regarding those matters. Client understands that Attorney cannot guarantee any particular results, including the costs and expenses of representation. Client agrees to be forthcoming with Attorney, to cooperate with Attorney in protecting Client’s interests, to keep Attorney fully informed of developments material to Attorney’s representation of client, and to abide by this Agreement. Client is hereby advised of the right to seek independent legal advice regarding this Agreement.
2. **RATES TO BE CHARGED.** Client agrees to pay Attorney for services rendered based on the attached rate schedule. Agreements for legal fees on other-than-an-hourly basis may be made by mutual agreement for special projects (including as set forth in future addenda to this Agreement).
3. **REIMBURSEMENT.** Client agrees to reimburse Attorney for actual and necessary expenses and costs incurred in the course of providing legal services to Client, including but not limited to expert, consultant, mediation and arbitration fees. Attorney shall not be required to advance costs on behalf of Client over the amount of \$1,000 unless otherwise agreed to in writing by Attorney. Typical expenses advanced for Client, without prior authorization, include messenger fees, witness fees, expedited delivery charges, travel expenses, court reporter fees and transcript fees. Client authorizes Attorney to retain experts or consultants to perform services for Client in relation to litigation or Specialized Services.
4. **MONTHLY INVOICES.** Attorney shall send Client a statement for fees and costs incurred every calendar month (the “Statement”). Statements shall set forth the amount, rate and description of services provided. Client shall pay Attorney’s Statements within thirty (30) calendar days after receipt. An interest charge of one percent (1%) per month shall be assessed on balances that are more than thirty (30) calendar days past due, not to exceed 10% per annum.
5. **COMMUNICATIONS BETWEEN ATTORNEY AND CLIENT.** The Parties recognize that all legal advice provided by Attorney is protected by the Attorney-Client and Work Product

Privileges. In addition to regular telephone, mail and other common business communication methods, Client hereby authorizes Attorney to use facsimile transmissions, cellular telephone calls and text, unencrypted email, and other electronic transmissions in communicating with Client. Unless otherwise instructed by Client, any such communications may include confidential information.

6. **POTENTIAL AND ACTUAL CONFLICTS OF INTEREST.** If Attorney becomes aware of any potential or actual conflict of interest between Client and one or more other clients represented by Attorney, Attorney will comply with applicable laws and rules of professional conduct.

7. **INDEPENDENT CONTRACTOR.** Attorney is an independent contractor and not an employee of Client.

8. **TERMINATION.**

a. Termination by Client. Client may discharge Attorney at any time, with or without cause, by written notice to Attorney.

b. Termination by Mutual Consent or by Attorney. Attorney may terminate its services at any time with Client's consent or for good cause. Good cause exists if (a) Client fails to pay Attorney's Statement within sixty (60) calendar days of its date, (b) Client fails to comply with other terms of this Agreement, including Client's duty to cooperate with Attorney in protecting Client's interests, (c) Client has failed to disclose material facts to Attorney or (d) any other circumstance exists that requires termination of this engagement under the ethical rules applicable to Attorney. Additionally, to the extent allowed by law, Attorney may decline to provide services on new matters or may terminate the Agreement without cause upon written notice to Client if Attorney is not then providing any legal services to Client. Even if this Agreement is not terminated, under paragraph 1 an attorney-client relationship exists only when Attorney is providing legal services to Client.

c. Following Termination. Upon termination by either Party: (i) Client shall promptly pay all unpaid fees and costs for services provided or costs incurred pursuant to this Agreement up to the date of termination; (ii) unless otherwise required by law or agreed to by the Parties, Attorney will provide no legal services following notice of termination; (iii) Client will cooperate with Attorney in facilitating the orderly transfer of any outstanding matters to new counsel, including promptly signing a substitution of counsel form at Attorney's request; and (iv) Client shall, upon request, be provided the Client's file maintained for the Client by Attorney and shall sign acknowledgment of receipt upon delivery of that file. For all Statements received by Client from Attorney prior to the date of termination, Client's failure to notify Attorney in writing of any disagreement with either the services performed or the charges for those services as shown in the Statement within thirty (30) calendar days of the date of termination shall be deemed Client's acceptance of and agreement with the Statement. For any billing appearing for the first time on a Statement received by Client from Attorney after the date

of termination, failure to notify Attorney in writing of any disagreement with either the services performed or the charges for those services within thirty (30) calendar days from receipt of the Statement shall be deemed to signify Client's acceptance of and agreement with the Statement.

9. MAINTENANCE OF INSURANCE. Attorney agrees that, during the term of this Agreement, Attorney shall maintain liability and errors and omissions insurance.

10. CONSULTANT SERVICES. Attorney works with professional consultants that provide services, including but not limited to investigations, public relations, educational consulting, leadership mentoring and development, financial, budgeting, management auditing, board/superintendent relations, administrator evaluation and best practices, and intergovernmental relations. Attorney does not share its legal fees with such consultants. Attorney may offer these services to Client upon request.

11. DISPUTE RESOLUTION.

a. Mediation. Except as otherwise set forth in this section, Client and Attorney agree to make a good faith effort to settle any dispute or claim that arises under this Agreement through discussions and negotiations and in compliance with applicable law. In the event of a claim or dispute, either Party may request, in writing to the other Party, to refer the dispute to mediation. This request shall be made within thirty (30) calendar days of the action giving rise to the dispute. Upon receipt of a request for mediation, both Parties shall make a good faith effort to select a mediator and complete the mediation process within sixty (60) calendar days. The mediator's fee shall be shared equally between Client and Attorney. Each Party shall bear its own attorney fees and costs. Whenever possible, any mediator selected shall have expertise in the area of the dispute and any selected mediator must be knowledgeable regarding the mediation process. No person shall serve as mediator in any dispute in which that person has any financial or personal interest in the outcome of the mediation. The mediator's recommendation for settlement, if any, is non-binding on the Parties. Mediation pursuant to this provision shall be private and confidential. Only the Parties and their representatives may attend any mediation session. Other persons may attend only with the written permission of both Parties. All persons who attend any mediation session shall be bound by the confidentiality requirements of California Evidence Code section 1115, et seq., and shall sign an agreement to that effect. Completion of mediation shall be a condition precedent to arbitration, unless the other Party refuses to cooperate in the setting of mediation.

b. Dispute Regarding Fees. Any dispute as to attorney fees and/or costs charged under this Agreement shall to the extent required by law be resolved under the California Mandatory Fee Arbitration Act (Bus. & Prof. Code §§ 6200, et seq.).

c. Binding Arbitration. Except as otherwise set forth in section (b) above, Client and Attorney agree to submit all disputes to final and binding arbitration, either following mediation which fails to resolve all disputes or in lieu of mediation as may be agreed by

the Parties in writing. Either Party may make a written request to the other for arbitration. If made in lieu of mediation, the request must be made within sixty (60) calendar days of the action giving rise to the dispute. If the request for arbitration is made following an unsuccessful attempt to mediate the Parties' disputes, the request must be made within ten (10) calendar days of termination of the mediation. The Parties shall make a good faith attempt to select an arbitrator and complete the arbitration within ninety (90) calendar days. If there is no agreement on an arbitrator, the Parties shall use the Judicial Arbitration and Mediation Service (JAMS). The arbitrator's qualifications must meet the criteria set forth above for a mediator, except, in addition, the arbitrator shall be an attorney unless otherwise agreed by the Parties. The arbitrator's fee shall be shared equally by both Parties. Each Party shall bear its own attorney fees and other costs. The arbitrator shall render a written decision and provide it to both Parties. The arbitrator may award any remedy or relief otherwise available in court and the decision shall set forth the reasons for the award. The arbitrator shall not have any authority to amend or modify this agreement. Any arbitration conducted pursuant to this paragraph shall be governed by California Code of Civil Procedure sections 1281, et seq. By signing this Agreement, Client acknowledges that this agreement to arbitrate results in a waiver of Client's right to a court or jury trial for any fee dispute or malpractice claim. This also means that Client is giving up Client's right to discovery and appeal. If Client later refuses to submit to arbitration after agreeing to do so, Client maybe ordered to arbitrate pursuant to the provisions of California law. Client acknowledges that before signing this Agreement and agreeing to binding arbitration, Client is entitled, and has been given a reasonable opportunity, to seek the advice of independent counsel.

d. Effect of Termination. The terms of this section shall survive the termination of the Agreement.

12. **ENTIRE AGREEMENT.** This Agreement with its exhibit supersedes any and all other prior or contemporaneous oral or written agreements between the Parties. Each Party acknowledges that no representations, inducements, promises or agreements have been made by any person which are not incorporated herein, and that any other agreements shall be void. Furthermore, any modification of this Agreement shall only be effective if in writing signed by all Parties hereto.


13. **SEVERABILITY.** Should any provision of this Agreement be held by a court of competent jurisdiction to be invalid, void or unenforceable, but the remainder of the Agreement can be enforced without failure of material consideration to any Party, then this Agreement shall not be affected and it shall remain in full force and effect, unless amended or modified by mutual consent of the Parties; provided, however, that if the invalidity or unenforceability of any provision of this Agreement results in a material failure of consideration, then, to the extent allowed by law, the Party adversely affected thereby shall have the right in its sole discretion to terminate this Agreement upon providing written notice of such termination to the other Party.

14. **NON-WAIVER.** None of the provisions of this Agreement shall be considered waived by either Party unless such waiver is specified in writing.

15. NO THIRD PARTY RIGHTS. This Agreement shall not create any rights in, or inure to the benefit of, any third party.

16. ASSIGNMENT. The terms of this Agreement may not be assigned to any third party. Neither Party may assign any right of recovery under or related to the Agreement to any third party.

SO AGREED:

CLIENT SIGNATURE	ATTORNEY SIGNATURE
<p align="center"><b>Rescue Union School District</b></p>	<p align="center"><b>Lozano Smith, LLP</b></p>
<p>BY <i>(Authorized Signature)</i></p>	<p>BY <i>(Authorized Signature)</i>  </p>
<p>PRINTED NAME AND TITLE OF PERSON SIGNING</p>	<p>PRINTED NAME AND TITLE OF PERSON SIGNING            Karen M. Rezendes, Managing Partner</p>
<p>DATE EXECUTED</p>	<p>DATE EXECUTED            5/30/2019</p>



PROFESSIONAL RATE SCHEDULE  
FOR RESCUE UNION SCHOOL DISTRICT

1. HOURLY PROFESSIONAL RATES

Client agrees to pay Attorney by the following standard hourly rate\*:

Partner** / Senior Counsel / Of Counsel	\$ 275 - \$ 300 per hour
Associate	\$ 215 - \$ 275 per hour
Paralegal / Law Clerk	\$ 135 - \$ 155 per hour
Consultant	\$ 135 - \$ 195 per hour

\* Rates for individual attorneys within each category above vary based upon years of experience. Specific rates for each attorney are available upon request.

\*\* Rates for work performed by Senior Partners with 20 years of experience or more may range from \$300 - \$350 per hour.

2. BILLING PRACTICE

Lozano Smith will provide a monthly, itemized Statement for services rendered. Time billed is broken into 1/10 (.10) hour increments, allowing for maximum efficiency in the use of attorney time. Invoices will clearly indicate the department or individuals for whom services were rendered.

Written responses to audit letter inquiries will be charged to Client on an hourly basis, with the minimum charge for such responses equaling .5 hours. Travel time shall be prorated if the assigned attorney travels for two or more clients on the same trip.

3. COSTS AND EXPENSES

In-office copying/electronic communication printing	\$ 0.25 per page
Facsimile	\$ 0.25 per page
Postage	Actual Usage
Mileage	IRS Standard Rate

Other costs, such as messenger, meals, and lodging shall be charged on an actual and necessary basis.

**Rescue Union School District**

**AGENDA ITEM: Lake Forest Elementary Murals**

**BACKGROUND:**

The Lake Forest Elementary Parent Teacher Association (PTC) is requesting consent from the Board to paint two additional murals: Mural #1 would be a welcome mural on the Kensington Street side of the school. It is a duplicate of the one painted last year on the wall by the parking lot. Mural #2 is a Quad Spaceship mural. It is bright, colorful, and also says the word EXPLORE on it. It will be on a large exterior wall of the multipurpose room.

**STATUS/DISCUSSION:**

The murals have been designed by artist, Lana Bermudez and will be painted by her as well. The final art proposal is attached and PTC has already approved the budget and the design of the murals for this project on May 29. The murals will cover two different walls and the artist would like to complete them over the summer, weather permitting, upon Board approval.

**FISCAL IMPACT:**

The cost is anticipated to be no more than \$7,525 for the artist's time, supplies, equipment, and paint and will be paid from PTC Beautification budget. Design time was donated and the artist also is giving a discount on the painting.

**BOARD GOALS:**

Board Focus Goal 1 – STUDENT NEEDS

- A. Student Safety and Well Being: Enhance and encourage social, emotional, ethical and civic learning by providing a safe, supportive and diverse environment.

Board Focus Goal V- FACILITY/HOUSING:

- Build, improve and maintain school facilities to meet current and future education needs while integrating the most effective and efficient use of resources.

**RECOMMENDATION:**

The Board approve the request from the Lake Forest PTC to begin the project.



Hello,

I'd like to introduce myself, I am Lana Bermudez. I am an artist and art enthusiast with a passion of teaching children. I have taken many wonderful art classes lead by amazing teachers, beginning with my young childhood and now into my adult years. I have been employed by a reputable Art company located in Sacramento, CA where I learned to teach children of all ages weekly after school art enrichment classes.

For the past 3 years, I have branched out on my own teaching after school art enrichment classes to both elementary aged children and junior high students. This past school year I taught at Marina Village Middle school and Lake Forest Elementary as well as in my home.

In summer of 2018, I was approached by Lake Forest PTC to paint their welcome mural. I executed the mural on the front of Lake Forest Elementary without a glitch. I have a talent and eye for art and worked closely with the designer of the school's mural to bring her image to life. I have also hosted an interactive event on Lake Forest campus during their Santa breakfast, offering my art workshop to 400 attendees. I currently am running a 3 week summer art program from my home with full attendance and plan to continue with enrichment classes in the fall.

As you can tell I love art and the joy it brings to children of all ages. Having the opportunity to paint this life size, artistic mural with the inspirational theme for all the children to see each and every day is a welcomed challenge.

Sincerely,

Lana Bermudez







**LAKE FOREST**  
**ELEMENTARY SCHOOL**

HOME OF THE  
LAKERS





**RESCUE UNION SCHOOL DISTRICT**

**AGENDA ITEM:      **Food Service Procurement Process**  
**RFP 2019-2020-01 Contract Awards****

**BACKGROUND:**

The primary purpose of the procurement plan is to ensure that open and free competition exists to the maximum extent possible. The procurement process practiced by the RUSD Nutrition Service Department must not restrict or eliminate competition (2 CFR Part 200.319 (a)(1-7)). Competition helps assure that goods, products, and/or services will be obtained that best meets the needs of the Child Nutrition Program.

**STATUS:**

The Food Service department has used the procurement process to obtain pricing for the 2019-2020 school year and has awarded contracts to the vendors listed below for products including; frozen yogurt, dairy, commodity distribution, commercial/grocery items, produce, juice, linen supplies and paper products.

- Big West Distribution
- Francis Distributing
- Gold Star Foods
- Mission Linen Supply
- P&R Paper Supply

**FISCAL IMPACT:**

It is the intent of the District Food Service Department to award contracts based on price and responsible bidders. Fiscal Impact would be to acquire the best service for the best price.

**BOARD GOAL:**

Board Focus Goal II – FISCAL ACCOUNTABILITY:

Keep the district fiscally solvent through prudent LCAP aligned budget processes in order to meet the needs of our students.

**RECOMMENDATION:**

The District recommends approval of the Food Service RFP 2019-2020-01 contract awards.

**Rescue Union and Buckeye Union School Districts  
Joint Use Agreement**

**PROVISIONING CONTRACT**

**THIS PROVISIONING CONTRACT** (this "Contract") is made and entered into as of this 12th day of June, 2019, by and between **Big West Distribution** ("Provisioner"), and the **Rescue Union and Buckeye Union, Joint Use Agreement** (the "District").

**RECITALS**

- A. Rescue Union and Buckeye Union School Districts, Joint Use Agreement has solicited proposals for the distribution of processed USDA Foods end products, commercial food products, Dairy, Paper, Produce, Linens, and Frozen Yogurt via Request for Proposal Number 2019-20-01 (the "RFP"), whereby the District agrees to purchase specified products for the Districts' use from the successful bidder.
- B. "Provisioner" is the successful bidder under such request for proposal, and the District(s) Joint Use Agreement and Provisioner hereby desire to set forth their agreement with respect to the sale to the District, and the purchase from Provisioner, of Products on the terms and conditions hereinafter set forth. The "Provisioner" has been awarded the following proposal(s): **Frozen Yogurt** (District will enter awarded Proposals)

**NOW, THEREFORE**, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Provisioner and the District hereby agree as follows:

**1. Delivery Requirements: Substitution and Discontinued Items** - The District Contact Person shall order Products from time to time by delivery to Provisioner with a Purchase Order. Any and all products delivered during the period covered by this proposal shall be only the exact manufacturer's products and code numbers as requested by the District unless prior approval has been received to deliver alternate products. The District will not allow substitutions without prior approval. No product will be represented as being in conformance with the specification when such is not the case.

**If the desired product is absolutely not available for any reason, the District shall be notified at least 10 days in advance.**

The District shall be given options of a product that is of the same or higher quality at the same unit cost. Authorization of a substitute product shall be at the sole discretion of the District. When substitutions do occur, Distributor shall adjust ordering quantity to meet original orders and provide nutritional statements and ingredient listings of the replacement product.

The Distributor must provide the specified product or an acceptable substitute, as determined by the District. If, as a result of failure to deliver specified product in a timely manner, the service of meals fails to contain the required components of a reimbursable meal, Distributor shall be required to reimburse the District for the full value of all of the identified meals, as determined by the National School Lunch Program. Financial restitution shall be made within 60 days of written request by the District.



**2. Price** - The price shall be per case or unit. The Provisioner shall provide pricing based on case packaging, catalog, price list, or any other commonly recognized methodology that is standard in the specific industry. The per case/unit delivery fee per this contract shall be as follows on the attached Price Worksheet.

The provisions of this contract shall in no way prohibit the District from making incidental purchases from another supplier for the same services listed herein.

The successful Provisioner shall be allowed to adjust prices upon presentation of suitable proof of a price increase from a manufacturer or processor. A notice shall be sent including proof of any increase thirty (30) days prior to the increase. No increase to the price will be allowed sooner than 180 calendar days from the date of RFP award, including thirty (30) calendar days advance written notice. Any change to the price shall be subject to mutual agreement by both parties. In the event of a decline in price, the successful Distributor is to give the District the immediate advantage of such a decrease and inform the District of the decrease. All orders placed under this agreement shall be delivered and invoiced at the Agreement price prevailing at the time the order is placed, regardless of the actual delivery date.

***\*For award of Distribution of Processed USDA Foods the Provisioner shall enter into a Memorandum of Understanding (MOU) for Distribution Services for Delivery of USDA Foods End Products for Super Co-Op Member Districts in the State of California. Provisioner agrees to fulfill all terms of that MOU, including but not limited to prompt USDA Foods end product sales reporting; maintain records of inventory, sales, and delivery; clearly state Value Pass Through on delivery invoice; and hold/recall responsibilities.***

*Provisioner agrees to report sales of USDA Foods end products on behalf of the manufacturer on a daily basis to the manufacturer's reporting agency (i.e. ProcessorLink, K-12 Foodservice, etc.) Prompt reporting is imperative to ensure proper draw down of Member District entitlement balance. Value Pass Through method and amounts shall be clearly indicated on all invoices for USDA Foods end product sales. Value Pass Through crediting shall be conducted in accordance with 7 CFR 250.36.*

**PRICING FOR DISTRIBUTION WILL BE FOR TWO CATEGORIES (A) Processed USDA Foods end products and commercial equivalents, and (b) additional commercial food products (frozen and groceries).**

**(a) Processed USDA Foods End Products and Commercial Equivalents:** Vendors shall utilize manufacturer pricing for USDA Foods end products from the following solicitation documents released and awarded by the Santa Clarita Valley School Food Services Agency:

RFP No. 1902 for Processed USDA Foods Products and Commercial Equivalents (Price Catalog) For Super Co-Op Member Districts, released January 15, 2019, and awarded March 28, 2019. Results of RFP No. 1902 can be found at [www.super-coop.org](http://www.super-coop.org) by selecting "RFP 2019-20."

For RFP No. 1902, new products and price decreases will be considered mid-year using an Amendment, published in approximately December 2019 for manufacturer pricing January 1 – June 30, 2020. Successful bidders on this Proposal should be aware of this and are responsible to locate the results of the amendment and offer such pricing to the District as part of this Proposal.

Quote a per case delivered cost for all items listed on the Proposal Worksheet. Provide prices for the items only as specified on the Proposal Worksheet. Equal products may be offered that meet the same specifications as those listed. If you plan to submit an "equal" product, please contact the district to provide samples prior to submitting your proposal.

**(b) Commercial Food Products – Frozen and Groceries:** Additional commercial food products – frozen and groceries should be quoted as specified on the Proposal Worksheet. Quote a per case delivered cost for all items listed.

**(c) Additional Items:** Additional items may be added to this Proposal, not to exceed 10% of the value of the award. The District shall contact the successful vendor for pricing on additional items to be added to the Proposal award at any time during the bid period.

**3. No Minimum or Maximum Quantities, Order Charges, or Limitations Upon Number of Orders:** The District does not guarantee orders in these amounts nor shall orders be limited to these specific figures. This is an indefinite-quantity bid, however the quantities listed are a good faith estimate. Bidders shall not specify minimum or maximum quantities or charges for order types, unless specifically allowed on the bid form. Unlimited orders within the term of the contract shall be allowed to the District at prices quoted. The estimated quantities listed are Estimated Quantities are for the purposes of forecasting and not to be considered a promise to purchase.

The provisions of the contract shall in no way prohibit the District from making an incidental purchase from another supplier for the same services listed herein.

**4. Cancellation for Insufficient or Non-Appropriated Funds or USDA Food Products:** The bidder hereby agrees and acknowledges that monies utilized by the District to purchase the items bid is public money appropriated by the United States Department of Agriculture and State of California or acquired by the District from similar public sources and is subject to variation. The District fully reserves the right to cancel this bid at any time and/or to limit quantities of items due to non-availability or non-appropriation of sufficient funds and/or lack of availability of USDA Foods products.

**5 Term of Contract/Contract Renewals.** The initial awarded contract period shall be **July 1, 2019 to June 30, 2020**. Both parties to the awarded contract will agree to enter into this awarded contract for a one-year period. However, upon mutual consent between Rescue Union, and Buckeye Union School Districts, as Joint Use Agreement, and the awarded Vendor, this bid may be extended (by mutual consent expressed in writing) for up to four (4) additional one (1) year increments (total potential bid life of five (5) years from Board of Education award). Such renewal will be made by notifying the Distributor, in writing, thirty (30) days prior to the expiration of the contract. Contract not to exceed through **June 30, 2024**. Quoted prices must stay in effect for one (1) year beginning on **July 1, 2019 through June 30, 2020**. The extension may be granted on a year by year basis provided that the District has deemed the products and services of the vendor satisfactory. Agreement prices that are subject to increase for each period shall be based upon percentage increase in the annual Consumer Price Index (C.P.I.) for all urban consumers for the specific index to be reviewed is the C.P.I. San Francisco, California, not to exceed five percent (5%). The adjustments to the agreement rate (prices) schedule, if any, shall be evaluated by using the percentage of change between the previous year and the current year's Consumer Price Index published by the U.S. Department of Labor's Bureau of Labor Statistics. The specific index to be reviewed is the C.P.I. for San Francisco, California - each year using the "Special Aggregate Index" category of "All Items Less Shelter" under the "All Urban Consumers" column., comparing the current year February to the prior year February rates, typically released in the month of March. The price change should be presented in writing not less than 90 days prior to the contract renewal date.

**6 Discontinuance of Service** Failure on the part of the successful Provisioner to meet contract requirements shall be cause for cancellation. Either party may cancel the contract upon a thirty (30) day written notice to the other party prior to the end of the contract term.

The District reserves the right to discontinue service upon 24-hours' notice for due cause which shall include such reasons as unsatisfactory product or service; or to extend the contract with present Provisioner upon annual review of weighted factors, performance of service and/or provision of quality products. FAILURE TO FURNISH ALL ITEMS INCLUDED IN THE CONTRACT SHALL CONSTITUTE UNSATISFACTORY SERVICE.

The District shall hold the successful Provisioner liable and responsible for all damages which may be sustained because of its failure to comply with any conditions herein. If the successful Provisioner fails to furnish or deliver any material, supplies, equipment, or services at the prices quoted, or at the times and places stated, or otherwise fails to comply with the terms of the documents in their entirety, the District may purchase the items herein specified elsewhere, without notice to the successful Distributor. Additional costs accrued by the member district(s) through this purchase may be deducted from unpaid invoices or must be paid to the district(s) by the successful Provisioner. Prices paid by the district(s) shall be considered the prevailing market prices at the time such purchase is made.

**7. Insurance** - Provisioner shall carry and maintain during the entire term of this Contract the following insurance coverage:

- (a) Comprehensive General Liability Insurance for Combined Single Limit Bodily Injury and/or Property Damage of not less than \$1,000,000 per occurrence and \$2,000,000 aggregate. The policy(ies) so secured and maintained shall include, among other things, coverage for contractual or assumed liability, products liability, and owned, hired and non-owned automobiles insurance and shall be maintained with so self-insured retention;

Workers' Compensation Insurance in such amounts as may be required by law; and

Property Damage Liability Insurance including auto (both owned and non-owned): Not Less Than \$2,000,000 per occurrence.

Such other insurance as is customarily maintained by large-scale processors and distributors of food products of the type, quality and grade provided for under this Contract.

- (b) Provisioner shall furnish to the District certificates of insurance, signed by an authorized representative of the insurance carrier no later than thirty (30) days after the District board's approval of the Contract or prior to the first delivery of food products hereunder, whichever occurs first, which certificates shall be endorsed as follows:

"This policy shall not be suspended, cancelled, reduced in coverage or required limits of liability or amounts of insurance or non-renewed until notice has been mailed to the District. Date of suspension, cancellation, reduction or non-renewal may not be less than thirty (30) days after the date of mailing such notice. The insurance afforded by this policy is primary and any other insurance carried by the District with respect to the matters covered by such policy shall be excess and non-contributing."

- (c) The certificates of insurance and insurance policies required under this Contract shall name the District indemnities named in the Request for Proposals (Rescue Union and Buckeye Union School Districts under Joint Use Agreement) as additional insured. Facsimile or reproduced signatures are not acceptable. If complete and proper insurance certificates as required hereunder are not delivered to the District within the time period provided in subsection (b) above, the District may declare the Contract unexecuted and void. The District reserves the right to require complete certified copies of the required insurance policies.

- (d) The insurance companies providing the insurance required under this Contract shall be subject to the District's prior written approval, which shall not be unreasonably withheld.

(e) If Provisioner fails to purchase and maintain any insurance required under this Section 5, the District may, but shall not be obligated to, upon five (5) days' written notice to Provisioner, purchase such insurance on behalf of Provisioner and shall be entitled to be reimbursed by Provisioner promptly thereafter or deduct the amount of such premiums from amounts otherwise due to Provisioner hereunder. Any amounts expended by the District hereunder shall bear interest from the date expended until repaid to the District at the rate of ten percent (10%) per annum.

**8. Indemnification** - Provisioner shall hold harmless, indemnify and defend (with counsel acceptable to the District) the District, their board, directors, employees, agents and consultants from and against any and all obligations, liabilities, claims, losses, damages, costs and expenses (including attorneys' fees and costs) arising from or in connection with (a) any defects in the food products, (b) Provisioner conduct or negligent, willful or improper procedures in connection with the discharge of its responsibilities and obligations hereunder (including, without limitation, the processing of food products) or any other negligent behavior or willful misconduct of Provisioner, or (c) any breach or default by Provisioner under this Contract. The terms and provisions of this Section 8 shall survive the expiration or earlier termination of this Contract.

**9. Inferior Product** - The Distributor agrees to permit inspection of the delivered items by a representative of the District with the right of rejection of inferior merchandise. Cases and packages shall be so constructed as to ensure safe and sanitary transportation to point of delivery. All packaging materials shall be FDA approved to meet all pertinent State and Federal regulations for safe use with foods. Packaging materials shall impart no odor, flavor, or color to the product. The District's decision shall be final.

**10 Buy American** - Rescue Union and Buckeye Union School Districts are in support of the Richard B. Russell National School Lunch Act (NSLA) Buy American provision and encourage strengthening enforcement of this important requirement. This provision greatly benefits the American agricultural economy and ensures the quality of the food our Nation's children are receiving in school.

Section 104(d) of the William F. Goodling Child Nutrition Reauthorization Act of 1998 Public Law 105-336 added a provision, Section 12(n), to the National School Lunch Act (NSLA) (42 *United States Code* Section 1760[n]), that requires all school food authorities (SFA) to purchase, to the maximum extent practical, domestic commodities or products. Section 12(n) of the NSLA defines a domestic commodity or product as an agricultural commodity (i.e., meat/meat alternate, grain, fruit, vegetable, and fluid milk) or processed product (i.e., processed food product that includes components that contribute to a reimbursable meal, such as a chicken patty that contains a meat/meat alternate and grain component) that is processed in the United States using substantial agricultural commodities that are produced in the United States. Substantial means that over 51 percent of the final processed product consists of agricultural commodities that are grown domestically. Products from Guam, American Samoa, Virgin Islands, Puerto Rico, and the Northern Mariana Islands are allowed under this provision as territories of the United States.

When funds are used from the nonprofit school food service account, SFAs must ensure that procurement transactions for food products comply with the Buy American Provision requirement in 7 *CFR*, sections 210.21(d) and 220.16(d), whether food products are purchased by SFAs or entities that are purchasing on their behalf.

**Note:** The SFA is not required to adhere to the domestic requirement for foods that are not creditable food components.

The **Rescue Union and Buckeye Union** FSD will ensure that the solicitation and contract language include the requirement for domestic agricultural commodities and products and retain records documenting any exceptions in advance of accepting deliveries. Implementation of the Buy American Provision by **Rescue Union and Buckeye Union**

FSD will be ensured by:

- Including the Buy American Provision requirement in bid specifications, IFBs, RFPs, contracts, purchase orders, and other procurement documents issued
- Monitoring the contract to ensure that the domestic products solicited are the ones received
- Requiring suppliers to provide certification of domestic origin for all food products, from bids and proposals through receipts and invoices
- Conducting monthly reviews on storage facilities to ensure the domestic products received are the ones solicited for and awarded.

Exceptions to the Buy American Provision should be used as a last resort and are only allowable for one of the two exceptions listed below and outlined in further detail in the USDA Policy Memo SP 38-2017, Compliance with and Enforcement of the Buy American Provision in the National School Lunch Program.

- The product is not produced or manufactured in the United States in sufficient and reasonably available quantities of a satisfactory quality
- Competitive bids reveal the costs of a United States product are significantly higher than the nondomestic product

**Note:** Ingredients used to flavor, enhance, or prepare products (e.g., herbs, condiments, salad dressing) are not considered components that contribute to a reimbursable meal and should not be considered when determining the percent of domestic food components by weight or volume.

The **Rescue Union and Buckeye Union** FSD or vendor must document exceptions to the Buy American Provision requirement prior to accepting each and every nondomestic agricultural commodity or product. This documentation must be on file for at least three years including the current school year, or until the next CDE review, and must be made available during an on-site administrative review and an off-site procurement review.

The documented exception will include the following:

- A description of the nondomestic item
- Alternative domestic commodities or products that the **Rescue Union and Buckeye Union** FSD considered or the vendor offered and the reason why they were not substituted for the nondomestic item
- A synopsis of what third-party verification (e.g., USDA Agricultural Marketing Service [AMS] Run a Custom Report web page at <https://marketnews.usda.gov/mnp/fv-report-config-step1?type=termPrice> was done by the vendor or the **Rescue Union and Buckeye Union** FSD to determine cost and availability
- Documentation by the vendor or the **Rescue Union and Buckeye Union** FSD outlining the price of both domestic and nondomestic commodities or products or lack of availability to justify the exception
- The dates that the: (1) vendor informed the **Rescue Union and Buckeye Union** FSD of the nondomestic commodity or product, (2) **Rescue Union and Buckeye Union** FSD agreed to accept this food item in advance of

delivery, and (3) commodity or product was received by the **Rescue Union and Buckeye Union FSD**

**Selected Vendor shall notify District in advance of delivery of any product not compliant with this requirement. Product(s) delivered to the District which are not compliant with this requirement will be returned and invoice(s) for those items will not be paid.**

**11. All Processed Foods Should Not Contain Any Artificial Trans Fat** - All ingredients must be declared on the product label and conform to the Food Allergen Labeling and Consumer Protection Act as required by the Food and Drug Administration. Labels must list the presence of ingredients which contain: protein derived from milk, eggs, fish, crustacean shellfish, tree nuts, peanuts, wheat, or soybeans.

**12 Affirmative Action** - The Provisioner shall certify that it is an Equal Opportunity Employer and has made a good faith effort to improve minority employment and agrees to meet Federal and State guidelines. No discrimination shall be made in the employment of persons in this project because of the sex, race, color, national origin or ancestry, religion, or handicap of such personnel.

**13. Due Authorization** - This Contract is duly authorized, executed and delivered by Provisioner, is the legal, valid and binding obligation of Provisioner enforceable against Provisioner in accordance with its terms (except to the extent that such enforcement may be limited by applicable bankruptcy, insolvency, moratorium and other principles relating to or limiting the rights of contracting parties generally), and does not and will not violate any provisions of any agreement to which Provisioner is a party or may become a party or to which is it subject or may become subject. Each individual and entity executing this Contract hereby represents and warrants that he, she or it has the capacity set forth on the signature page hereof with full power and authority to bind the party on whose behalf he, she or it is executing this Contract to the terms and provisions hereof.

**14. Assignment** - Provisioner shall not assign or transfer, by operation of law or otherwise, any or all of its rights, burdens, duties or obligations under this Contract (or any part hereof) without the prior written consent of the District, which may be granted or withheld in the District's sole and absolute discretion.

**15. Notices** - All notices, requests, demands, consents, instructions or other communications hereunder shall be in writing (which shall include telex, telegram or telecopy) and shall be deemed to have been duly given or made upon transmittal thereof by telex, answer back received, if transmitted on a business day, otherwise on the first business day after transmittal, or on the date of confirmed dispatch if sent by telecopy on a business day, otherwise on the first business day thereafter, or upon the delivery thereof to the telegraph office if sent by telegraph on a business day, otherwise on the first business day thereafter, or three (3) business days after deposit in the mail if sent by certified mail, postage prepaid, return receipt requested, or on the next business day if sent by overnight personal delivery, in each case addressed to the party to which such notice is requested or permitted to be given or made hereunder, at the addresses and facsimile numbers set forth underneath such party's signature line to this Contract, or at such other address and/or facsimile number of which such party shall have notified in writing the party giving such notice. For purpose of this Contract, the term "business day" shall mean a day other than a Saturday, Sunday or any day on which the District is authorized or required by law to be closed.

**16. Provisions Required By Law** - Each and every provision of law and clause required to be inserted into this Contract shall be deemed to be inserted herein and this Contract shall be read and enforced as though it were included herein, and if through mistake or otherwise any such provision is not inserted or is not inserted correctly, then upon application of either party this Contract shall forthwith be physically amended to make such insertion or correction.

**17. Attorneys' Fees -** In the event of any dispute between the District and Provisioner pertaining to this Contract or the services or products provided for hereunder, the prevailing party (as determined by the court or arbitrator in any such action) shall be entitled to recover from the other party its reasonable attorneys' fees, costs and expenses incurred in connection therewith. The term "attorneys' fees" or "attorneys' fees and costs" shall mean the fees and expenses of counsel to the parties hereto, which may include printing, photo-stating, duplicating and other expenses, air freight charges, and fees billed for law clerks, paralegals and other persons not admitted to the bar but performing services under the supervision of an attorney, and the costs and fees incurred in connection with the enforcement or collection of any judgment obtained in any such proceeding. The terms and provisions of this Section 17 shall survive the expiration or earlier termination of this Contract.

**18 Piggyback Clause/Other Districts -** For the term of the contract and any mutually agreed extensions pursuant to this request for proposal, **at the option of the Distributor**, other school districts and community college districts, any public corporation or agency, including any county, city, town or public corporation or agency within but not limited to the California Counties of El Dorado may purchase, identical sourcing and distribution services and upon the same terms and conditions pursuant to sections 20118 [K-12] and 20652 [Community Colleges] of the Public Contract Code. The District(s) waive their right to require such other districts and offices to draw their warrants in favor of the District(s) as provided in said Code sections. Acceptance or rejection of this clause will not affect the outcome of this bid.

Piggyback option granted  Piggyback option not granted

**19 Fingerprinting -** Successful Distributor agrees to comply with all provisions of Education Code Section 45125.1. Distributor will conduct a criminal background check of all employees, agents, and representatives assigned to the District that will enter the sites and other district facilities for purposes of providing services covered by this proposal during normal district hours, and will certify in writing that no such employees, agents, and representatives who have been convicted of serious or violent felonies as specified will have contact with pupils. Distributor will provide the District with a list of all employees providing services pursuant to this RFP. In the alternative, Distributor shall agree that all employees, agents, and representatives assigned to the District that will enter the sites and other district facilities during normal district hours shall be accompanied at all times by an individual who has satisfied the fingerprinting requirements of Section 452125.1.

**20. Waiver.** No action or failure to act by the District or any District representative shall constitute a waiver of a right or duty afforded them under this Contract, nor shall such action or failure to act constitute approval of, or acquiescence in, a breach there under, except as may be specifically agreed in writing.

**21. Entire Agreement: Amendments.** This Contract and all documents comprising the RFP constitute the entire and integrated agreement between the parties hereto with respect to the matters set forth therein and supersede all prior negotiations, representations or agreements, either written or oral. The documents comprising the RFP are hereby incorporated into this Contract and made a part hereof. The Contract may be amended or modified only by a writing executed by both parties hereto.

**IN WITNESS WHEREOF**, this Contract has been duly executed by the above-named parties, on the day and year first above written.

**DISTRICT:**

Rescue Union School District/  
Buckeye Union School District  
Joint Use Agreement

By:   
(Title) Director of Food Services

**Address:**


2390 Bass Lake Road  
Rescue, CA 95672

Phone No.: 530-672-4445

FAX No.: 530-677-4098

**PROVISIONER:**

Big West Distribution

By:   
(Title): V.P. Of Sales *Keith Sansone*

**Address:**

PO Box 4348  
El Dorado Hills, Ca 95762

Phone No.: 916-231-0395

FAX No.:

**Authorized Officers  
Or Agents  
(CORPORATE SEAL if required)**



**Rescue Union and Buckeye Union School Districts  
Joint Use Agreement**

**PROVISIONING CONTRACT**

**THIS PROVISIONING CONTRACT** (this “**Contract**”) is made and entered into as of this 12th day of June, 2019, by and between **Francis Distributing** (“**Provisioner**”), and the **Rescue Union and Buckeye Union, Joint Use Agreement** (the “**District**”).

**RECITALS**

- A. Rescue Union and Buckeye Union School Districts, Joint Use Agreement has solicited proposals for the distribution of processed USDA Foods end products, commercial food products, Dairy, Paper, Produce, Linens, and Frozen Yogurt via Request for Proposal Number 2019-20-01 (the “RFP”), whereby the District agrees to purchase specified products for the Districts’ use from the successful bidder.
- B. “Provisioner” is the successful bidder under such request for proposal, and the District(s) Joint Use Agreement and Provisioner hereby desire to set forth their agreement with respect to the sale to the District, and the purchase from Provisioner, of Products on the terms and conditions hereinafter set forth. The “Provisioner” has been awarded the following proposal(s): **Dairy** (District will enter awarded Proposals)

**NOW, THEREFORE**, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Provisioner and the District hereby agree as follows:

**1. Delivery Requirements: Substitution and Discontinued Items** - The District Contact Person shall order Products from time to time by delivery to Provisioner with a Purchase Order. Any and all products delivered during the period covered by this proposal shall be only the exact manufacturer’s products and code numbers as requested by the District unless prior approval has been received to deliver alternate products. The District will not allow substitutions without prior approval. No product will be represented as being in conformance with the specification when such is not the case.

**If the desired product is absolutely not available for any reason, the District shall be notified at least 10 days in advance.**

The District shall be given options of a product that is of the same or higher quality at the same unit cost. Authorization of a substitute product shall be at the sole discretion of the District. When substitutions do occur, Distributor shall adjust ordering quantity to meet original orders and provide nutritional statements and ingredient listings of the replacement product.

The Distributor must provide the specified product or an acceptable substitute, as determined by the District. If, as a result of failure to deliver specified product in a timely manner, the service of meals fails to contain the required components of a reimbursable meal, Distributor shall be required to reimburse the District for the full value of all of the identified meals, as determined by the National School Lunch Program. Financial restitution shall be made within 60 days of written request by the District.

2. **Price** - The price shall be per case or unit. The Provisioner shall provide pricing based on case packaging, catalog, price list, or any other commonly recognized methodology that is standard in the specific industry. The per case/unit delivery fee per this contract shall be as follows on the attached Price Worksheet.

The provisions of this contract shall in no way prohibit the District from making incidental purchases from another supplier for the same services listed herein.

The successful Provisioner shall be allowed to adjust prices upon presentation of suitable proof of a price increase from a manufacturer or processor. A notice shall be sent including proof of any increase thirty (30) days prior to the increase. No increase to the price will be allowed sooner than 180 calendar days from the date of RFP award, including thirty (30) calendar days advance written notice. Any change to the price shall be subject to mutual agreement by both parties. In the event of a decline in price, the successful Distributor is to give the District the immediate advantage of such a decrease and inform the District of the decrease. All orders placed under this agreement shall be delivered and invoiced at the Agreement price prevailing at the time the order is placed, regardless of the actual delivery date.

*\*For award of Distribution of Processed USDA Foods the Provisioner shall enter into a Memorandum of Understanding (MOU) for Distribution Services for Delivery of USDA Foods End Products for Super Co-Op Member Districts in the State of California. Provisioner agrees to fulfill all terms of that MOU, including but not limited to prompt USDA Foods end product sales reporting; maintain records of inventory, sales, and delivery; clearly state Value Pass Through on delivery invoice; and hold/recall responsibilities.*

*Provisioner agrees to report sales of USDA Foods end products on behalf of the manufacturer on a daily basis to the manufacturer's reporting agency (i.e. ProcessorLink, K-12 Foodservice, etc.) Prompt reporting is imperative to ensure proper draw down of Member District entitlement balance. Value Pass Through method and amounts shall be clearly indicated on all invoices for USDA Foods end product sales. Value Pass Through crediting shall be conducted in accordance with 7 CFR 250.36.*

**PRICING FOR DISTRIBUTION WILL BE FOR TWO CATEGORIES (A) Processed USDA Foods end products and commercial equivalents, and (b) additional commercial food products (frozen and groceries).**

*(a) Processed USDA Foods End Products and Commercial Equivalents: Vendors shall utilize manufacturer pricing for USDA Foods end products from the following solicitation documents released and awarded by the Santa Clarita Valley School Food Services Agency:*

*RFP No. 1902 for Processed USDA Foods Products and Commercial Equivalents (Price Catalog) For Super Co-Op Member Districts, released January 15, 2019, and awarded March 28, 2019. Results of RFP No. 1902 can be found at [www.super-coop.org](http://www.super-coop.org) by selecting "RFP 2019-20."*

*For RFP No. 1902, new products and price decreases will be considered mid-year using an Amendment, published in approximately December 2019 for manufacturer pricing January 1 – June 30, 2020. Successful bidders on this Proposal should be aware of this and are responsible to locate the results of the amendment and offer such pricing to the District as part of this Proposal.*

*Quote a per case delivered cost for all items listed on the Proposal Worksheet. Provide prices for the items only as specified on the Proposal Worksheet. Equal products may be offered that meet the same specifications as those listed. If you plan to submit an "equal" product, please contact the district to provide samples prior to submitting your proposal.*

*(b) Commercial Food Products – Frozen and Groceries: Additional commercial food products – frozen and groceries should be quoted as specified on the Proposal Worksheet. Quote a per case delivered cost for all items listed.*

*(c) Additional Items: Additional items may be added to this Proposal, not to exceed 10% of the value of the award. The District shall contact the successful vendor for pricing on additional items to be added to the Proposal award at any time during the bid period.*

**3. No Minimum or Maximum Quantities, Order Charges, or Limitations Upon Number of Orders:** The District does not guarantee orders in these amounts nor shall orders be limited to these specific figures. This is an indefinite-quantity bid, however the quantities listed are a good faith estimate. Bidders shall not specify minimum or maximum quantities or charges for order types, unless specifically allowed on the bid form. Unlimited orders within the term of the contract shall be allowed to the District at prices quoted. The estimated quantities listed are Estimated Quantities are for the purposes of forecasting and not to be considered a promise to purchase.

The provisions of the contract shall in no way prohibit the District from making an incidental purchase from another supplier for the same services listed herein.

**4. Cancellation for Insufficient or Non-Appropriated Funds or USDA Food Products:** The bidder hereby agrees and acknowledges that monies utilized by the District to purchase the items bid is public money appropriated by the United States Department of Agriculture and State of California or acquired by the District from similar public sources and is subject to variation. The District fully reserves the right to cancel this bid at any time and/or to limit quantities of items due to non-availability or non-appropriation of sufficient funds and/or lack of availability of USDA Foods products.

**5 Term of Contract/Contract Renewals.** The initial awarded contract period shall be July 1, 2019 to June 30, 2020. Both parties to the awarded contract will agree to enter into this awarded contract for a one-year period. However, upon mutual consent between Rescue Union, and Buckeye Union School Districts, as Joint Use Agreement, and the awarded Vendor, this bid may be extended (by mutual consent expressed in writing) for up to four (4) additional one (1) year increments (total potential bid life of five (5) years from Board of Education award). Such renewal will be made by notifying the Distributor, in writing, thirty (30) days prior to the expiration of the contract. Contract not to exceed through June 30, 2024. Quoted prices must stay in effect for one (1) year beginning on July 1, 2019 through June 30, 2020. The extension may be granted on a year by year basis provided that the District has deemed the products and services of the vendor satisfactory. Agreement prices that are subject to increase for each period shall be based upon percentage increase in the annual Consumer Price Index (C.P.I.) for all urban consumers for the specific index to be reviewed is the C.P.I. San Francisco, California, not to exceed five percent (5%). The adjustments to the agreement rate (prices) schedule, if any, shall be evaluated by using the percentage of change between the previous year and the current year's Consumer Price Index published by the U.S. Department of Labor's Bureau of Labor Statistics. The specific index to be reviewed is the C.P.I. for San Francisco, California - each year using the "Special Aggregate Index" category of "All Items Less Shelter" under the "All Urban Consumers" column., comparing the current year February to the prior year February rates, typically released in the month of March. The price change should be presented in writing not less than 90 days prior to the contract renewal date.

**6 Discontinuance of Service** Failure on the part of the successful Provisioner to meet contract requirements shall be cause for cancellation. Either party may cancel the contract upon a thirty (30) day written notice to the other party prior to the end of the contract term.

The District reserves the right to discontinue service upon 24-hours' notice for due cause which shall include such reasons as unsatisfactory product or service; or to extend the contract with present Provisioner upon annual review of weighted factors, performance of service and/or provision of quality products. FAILURE TO FURNISH ALL ITEMS INCLUDED IN THE CONTRACT SHALL CONSTITUTE UNSATISFACTORY SERVICE.

The District shall hold the successful Provisioner liable and responsible for all damages which may be sustained because of its failure to comply with any conditions herein. If the successful Provisioner fails to furnish or deliver any material, supplies, equipment, or services at the prices quoted, or at the times and places stated, or otherwise fails to comply with the terms of the documents in their entirety, the District may purchase the items herein specified elsewhere, without notice to the successful Distributor. Additional costs accrued by the member district(s) through this purchase may be deducted from unpaid invoices or must be paid to the district(s) by the successful Provisioner. Prices paid by the district(s) shall be considered the prevailing market prices at the time such purchase is made.

**7. Insurance** - Provisioner shall carry and maintain during the entire term of this Contract the following insurance coverage:

- (a) Comprehensive General Liability Insurance for Combined Single Limit Bodily Injury and/or Property Damage of not less than \$1,000,000 per occurrence and \$2,000,000 aggregate. The policy(ies) so secured and maintained shall include, among other things, coverage for contractual or assumed liability, products liability, and owned, hired and non-owned automobiles insurance and shall be maintained with so self-insured retention;

Workers' Compensation Insurance in such amounts as may be required by law; and

Property Damage Liability Insurance including auto (both owned and non-owned): Not Less Than \$2,000,000 per occurrence.

Such other insurance as is customarily maintained by large-scale processors and distributors of food products of the type, quality and grade provided for under this Contract.

- (b) Provisioner shall furnish to the District certificates of insurance, signed by an authorized representative of the insurance carrier no later than thirty (30) days after the District board's approval of the Contract or prior to the first delivery of food products hereunder, whichever occurs first, which certificates shall be endorsed as follows:

"This policy shall not be suspended, cancelled, reduced in coverage or required limits of liability or amounts of insurance or non-renewed until notice has been mailed to the District. Date of suspension, cancellation, reduction or non-renewal may not be less than thirty (30) days after the date of mailing such notice. The insurance afforded by this policy is primary and any other insurance carried by the District with respect to the matters covered by such policy shall be excess and non-contributing."

- (c) The certificates of insurance and insurance policies required under this Contract shall name the District indemnities named in the Request for Proposals (Rescue Union and Buckeye Union School Districts under Joint Use Agreement) as additional insured. Facsimile or reproduced signatures are not acceptable. If complete and proper insurance certificates as required hereunder are not delivered to the District within the time period provided in subsection (b) above, the District may declare the Contract unexecuted and void. The District reserves the right to require complete certified copies of the required insurance policies.

- (d) The insurance companies providing the insurance required under this Contract shall be subject to the District's prior written approval, which shall not be unreasonably withheld.

(e) If Provisioner fails to purchase and maintain any insurance required under this Section 5, the District may, but shall not be obligated to, upon five (5) days' written notice to Provisioner, purchase such insurance on behalf of Provisioner and shall be entitled to be reimbursed by Provisioner promptly thereafter or deduct the amount of such premiums from amounts otherwise due to Provisioner hereunder. Any amounts expended by the District hereunder shall bear interest from the date expended until repaid to the District at the rate of ten percent (10%) per annum.

**8. Indemnification** - Provisioner shall hold harmless, indemnify and defend (with counsel acceptable to the District) the District, their board, directors, employees, agents and consultants from and against any and all obligations, liabilities, claims, losses, damages, costs and expenses (including attorneys' fees and costs) arising from or in connection with (a) any defects in the food products, (b) Provisioner conduct or negligent, willful or improper procedures in connection with the discharge of its responsibilities and obligations hereunder (including, without limitation, the processing of food products) or any other negligent behavior or willful misconduct of Provisioner, or (c) any breach or default by Provisioner under this Contract. The terms and provisions of this Section 8 shall survive the expiration or earlier termination of this Contract.

**9. Inferior Product** - The Distributor agrees to permit inspection of the delivered items by a representative of the District with the right of rejection of inferior merchandise. Cases and packages shall be so constructed as to ensure safe and sanitary transportation to point of delivery. All packaging materials shall be FDA approved to meet all pertinent State and Federal regulations for safe use with foods. Packaging materials shall impart no odor, flavor, or color to the product. The District's decision shall be final.

**10 Buy American** - Rescue Union and Buckeye Union School Districts are in support of the Richard B. Russell National School Lunch Act (NSLA) Buy American provision and encourage strengthening enforcement of this important requirement. This provision greatly benefits the American agricultural economy and ensures the quality of the food our Nation's children are receiving in school.

Section 104(d) of the William F. Goodling Child Nutrition Reauthorization Act of 1998 Public Law 105-336 added a provision, Section 12(n), to the National School Lunch Act (NSLA) (42 *United States Code* Section 1760[n]), that requires all school food authorities (SFA) to purchase, to the maximum extent practical, domestic commodities or products. Section 12(n) of the NSLA defines a domestic commodity or product as an agricultural commodity (i.e., meat/meat alternate, grain, fruit, vegetable, and fluid milk) or processed product (i.e., processed food product that includes components that contribute to a reimbursable meal, such as a chicken patty that contains a meat/meat alternate and grain component) that is processed in the United States using substantial agricultural commodities that are produced in the United States. Substantial means that over 51 percent of the final processed product consists of agricultural commodities that are grown domestically. Products from Guam, American Samoa, Virgin Islands, Puerto Rico, and the Northern Mariana Islands are allowed under this provision as territories of the United States.

When funds are used from the nonprofit school food service account, SFAs must ensure that procurement transactions for food products comply with the Buy American Provision requirement in 7 *CFR*, sections 210.21(d) and 220.16(d), whether food products are purchased by SFAs or entities that are purchasing on their behalf.

**Note:** The SFA is not required to adhere to the domestic requirement for foods that are not creditable food components.

The **Rescue Union and Buckeye Union** FSD will ensure that the solicitation and contract language include the requirement for domestic agricultural commodities and products and retain records documenting any exceptions in advance of accepting deliveries. Implementation of the Buy American Provision by **Rescue Union and Buckeye Union**

FSD will be ensured by:

- Including the Buy American Provision requirement in bid specifications, IFBs, RFPs, contracts, purchase orders, and other procurement documents issued
- Monitoring the contract to ensure that the domestic products solicited are the ones received
- Requiring suppliers to provide certification of domestic origin for all food products, from bids and proposals through receipts and invoices
- Conducting monthly reviews on storage facilities to ensure the domestic products received are the ones solicited for and awarded.

Exceptions to the Buy American Provision should be used as a last resort and are only allowable for one of the two exceptions listed below and outlined in further detail in the USDA Policy Memo SP 38-2017, Compliance with and Enforcement of the Buy American Provision in the National School Lunch Program.

- The product is not produced or manufactured in the United States in sufficient and reasonably available quantities of a satisfactory quality
- Competitive bids reveal the costs of a United States product are significantly higher than the nondomestic product

**Note:** Ingredients used to flavor, enhance, or prepare products (e.g., herbs, condiments, salad dressing) are not considered components that contribute to a reimbursable meal and should not be considered when determining the percent of domestic food components by weight or volume.

The **Rescue Union and Buckeye Union** FSD or vendor must document exceptions to the Buy American Provision requirement prior to accepting each and every nondomestic agricultural commodity or product. This documentation must be on file for at least three years including the current school year, or until the next CDE review, and must be made available during an on-site administrative review and an off-site procurement review.

The documented exception will include the following:

- A description of the nondomestic item
- Alternative domestic commodities or products that the **Rescue Union and Buckeye Union** FSD considered or the vendor offered and the reason why they were not substituted for the nondomestic item
- A synopsis of what third-party verification (e.g., USDA Agricultural Marketing Service [AMS] Run a Custom Report web page at <https://marketnews.usda.gov/mnp/fv-report-config-step1?type=termPrice> was done by the vendor or the **Rescue Union and Buckeye Union** FSD to determine cost and availability
- Documentation by the vendor or the **Rescue Union and Buckeye Union** FSD outlining the price of both domestic and nondomestic commodities or products or lack of availability to justify the exception
- The dates that the: (1) vendor informed the **Rescue Union and Buckeye Union** FSD of the nondomestic commodity or product, (2) **Rescue Union and Buckeye Union** FSD agreed to accept this food item in advance of

delivery, and (3) commodity or product was received by the **Rescue Union and Buckeye Union FSD**

**Selected Vendor shall notify District in advance of delivery of any product not compliant with this requirement. Product(s) delivered to the District which are not compliant with this requirement will be returned and invoice(s) for those items will not be paid.**

**11. All Processed Foods Should Not Contain Any Artificial Trans Fat** - All ingredients must be declared on the product label and conform to the Food Allergen Labeling and Consumer Protection Act as required by the Food and Drug Administration. Labels must list the presence of ingredients which contain: protein derived from milk, eggs, fish, crustacean shellfish, tree nuts, peanuts, wheat, or soybeans.

**12 Affirmative Action** - The Provisioner shall certify that it is an Equal Opportunity Employer and has made a good faith effort to improve minority employment and agrees to meet Federal and State guidelines. No discrimination shall be made in the employment of persons in this project because of the sex, race, color, national origin or ancestry, religion, or handicap of such personnel.

**13. Due Authorization** - This Contract is duly authorized, executed and delivered by Provisioner, is the legal, valid and binding obligation of Provisioner enforceable against Provisioner in accordance with its terms (except to the extent that such enforcement may be limited by applicable bankruptcy, insolvency, moratorium and other principles relating to or limiting the rights of contracting parties generally), and does not and will not violate any provisions of any agreement to which Provisioner is a party or may become a party or to which is it subject or may become subject. Each individual and entity executing this Contract hereby represents and warrants that he, she or it has the capacity set forth on the signature page hereof with full power and authority to bind the party on whose behalf he, she or it is executing this Contract to the terms and provisions hereof.

**14. Assignment** - Provisioner shall not assign or transfer, by operation of law or otherwise, any or all of its rights, burdens, duties or obligations under this Contract (or any part hereof) without the prior written consent of the District, which may be granted or withheld in the District's sole and absolute discretion.

**15. Notices** - All notices, requests, demands, consents, instructions or other communications hereunder shall be in writing (which shall include telex, telegram or telecopy) and shall be deemed to have been duly given or made upon transmittal thereof by telex, answer back received, if transmitted on a business day, otherwise on the first business day after transmittal, or on the date of confirmed dispatch if sent by telecopy on a business day, otherwise on the first business day thereafter, or upon the delivery thereof to the telegraph office if sent by telegraph on a business day, otherwise on the first business day thereafter, or three (3) business days after deposit in the mail if sent by certified mail, postage prepaid, return receipt requested, or on the next business day if sent by overnight personal delivery, in each case addressed to the party to which such notice is requested or permitted to be given or made hereunder, at the addresses and facsimile numbers set forth underneath such party's signature line to this Contract, or at such other address and/or facsimile number of which such party shall have notified in writing the party giving such notice. For purpose of this Contract, the term "business day" shall mean a day other than a Saturday, Sunday or any day on which the District is authorized or required by law to be closed.

**16. Provisions Required By Law** - Each and every provision of law and clause required to be inserted into this Contract shall be deemed to be inserted herein and this Contract shall be read and enforced as though it were included herein, and if through mistake or otherwise any such provision is not inserted or is not inserted correctly, then upon application of either party this Contract shall forthwith be physically amended to make such insertion or correction.

**17. Attorneys' Fees -** In the event of any dispute between the District and Provisioner pertaining to this Contract or the services or products provided for hereunder, the prevailing party (as determined by the court or arbitrator in any such action) shall be entitled to recover from the other party its reasonable attorneys' fees, costs and expenses incurred in connection therewith. The term "attorneys' fees" or "attorneys' fees and costs" shall mean the fees and expenses of counsel to the parties hereto, which may include printing, photo-stating, duplicating and other expenses, air freight charges, and fees billed for law clerks, paralegals and other persons not admitted to the bar but performing services under the supervision of an attorney, and the costs and fees incurred in connection with the enforcement or collection of any judgment obtained in any such proceeding. The terms and provisions of this Section 17 shall survive the expiration or earlier termination of this Contract.

**18 Piggyback Clause/Other Districts -** For the term of the contract and any mutually agreed extensions pursuant to this request for proposal, **at the option of the Distributor**, other school districts and community college districts, any public corporation or agency, including any county, city, town or public corporation or agency within but not limited to the California Counties of El Dorado may purchase, identical sourcing and distribution services and upon the same terms and conditions pursuant to sections 20118 [K-12] and 20652 [Community Colleges] of the Public Contract Code. The District(s) waive their right to require such other districts and offices to draw their warrants in favor of the District(s) as provided in said Code sections. Acceptance or rejection of this clause will not affect the outcome of this bid.

Piggyback option granted  Piggyback option not granted

**19 Fingerprinting -** Successful Distributor agrees to comply with all provisions of Education Code Section 45125.1. Distributor will conduct a criminal background check of all employees, agents, and representatives assigned to the District that will enter the sites and other district facilities for purposes of providing services covered by this proposal during normal district hours, and will certify in writing that no such employees, agents, and representatives who have been convicted of serious or violent felonies as specified will have contact with pupils. Distributor will provide the District with a list of all employees providing services pursuant to this RFP. In the alternative, Distributor shall agree that all employees, agents, and representatives assigned to the District that will enter the sites and other district facilities during normal district hours shall be accompanied at all times by an individual who has satisfied the fingerprinting requirements of Section 452125.1.

**20. Waiver.** No action or failure to act by the District or any District representative shall constitute a waiver of a right or duty afforded them under this Contract, nor shall such action or failure to act constitute approval of, or acquiescence in, a breach there under, except as may be specifically agreed in writing.

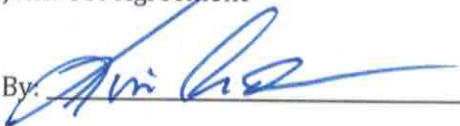
**21. Entire Agreement: Amendments.** This Contract and all documents comprising the RFP constitute the entire and integrated agreement between the parties hereto with respect to the matters set forth therein and supersede all prior negotiations, representations or agreements, either written or oral. The documents comprising the RFP are hereby incorporated into this Contract and made a part hereof. The Contract may be amended or modified only by a writing executed by both parties hereto.



IN WITNESS WHEREOF, this Contract has been duly executed by the above-named parties, on the day and year first above written.

**DISTRICT:**

Rescue Union School District/  
Buckeye Union School District  
Joint Use Agreement

By: 

(Title) Director of Food Services

**Address:**

2390 Bass Lake Road  
Rescue, CA 95672

Phone No.: 530-672-4445

FAX No.: 530-677-4098

**PROVISIONER:**

**FRANCIS DISTRIBUTING INC**

By: BRIAN FRANCIS

(Title): PRESIDENT

**Address:**

6188 ENTERPRISE DRIVE STE.D  
DIAMOND SPRINGS CA 95619

Phone No.: (530) 642-1441

FAX No.: (530) 642-1106

Authorized Officers  
Or Agents  
(CORPORATE SEAL if required)

**Rescue Union and Buckeye Union School Districts  
Joint Use Agreement**

**PROVISIONING CONTRACT**

**THIS PROVISIONING CONTRACT** (this “Contract”) is made and entered into as of this 12th day of June, 2019, by and between **Gold Star Foods** (“Provisioner”), and the **Rescue Union and Buckeye Union, Joint Use Agreement** (the “District”).

**RECITALS**

- A. Rescue Union and Buckeye Union School Districts, Joint Use Agreement has solicited proposals for the distribution of processed USDA Foods end products, commercial food products, Dairy, Paper, Produce, Linens, and Frozen Yogurt via Request for Proposal Number 2019-20-01 (the “RFP”), whereby the District agrees to purchase specified products for the Districts’ use from the successful bidder.
- B. “Provisioner” is the successful bidder under such request for proposal, and the District(s) Joint Use Agreement and Provisioner hereby desire to set forth their agreement with respect to the sale to the District, and the purchase from Provisioner, of Products on the terms and conditions hereinafter set forth. The “Provisioner” has been awarded the following proposal(s): **Super-Co-op/Commodity Distribution, Commercial/Grocery items, Produce, Juice** (District will enter awarded Proposals)

**NOW, THEREFORE**, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Provisioner and the District hereby agree as follows:

**1. Delivery Requirements: Substitution and Discontinued Items** - The District Contact Person shall order Products from time to time by delivery to Provisioner with a Purchase Order. Any and all products delivered during the period covered by this proposal shall be only the exact manufacturer’s products and code numbers as requested by the District unless prior approval has been received to deliver alternate products. The District will not allow substitutions without prior approval. No product will be represented as being in conformance with the specification when such is not the case.

**If the desired product is absolutely not available for any reason, the District shall be notified at least 10 days in advance.**

The District shall be given options of a product that is of the same or higher quality at the same unit cost. Authorization of a substitute product shall be at the sole discretion of the District. When substitutions do occur, Distributor shall adjust ordering quantity to meet original orders and provide nutritional statements and ingredient listings of the replacement product.

The Distributor must provide the specified product or an acceptable substitute, as determined by the District. If, as a result of failure to deliver specified product in a timely manner, the service of meals fails to contain the required components of a reimbursable meal, Distributor shall be required to reimburse the District for the full value of all of the identified meals, as determined by the National School Lunch Program. Financial restitution shall be made within 60 days of written request by the District.

**2. Price** - The price shall be per case or unit. The Provisioner shall provide pricing based on case packaging, catalog, price list, or any other commonly recognized methodology that is standard in the specific industry. The per case/unit delivery fee per this contract shall be as follows on the attached Price Worksheet.

The provisions of this contract shall in no way prohibit the District from making incidental purchases from another supplier for the same services listed herein.

The successful Provisioner shall be allowed to adjust prices upon presentation of suitable proof of a price increase from a manufacturer or processor. A notice shall be sent including proof of any increase thirty (30) days prior to the increase. No increase to the price will be allowed sooner than 180 calendar days from the date of RFP award, including thirty (30) calendar days advance written notice. Any change to the price shall be subject to mutual agreement by both parties. In the event of a decline in price, the successful Distributor is to give the District the immediate advantage of such a decrease and inform the District of the decrease. All orders placed under this agreement shall be delivered and invoiced at the Agreement price prevailing at the time the order is placed, regardless of the actual delivery date.

***\*For award of Distribution of Processed USDA Foods** the Provisioner shall enter into a Memorandum of Understanding (MOU) for Distribution Services for Delivery of USDA Foods End Products for Super Co-Op Member Districts in the State of California. Provisioner agrees to fulfill all terms of that MOU, including but not limited to prompt USDA Foods end product sales reporting; maintain records of inventory, sales, and delivery; clearly state Value Pass Through on delivery invoice; and hold/recall responsibilities.*

*Provisioner agrees to report sales of USDA Foods end products on behalf of the manufacturer on a daily basis to the manufacturer's reporting agency (i.e. ProcessorLink, K-12 Foodservice, etc.) Prompt reporting is imperative to ensure proper draw down of Member District entitlement balance. Value Pass Through method and amounts shall be clearly indicated on all invoices for USDA Foods end product sales. Value Pass Through crediting shall be conducted in accordance with 7 CFR 250.36.*

**PRICING FOR DISTRIBUTION WILL BE FOR TWO CATEGORIES (A) Processed USDA Foods end products and commercial equivalents, and (b) additional commercial food products (frozen and groceries).**

*(a) Processed USDA Foods End Products and Commercial Equivalents: Vendors shall utilize manufacturer pricing for USDA Foods end products from the following solicitation documents released and awarded by the Santa Clarita Valley School Food Services Agency:*

*RFP No. 1902 for Processed USDA Foods Products and Commercial Equivalents (Price Catalog) For Super Co-Op Member Districts, released January 15, 2019, and awarded March 28, 2019. Results of RFP No. 1902 can be found at [www.super-coop.org](http://www.super-coop.org) by selecting "RFP 2019-20."*

*For RFP No. 1902, new products and price decreases will be considered mid-year using an Amendment, published in approximately December 2019 for manufacturer pricing January 1 – June 30, 2020. Successful bidders on this Proposal should be aware of this and are responsible to locate the results of the amendment and offer such pricing to the District as part of this Proposal.*

*Quote a per case delivered cost for all items listed on the Proposal Worksheet. Provide prices for the items only as specified on the Proposal Worksheet. Equal products may be offered that meet the same specifications as those listed. If you plan to submit an "equal" product, please contact the district to provide samples prior to submitting your proposal.*

*(b) Commercial Food Products – Frozen and Groceries: Additional commercial food products – frozen and groceries should be quoted as specified on the Proposal Worksheet. Quote a per case delivered cost for all items listed.*

*(c) Additional Items: Additional items may be added to this Proposal, not to exceed 10% of the value of the award. The District shall contact the successful vendor for pricing on additional items to be added to the Proposal award at any time during the bid period.*

5/1/19

GOLD STAR FOODS

24 of 65

**3. No Minimum or Maximum Quantities, Order Charges, or Limitations Upon Number of Orders:** The District does not guarantee orders in these amounts nor shall orders be limited to these specific figures. This is an indefinite-quantity bid, however the quantities listed are a good faith estimate. Bidders shall not specify minimum or maximum quantities or charges for order types, unless specifically allowed on the bid form. Unlimited orders within the term of the contract shall be allowed to the District at prices quoted. The estimated quantities listed are Estimated Quantities are for the purposes of forecasting and not to be considered a promise to purchase.

The provisions of the contract shall in no way prohibit the District from making an incidental purchase from another supplier for the same services listed herein.

**4. Cancellation for Insufficient or Non-Appropriated Funds or USDA Food Products:** The bidder hereby agrees and acknowledges that monies utilized by the District to purchase the items bid is public money appropriated by the United States Department of Agriculture and State of California or acquired by the District from similar public sources and is subject to variation. The District fully reserves the right to cancel this bid at any time and/or to limit quantities of items due to non-availability or non-appropriation of sufficient funds and/or lack of availability of USDA Foods products.

**5 Term of Contract/Contract Renewals.** The initial awarded contract period shall be **July 1, 2019 to June 30, 2020**. Both parties to the awarded contract will agree to enter into this awarded contract for a one-year period. However, upon mutual consent between Rescue Union, and Buckeye Union School Districts, as Joint Use Agreement, and the awarded Vendor, this bid may be extended (by mutual consent expressed in writing) for up to four (4) additional one (1) year increments (total potential bid life of five (5) years from Board of Education award). Such renewal will be made by notifying the Distributor, in writing, thirty (30) days prior to the expiration of the contract. Contract not to exceed through **June 30, 2024**. Quoted prices must stay in effect for one (1) year beginning on **July 1, 2019 through June 30, 2020**. The extension may be granted on a year by year basis provided that the District has deemed the products and services of the vendor satisfactory. Agreement prices that are subject to increase for each period shall be based upon percentage increase in the annual Consumer Price Index (C.P.I.) for all urban consumers for the specific index to be reviewed is the C.P.I. San Francisco, California, not to exceed five percent (5%). The adjustments to the agreement rate (prices) schedule, if any, shall be evaluated by using the percentage of change between the previous year and the current year's Consumer Price Index published by the U.S. Department of Labor's Bureau of Labor Statistics. The specific index to be reviewed is the C.P.I. for San Francisco, California - each year using the "Special Aggregate Index" category of "All Items Less Shelter" under the "All Urban Consumers" column., comparing the current year February to the prior year February rates, typically released in the month of March. The price change should be presented in writing not less than 90 days prior to the contract renewal date.

**6 Discontinuance of Service** Failure on the part of the successful Provisioner to meet contract requirements shall be cause for cancellation. Either party may cancel the contract upon a thirty (30) day written notice to the other party prior to the end of the contract term.

The District reserves the right to discontinue service upon 24-hours' notice for due cause which shall include such reasons as unsatisfactory product or service; or to extend the contract with present Provisioner upon annual review of weighted factors, performance of service and/or provision of quality products. FAILURE TO FURNISH ALL ITEMS INCLUDED IN THE CONTRACT SHALL CONSTITUTE UNSATISFACTORY SERVICE.

GOLD STAR FOODS

The District shall hold the successful Provisioner liable and responsible for all damages which may be sustained because of its failure to comply with any conditions herein. If the successful Provisioner fails to furnish or deliver any material, supplies, equipment, or services at the prices quoted, or at the times and places stated, or otherwise fails to comply with the terms of the documents in their entirety, the District may purchase the items herein specified elsewhere, without notice to the successful Distributor. Additional costs accrued by the member district(s) through this purchase may be deducted from unpaid invoices or must be paid to the district(s) by the successful Provisioner. Prices paid by the district(s) shall be considered the prevailing market prices at the time such purchase is made.

**7. Insurance** - Provisioner shall carry and maintain during the entire term of this Contract the following insurance coverage:

- (a) Comprehensive General Liability Insurance for Combined Single Limit Bodily Injury and/or Property Damage of not less than \$1,000,000 per occurrence and \$2,000,000 aggregate. The policy(ies) so secured and maintained shall include, among other things, coverage for contractual or assumed liability, products liability, and owned, hired and non-owned automobiles insurance and shall be maintained with so self-insured retention;

Workers' Compensation Insurance in such amounts as may be required by law; and

Property Damage Liability Insurance including auto (both owned and non-owned): Not Less Than \$2,000,000 per occurrence.

Such other insurance as is customarily maintained by large-scale processors and distributors of food products of the type, quality and grade provided for under this Contract.

- (b) Provisioner shall furnish to the District certificates of insurance, signed by an authorized representative of the insurance carrier no later than thirty (30) days after the District board's approval of the Contract or prior to the first delivery of food products hereunder, whichever occurs first, which certificates shall be endorsed as follows:

"This policy shall not be suspended, cancelled, reduced in coverage or required limits of liability or amounts of insurance or non-renewed until notice has been mailed to the District. Date of suspension, cancellation, reduction or non-renewal may not be less than thirty (30) days after the date of mailing such notice. The insurance afforded by this policy is primary and any other insurance carried by the District with respect to the matters covered by such policy shall be excess and non-contributing."

- (c) The certificates of insurance and insurance policies required under this Contract shall name the District indemnities named in the Request for Proposals (Rescue Union and Buckeye Union School Districts under Joint Use Agreement) as additional insured. Facsimile or reproduced signatures are not acceptable. If complete and proper insurance certificates as required hereunder are not delivered to the District within the time period provided in subsection (b) above, the District may declare the Contract unexecuted and void. The District reserves the right to require complete certified copies of the required insurance policies.

- (d) The insurance companies providing the insurance required under this Contract shall be subject to the District's prior written approval, which shall not be unreasonably withheld.

(e) If Provisioner fails to purchase and maintain any insurance required under this Section 5, the District may, but shall not be obligated to, upon five (5) days' written notice to Provisioner, purchase such insurance on behalf of Provisioner and shall be entitled to be reimbursed by Provisioner promptly thereafter or deduct the amount of such premiums from amounts otherwise due to Provisioner hereunder. Any amounts expended by the District hereunder shall bear interest from the date expended until repaid to the District at the rate of ten percent (10%) per annum.

**8. Indemnification** - Provisioner shall hold harmless, indemnify and defend (with counsel acceptable to the District) the District, their board, directors, employees, agents and consultants from and against any and all obligations, liabilities, claims, losses, damages, costs and expenses (including attorneys' fees and costs) arising from or in connection with (a) any defects in the food products, (b) Provisioner conduct or negligent, willful or improper procedures in connection with the discharge of its responsibilities and obligations hereunder (including, without limitation, the processing of food products) or any other negligent behavior or willful misconduct of Provisioner, or (c) any breach or default by Provisioner under this Contract. The terms and provisions of this Section 8 shall survive the expiration or earlier termination of this Contract.

**9. Inferior Product** - The Distributor agrees to permit inspection of the delivered items by a representative of the District with the right of rejection of inferior merchandise. Cases and packages shall be so constructed as to ensure safe and sanitary transportation to point of delivery. All packaging materials shall be FDA approved to meet all pertinent State and Federal regulations for safe use with foods. Packaging materials shall impart no odor, flavor, or color to the product. The District's decision shall be final.

**10 Buy American** - Rescue Union and Buckeye Union School Districts are in support of the Richard B. Russell National School Lunch Act (NSLA) Buy American provision and encourage strengthening enforcement of this important requirement. This provision greatly benefits the American agricultural economy and ensures the quality of the food our Nation's children are receiving in school.

Section 104(d) of the William F. Goodling Child Nutrition Reauthorization Act of 1998 Public Law 105-336 added a provision, Section 12(n), to the National School Lunch Act (NSLA) (42 *United States Code* Section 1760[n]), that requires all school food authorities (SFA) to purchase, to the maximum extent practical, domestic commodities or products. Section 12(n) of the NSLA defines a domestic commodity or product as an agricultural commodity (i.e., meat/meat alternate, grain, fruit, vegetable, and fluid milk) or processed product (i.e., processed food product that includes components that contribute to a reimbursable meal, such as a chicken patty that contains a meat/meat alternate and grain component) that is processed in the United States using substantial agricultural commodities that are produced in the United States. Substantial means that over 51 percent of the final processed product consists of agricultural commodities that are grown domestically. Products from Guam, American Samoa, Virgin Islands, Puerto Rico, and the Northern Mariana Islands are allowed under this provision as territories of the United States.

When funds are used from the nonprofit school food service account, SFAs must ensure that procurement transactions for food products comply with the Buy American Provision requirement in 7 *CFR*, sections 210.21(d) and 220.16(d), whether food products are purchased by SFAs or entities that are purchasing on their behalf.

**Note:** The SFA is not required to adhere to the domestic requirement for foods that are not creditable food components.

The **Rescue Union and Buckeye Union** FSD will ensure that the solicitation and contract language include the requirement for domestic agricultural commodities and products and retain records documenting any exceptions in advance of accepting deliveries. Implementation of the Buy American Provision by **Rescue Union and Buckeye Union**

FSD will be ensured by:

- Including the Buy American Provision requirement in bid specifications, IFBs, RFPs, contracts, purchase orders, and other procurement documents issued
- Monitoring the contract to ensure that the domestic products solicited are the ones received
- Requiring suppliers to provide certification of domestic origin for all food products, from bids and proposals through receipts and invoices
- Conducting monthly reviews on storage facilities to ensure the domestic products received are the ones solicited for and awarded.

Exceptions to the Buy American Provision should be used as a last resort and are only allowable for one of the two exceptions listed below and outlined in further detail in the USDA Policy Memo SP 38-2017, Compliance with and Enforcement of the Buy American Provision in the National School Lunch Program.

- The product is not produced or manufactured in the United States in sufficient and reasonably available quantities of a satisfactory quality
- Competitive bids reveal the costs of a United States product are significantly higher than the nondomestic product

**Note:** Ingredients used to flavor, enhance, or prepare products (e.g., herbs, condiments, salad dressing) are not considered components that contribute to a reimbursable meal and should not be considered when determining the percent of domestic food components by weight or volume.

The **Rescue Union and Buckeye Union** FSD or vendor must document exceptions to the Buy American Provision requirement prior to accepting each and every nondomestic agricultural commodity or product. This documentation must be on file for at least three years including the current school year, or until the next CDE review, and must be made available during an on-site administrative review and an off-site procurement review.

The documented exception will include the following:

- A description of the nondomestic item
- Alternative domestic commodities or products that the **Rescue Union and Buckeye Union** FSD considered or the vendor offered and the reason why they were not substituted for the nondomestic item
- A synopsis of what third-party verification (e.g., USDA Agricultural Marketing Service [AMS] Run a Custom Report web page at <https://marketnews.usda.gov/mnp/fv-report-config-step1?type=termPrice>) was done by the vendor or the **Rescue Union and Buckeye Union** FSD to determine cost and availability
- Documentation by the vendor or the **Rescue Union and Buckeye Union** FSD outlining the price of both domestic and nondomestic commodities or products or lack of availability to justify the exception
- The dates that the: (1) vendor informed the **Rescue Union and Buckeye Union** FSD of the nondomestic commodity or product, (2) **Rescue Union and Buckeye Union** FSD agreed to accept this food item in advance of

delivery, and (3) commodity or product was received by the **Rescue Union and Buckeye Union FSD**

**Selected Vendor shall notify District in advance of delivery of any product not compliant with this requirement. Product(s) delivered to the District which are not compliant with this requirement will be returned and invoice(s) for those items will not be paid.**

**11. All Processed Foods Should Not Contain Any Artificial Trans Fat** - All ingredients must be declared on the product label and conform to the Food Allergen Labeling and Consumer Protection Act as required by the Food and Drug Administration. Labels must list the presence of ingredients which contain: protein derived from milk, eggs, fish, crustacean shellfish, tree nuts, peanuts, wheat, or soybeans.

**12 Affirmative Action** - The Provisioner shall certify that it is an Equal Opportunity Employer and has made a good faith effort to improve minority employment and agrees to meet Federal and State guidelines. No discrimination shall be made in the employment of persons in this project because of the sex, race, color, national origin or ancestry, religion, or handicap of such personnel.

**13. Due Authorization** - This Contract is duly authorized, executed and delivered by Provisioner, is the legal, valid and binding obligation of Provisioner enforceable against Provisioner in accordance with its terms (except to the extent that such enforcement may be limited by applicable bankruptcy, insolvency, moratorium and other principles relating to or limiting the rights of contracting parties generally), and does not and will not violate any provisions of any agreement to which Provisioner is a party or may become a party or to which is it subject or may become subject. Each individual and entity executing this Contract hereby represents and warrants that he, she or it has the capacity set forth on the signature page hereof with full power and authority to bind the party on whose behalf he, she or it is executing this Contract to the terms and provisions hereof.

**14. Assignment** - Provisioner shall not assign or transfer, by operation of law or otherwise, any or all of its rights, burdens, duties or obligations under this Contract (or any part hereof) without the prior written consent of the District, which may be granted or withheld in the District's sole and absolute discretion.

**15. Notices** - All notices, requests, demands, consents, instructions or other communications hereunder shall be in writing (which shall include telex, telegram or telecopy) and shall be deemed to have been duly given or made upon transmittal thereof by telex, answer back received, if transmitted on a business day, otherwise on the first business day after transmittal, or on the date of confirmed dispatch if sent by telecopy on a business day, otherwise on the first business day thereafter, or upon the delivery thereof to the telegraph office if sent by telegraph on a business day, otherwise on the first business day thereafter, or three (3) business days after deposit in the mail if sent by certified mail, postage prepaid, return receipt requested, or on the next business day if sent by overnight personal delivery, in each case addressed to the party to which such notice is requested or permitted to be given or made hereunder, at the addresses and facsimile numbers set forth underneath such party's signature line to this Contract, or at such other address and/or facsimile number of which such party shall have notified in writing the party giving such notice. For purpose of this Contract, the term "business day" shall mean a day other than a Saturday, Sunday or any day on which the District is authorized or required by law to be closed.

**16. Provisions Required By Law** - Each and every provision of law and clause required to be inserted into this Contract shall be deemed to be inserted herein and this Contract shall be read and enforced as though it were included herein, and if through mistake or otherwise any such provision is not inserted or is not inserted correctly, then upon application of either party this Contract shall forthwith be physically amended to make such insertion or correction.



**17. Attorneys' Fees -** In the event of any dispute between the District and Provisioner pertaining to this Contract or the services or products provided for hereunder, the prevailing party (as determined by the court or arbitrator in any such action) shall be entitled to recover from the other party its reasonable attorneys' fees, costs and expenses incurred in connection therewith. The term "attorneys' fees" or "attorneys' fees and costs" shall mean the fees and expenses of counsel to the parties hereto, which may include printing, photo-stating, duplicating and other expenses, air freight charges, and fees billed for law clerks, paralegals and other persons not admitted to the bar but performing services under the supervision of an attorney, and the costs and fees incurred in connection with the enforcement or collection of any judgment obtained in any such proceeding. The terms and provisions of this Section 17 shall survive the expiration or earlier termination of this Contract.

**18 Piggyback Clause/Other Districts -** For the term of the contract and any mutually agreed extensions pursuant to this request for proposal, **at the option of the Distributor**, other school districts and community college districts, any public corporation or agency, including any county, city, town or public corporation or agency within but not limited to the California Counties of El Dorado may purchase, identical sourcing and distribution services and upon the same terms and conditions pursuant to sections 20118 [K-12] and 20652 [Community Colleges] of the Public Contract Code. The District(s) waive their right to require such other districts and offices to draw their warrants in favor of the District(s) as provided in said Code sections. Acceptance or rejection of this clause will not affect the outcome of this bid.

Piggyback option granted  Piggyback option not granted

**19 Fingerprinting -** Successful Distributor agrees to comply with all provisions of Education Code Section 45125.1. Distributor will conduct a criminal background check of all employees, agents, and representatives assigned to the District that will enter the sites and other district facilities for purposes of providing services covered by this proposal during normal district hours, and will certify in writing that no such employees, agents, and representatives who have been convicted of serious or violent felonies as specified will have contact with pupils. Distributor will provide the District with a list of all employees providing services pursuant to this RFP. In the alternative, Distributor shall agree that all employees, agents, and representatives assigned to the District that will enter the sites and other district facilities during normal district hours shall be accompanied at all times by an individual who has satisfied the fingerprinting requirements of Section 452125.1.

**20. Waiver.** No action or failure to act by the District or any District representative shall constitute a waiver of a right or duty afforded them under this Contract, nor shall such action or failure to act constitute approval of, or acquiescence in, a breach there under, except as may be specifically agreed in writing.

**21. Entire Agreement: Amendments.** This Contract and all documents comprising the RFP constitute the entire and integrated agreement between the parties hereto with respect to the matters set forth therein and supersede all prior negotiations, representations or agreements, either written or oral. The documents comprising the RFP are hereby incorporated into this Contract and made a part hereof. The Contract may be amended or modified only by a writing executed by both parties hereto.

IN WITNESS WHEREOF, this Contract has been duly executed by the above-named parties, on the day and year first above written.

**DISTRICT:**

Rescue Union School District/  
Buckeye Union School District  
Joint Use Agreement

By:   
(Title) Director of Food Services


**Address:**

2390 Bass Lake Road  
Rescue, CA 95672

Phone No.: 530-672-4445

FAX No.: 530-677-4098

**PROVISIONER: Gold Star Foods**

By:   
(Title): John Cho  
V.P. of Merchandising & Contracts

**Address:** Gold Star Foods, Inc.

GOLD STAR FOODS  
3781 East Airport Drive  
P.O. Box 4328  
Ontario, CA 91761

Phone No.:

909.843.9600

FAX No.:

909.843.9659

**Authorized Officers  
Or Agents  
(CORPORATE SEAL if required)**

**Rescue Union and Buckeye Union School Districts  
Joint Use Agreement**

**PROVISIONING CONTRACT**

**THIS PROVISIONING CONTRACT** (this “Contract”) is made and entered into as of this 12th day of June, 2019, by and between **Mission Linen Supply**

(“Provisioner”), and the **Rescue Union and Buckeye Union, Joint Use Agreement** (the “District”).

**RECITALS**

A. Rescue Union and Buckeye Union School Districts, Joint Use Agreement has solicited proposals for the distribution of processed USDA Foods end products, commercial food products, Dairy, Paper, Produce, Linens, and Frozen Yogurt via Request for Proposal Number 2019-20-01 (the “RFP”), whereby the District agrees to purchase specified products for the Districts’ use from the successful bidder.

B. “Provisioner” is the successful bidder under such request for proposal, and the District(s) Joint Use Agreement and Provisioner hereby desire to set forth their agreement with respect to the sale to the District, and the purchase from Provisioner, of Products on the terms and conditions hereinafter set forth. The “Provisioner” has been awarded the following proposal(s): **Linen Service** (District will enter awarded Proposals)

**NOW, THEREFORE**, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Provisioner and the District hereby agree as follows:

**1. Delivery Requirements: Substitution and Discontinued Items** - The District Contact Person shall order Products from time to time by delivery to Provisioner with a Purchase Order. Any and all products delivered during the period covered by this proposal shall be only the exact manufacturer’s products and code numbers as requested by the District unless prior approval has been received to deliver alternate products. The District will not allow substitutions without prior approval. No product will be represented as being in conformance with the specification when such is not the case.

**If the desired product is absolutely not available for any reason, the District shall be notified at least 10 days in advance.**

The District shall be given options of a product that is of the same or higher quality at the same unit cost. Authorization of a substitute product shall be at the sole discretion of the District. When substitutions do occur, Distributor shall adjust ordering quantity to meet original orders and provide nutritional statements and ingredient listings of the replacement product.

The Distributor must provide the specified product or an acceptable substitute, as determined by the District. If, as a result of failure to deliver specified product in a timely manner, the service of meals fails to contain the required components of a reimbursable meal, Distributor shall be required to reimburse the District for the full value of all of the identified meals, as determined by the National School Lunch Program. Financial restitution shall be made within 60 days of written request by the District.

**2. Price** - The price shall be per case or unit. The Provisioner shall provide pricing based on case packaging, catalog, price list, or any other commonly recognized methodology that is standard in the specific industry. The per case/unit delivery fee per this contract shall be as follows on the attached Price Worksheet.

The provisions of this contract shall in no way prohibit the District from making incidental purchases from another supplier for the same services listed herein.

The successful Provisioner shall be allowed to adjust prices upon presentation of suitable proof of a price increase from a manufacturer or processor. A notice shall be sent including proof of any increase thirty (30) days prior to the increase. No increase to the price will be allowed sooner than 180 calendar days from the date of RFP award, including thirty (30) calendar days advance written notice. Any change to the price shall be subject to mutual agreement by both parties. In the event of a decline in price, the successful Distributor is to give the District the immediate advantage of such a decrease and inform the District of the decrease. All orders placed under this agreement shall be delivered and invoiced at the Agreement price prevailing at the time the order is placed, regardless of the actual delivery date.

*\*For award of Distribution of Processed USDA Foods the Provisioner shall enter into a Memorandum of Understanding (MOU) for Distribution Services for Delivery of USDA Foods End Products for Super Co-Op Member Districts in the State of California. Provisioner agrees to fulfill all terms of that MOU, including but not limited to prompt USDA Foods end product sales reporting; maintain records of inventory, sales, and delivery; clearly state Value Pass Through on delivery invoice; and hold/recall responsibilities.*

*Provisioner agrees to report sales of USDA Foods end products on behalf of the manufacturer on a daily basis to the manufacturer's reporting agency (i.e. ProcessorLink, K-12 Foodservice, etc.) Prompt reporting is imperative to ensure proper draw down of Member District entitlement balance. Value Pass Through method and amounts shall be clearly indicated on all invoices for USDA Foods end product sales. Value Pass Through crediting shall be conducted in accordance with 7 CFR 250.36.*

**PRICING FOR DISTRIBUTION WILL BE FOR TWO CATEGORIES (A) Processed USDA Foods end products and commercial equivalents, and (b) additional commercial food products (frozen and groceries).**

*(a) Processed USDA Foods End Products and Commercial Equivalents: Vendors shall utilize manufacturer pricing for USDA Foods end products from the following solicitation documents released and awarded by the Santa Clarita Valley School Food Services Agency:*

*RFP No. 1902 for Processed USDA Foods Products and Commercial Equivalents (Price Catalog) For Super Co-Op Member Districts, released January 15, 2019, and awarded March 28, 2019. Results of RFP No. 1902 can be found at [www.super-coop.org](http://www.super-coop.org) by selecting "RFP 2019-20."*

*For RFP No. 1902, new products and price decreases will be considered mid-year using an Amendment, published in approximately December 2019 for manufacturer pricing January 1 – June 30, 2020. Successful bidders on this Proposal should be aware of this and are responsible to locate the results of the amendment and offer such pricing to the District as part of this Proposal.*

*Quote a per case delivered cost for all items listed on the Proposal Worksheet. Provide prices for the items only as specified on the Proposal Worksheet. Equal products may be offered that meet the same specifications as those listed. If you plan to submit an "equal" product, please contact the district to provide samples prior to submitting your proposal.*

*(b) Commercial Food Products – Frozen and Groceries: Additional commercial food products – frozen and groceries should be quoted as specified on the Proposal Worksheet. Quote a per case delivered cost for all items listed.*

*(c) Additional Items: Additional items may be added to this Proposal, not to exceed 10% of the value of the award. The District shall contact the successful vendor for pricing on additional items to be added to the Proposal award at any time during the bid period.*

**3. No Minimum or Maximum Quantities, Order Charges, or Limitations Upon Number of Orders:** The District does not guarantee orders in these amounts nor shall orders be limited to these specific figures. This is an indefinite-quantity bid, however the quantities listed are a good faith estimate. Bidders shall not specify minimum or maximum quantities or charges for order types, unless specifically allowed on the bid form. Unlimited orders within the term of the contract shall be allowed to the District at prices quoted. The estimated quantities listed are Estimated Quantities are for the purposes of forecasting and not to be considered a promise to purchase.

The provisions of the contract shall in no way prohibit the District from making an incidental purchase from another supplier for the same services listed herein.

**4. Cancellation for Insufficient or Non-Appropriated Funds or USDA Food Products:** The bidder hereby agrees and acknowledges that monies utilized by the District to purchase the items bid is public money appropriated by the United States Department of Agriculture and State of California or acquired by the District from similar public sources and is subject to variation. The District fully reserves the right to cancel this bid at any time and/or to limit quantities of items due to non-availability or non-appropriation of sufficient funds and/or lack of availability of USDA Foods products.

**5 Term of Contract/Contract Renewals.** The initial awarded contract period shall be **July 1, 2019 to June 30, 2020**. Both parties to the awarded contract will agree to enter into this awarded contract for a one-year period. However, upon mutual consent between Rescue Union, and Buckeye Union School Districts, as Joint Use Agreement, and the awarded Vendor, this bid may be extended (by mutual consent expressed in writing) for up to four (4) additional one (1) year increments (total potential bid life of five (5) years from Board of Education award). Such renewal will be made by notifying the Distributor, in writing, thirty (30) days prior to the expiration of the contract. Contract not to exceed through **June 30, 2024**. Quoted prices must stay in effect for one (1) year beginning on **July 1, 2019 through June 30, 2020**. The extension may be granted on a year by year basis provided that the District has deemed the products and services of the vendor satisfactory. Agreement prices that are subject to increase for each period shall be based upon percentage increase in the annual Consumer Price Index (C.P.I.) for all urban consumers for the specific index to be reviewed is the C.P.I. San Francisco, California, not to exceed five percent (5%). The adjustments to the agreement rate (prices) schedule, if any, shall be evaluated by using the percentage of change between the previous year and the current year's Consumer Price Index published by the U.S. Department of Labor's Bureau of Labor Statistics. The specific index to be reviewed is the C.P.I. for San Francisco, California - each year using the "Special Aggregate Index" category of "All Items Less Shelter" under the "All Urban Consumers" column., comparing the current year February to the prior year February rates, typically released in the month of March. The price change should be presented in writing not less than 90 days prior to the contract renewal date.

**6 Discontinuance of Service** Failure on the part of the successful Provisioner to meet contract requirements shall be cause for cancellation. Either party may cancel the contract upon a thirty (30) day written notice to the other party prior to the end of the contract term.

The District reserves the right to discontinue service upon 24-hours' notice for due cause which shall include such reasons as unsatisfactory product or service; or to extend the contract with present Provisioner upon annual review of weighted factors, performance of service and/or provision of quality products. FAILURE TO FURNISH ALL ITEMS INCLUDED IN THE CONTRACT SHALL CONSTITUTE UNSATISFACTORY SERVICE.

The District shall hold the successful Provisioner liable and responsible for all damages which may be sustained because of its failure to comply with any conditions herein. If the successful Provisioner fails to furnish or deliver any material, supplies, equipment, or services at the prices quoted, or at the times and places stated, or otherwise fails to comply with the terms of the documents in their entirety, the District may purchase the items herein specified elsewhere, without notice to the successful Distributor. Additional costs accrued by the member district(s) through this purchase may be deducted from unpaid invoices or must be paid to the district(s) by the successful Provisioner. Prices paid by the district(s) shall be considered the prevailing market prices at the time such purchase is made.

**7. Insurance** - Provisioner shall carry and maintain during the entire term of this Contract the following insurance coverage:

- (a) Comprehensive General Liability Insurance for Combined Single Limit Bodily Injury and/or Property Damage of not less than \$1,000,000 per occurrence and \$2,000,000 aggregate. The policy(ies) so secured and maintained shall include, among other things, coverage for contractual or assumed liability, products liability, and owned, hired and non-owned automobiles insurance and shall be maintained with so self-insured retention;

Workers' Compensation Insurance in such amounts as may be required by law; and

Property Damage Liability Insurance including auto (both owned and non-owned): Not Less Than \$2,000,000 per occurrence.

Such other insurance as is customarily maintained by large-scale processors and distributors of food products of the type, quality and grade provided for under this Contract.

- (b) Provisioner shall furnish to the District certificates of insurance, signed by an authorized representative of the insurance carrier no later than thirty (30) days after the District board's approval of the Contract or prior to the first delivery of food products hereunder, whichever occurs first, which certificates shall be endorsed as follows:

"This policy shall not be suspended, cancelled, reduced in coverage or required limits of liability or amounts of insurance or non-renewed until notice has been mailed to the District. Date of suspension, cancellation, reduction or non-renewal may not be less than thirty (30) days after the date of mailing such notice. The insurance afforded by this policy is primary and any other insurance carried by the District with respect to the matters covered by such policy shall be excess and non-contributing."

- (c) The certificates of insurance and insurance policies required under this Contract shall name the District indemnities named in the Request for Proposals (Rescue Union and Buckeye Union School Districts under Joint Use Agreement) as additional insured. Facsimile or reproduced signatures are not acceptable. If complete and proper insurance certificates as required hereunder are not delivered to the District within the time period provided in subsection (b) above, the District may declare the Contract unexecuted and void. The District reserves the right to require complete certified copies of the required insurance policies.

- (d) The insurance companies providing the insurance required under this Contract shall be subject to the District's prior written approval, which shall not be unreasonably withheld.

(e) If Provisioner fails to purchase and maintain any insurance required under this Section 5, the District may, but shall not be obligated to, upon five (5) days' written notice to Provisioner, purchase such insurance on behalf of Provisioner and shall be entitled to be reimbursed by Provisioner promptly thereafter or deduct the amount of such premiums from amounts otherwise due to Provisioner hereunder. Any amounts expended by the District hereunder shall bear interest from the date expended until repaid to the District at the rate of ten percent (10%) per annum.

**8. Indemnification** - Provisioner shall hold harmless, indemnify and defend (with counsel acceptable to the District) the District, their board, directors, employees, agents and consultants from and against any and all obligations, liabilities, claims, losses, damages, costs and expenses (including attorneys' fees and costs) arising from or in connection with (a) any defects in the food products, (b) Provisioner conduct or negligent, willful or improper procedures in connection with the discharge of its responsibilities and obligations hereunder (including, without limitation, the processing of food products) or any other negligent behavior or willful misconduct of Provisioner, or (c) any breach or default by Provisioner under this Contract. The terms and provisions of this Section 8 shall survive the expiration or earlier termination of this Contract.

**9. Inferior Product** - The Distributor agrees to permit inspection of the delivered items by a representative of the District with the right of rejection of inferior merchandise. Cases and packages shall be so constructed as to ensure safe and sanitary transportation to point of delivery. All packaging materials shall be FDA approved to meet all pertinent State and Federal regulations for safe use with foods. Packaging materials shall impart no odor, flavor, or color to the product. The District's decision shall be final.

**10 Buy American** - Rescue Union and Buckeye Union School Districts are in support of the Richard B. Russell National School Lunch Act (NSLA) Buy American provision and encourage strengthening enforcement of this important requirement. This provision greatly benefits the American agricultural economy and ensures the quality of the food our Nation's children are receiving in school.

Section 104(d) of the William F. Goodling Child Nutrition Reauthorization Act of 1998 Public Law 105-336 added a provision, Section 12(n), to the National School Lunch Act (NSLA) (42 *United States Code* Section 1760[n]), that requires all school food authorities (SFA) to purchase, to the maximum extent practical, domestic commodities or products. Section 12(n) of the NSLA defines a domestic commodity or product as an agricultural commodity (i.e., meat/meat alternate, grain, fruit, vegetable, and fluid milk) or processed product (i.e., processed food product that includes components that contribute to a reimbursable meal, such as a chicken patty that contains a meat/meat alternate and grain component) that is processed in the United States using substantial agricultural commodities that are produced in the United States. Substantial means that over 51 percent of the final processed product consists of agricultural commodities that are grown domestically. Products from Guam, American Samoa, Virgin Islands, Puerto Rico, and the Northern Mariana Islands are allowed under this provision as territories of the United States.

When funds are used from the nonprofit school food service account, SFAs must ensure that procurement transactions for food products comply with the Buy American Provision requirement in 7 *CFR*, sections 210.21(d) and 220.16(d), whether food products are purchased by SFAs or entities that are purchasing on their behalf.

**Note:** The SFA is not required to adhere to the domestic requirement for foods that are not creditable food components.

The **Rescue Union and Buckeye Union** FSD will ensure that the solicitation and contract language include the requirement for domestic agricultural commodities and products and retain records documenting any exceptions in advance of accepting deliveries. Implementation of the Buy American Provision by **Rescue Union and Buckeye Union**

FSD will be ensured by:

- Including the Buy American Provision requirement in bid specifications, IFBs, RFPs, contracts, purchase orders, and other procurement documents issued
- Monitoring the contract to ensure that the domestic products solicited are the ones received
- Requiring suppliers to provide certification of domestic origin for all food products, from bids and proposals through receipts and invoices
- Conducting monthly reviews on storage facilities to ensure the domestic products received are the ones solicited for and awarded.

Exceptions to the Buy American Provision should be used as a last resort and are only allowable for one of the two exceptions listed below and outlined in further detail in the USDA Policy Memo SP 38-2017, Compliance with and Enforcement of the Buy American Provision in the National School Lunch Program.

- The product is not produced or manufactured in the United States in sufficient and reasonably available quantities of a satisfactory quality
- Competitive bids reveal the costs of a United States product are significantly higher than the nondomestic product

**Note:** Ingredients used to flavor, enhance, or prepare products (e.g., herbs, condiments, salad dressing) are not considered components that contribute to a reimbursable meal and should not be considered when determining the percent of domestic food components by weight or volume.

The **Rescue Union and Buckeye Union** FSD or vendor must document exceptions to the Buy American Provision requirement prior to accepting each and every nondomestic agricultural commodity or product. This documentation must be on file for at least three years including the current school year, or until the next CDE review, and must be made available during an on-site administrative review and an off-site procurement review.

The documented exception will include the following:

- A description of the nondomestic item
- Alternative domestic commodities or products that the **Rescue Union and Buckeye Union** FSD considered or the vendor offered and the reason why they were not substituted for the nondomestic item
- A synopsis of what third-party verification (e.g., USDA Agricultural Marketing Service [AMS] Run a Custom Report web page at <https://marketnews.usda.gov/mnp/fv-report-config-step1?type=termPrice> was done by the vendor or the **Rescue Union and Buckeye Union** FSD to determine cost and availability
- Documentation by the vendor or the **Rescue Union and Buckeye Union** FSD outlining the price of both domestic and nondomestic commodities or products or lack of availability to justify the exception
- The dates that the: (1) vendor informed the **Rescue Union and Buckeye Union** FSD of the nondomestic commodity or product, (2) **Rescue Union and Buckeye Union** FSD agreed to accept this food item in advance of



delivery, and (3) commodity or product was received by the **Rescue Union and Buckeye Union FSD**

**Selected Vendor shall notify District in advance of delivery of any product not compliant with this requirement. Product(s) delivered to the District which are not compliant with this requirement will be returned and invoice(s) for those items will not be paid.**

**11. All Processed Foods Should Not Contain Any Artificial Trans Fat** - All ingredients must be declared on the product label and conform to the Food Allergen Labeling and Consumer Protection Act as required by the Food and Drug Administration. Labels must list the presence of ingredients which contain: protein derived from milk, eggs, fish, crustacean shellfish, tree nuts, peanuts, wheat, or soybeans.

**12 Affirmative Action** - The Provisioner shall certify that it is an Equal Opportunity Employer and has made a good faith effort to improve minority employment and agrees to meet Federal and State guidelines. No discrimination shall be made in the employment of persons in this project because of the sex, race, color, national origin or ancestry, religion, or handicap of such personnel.

**13. Due Authorization** - This Contract is duly authorized, executed and delivered by Provisioner, is the legal, valid and binding obligation of Provisioner enforceable against Provisioner in accordance with its terms (except to the extent that such enforcement may be limited by applicable bankruptcy, insolvency, moratorium and other principles relating to or limiting the rights of contracting parties generally), and does not and will not violate any provisions of any agreement to which Provisioner is a party or may become a party or to which is it subject or may become subject. Each individual and entity executing this Contract hereby represents and warrants that he, she or it has the capacity set forth on the signature page hereof with full power and authority to bind the party on whose behalf he, she or it is executing this Contract to the terms and provisions hereof.

**14. Assignment** - Provisioner shall not assign or transfer, by operation of law or otherwise, any or all of its rights, burdens, duties or obligations under this Contract (or any part hereof) without the prior written consent of the District, which may be granted or withheld in the District's sole and absolute discretion.

**15. Notices** - All notices, requests, demands, consents, instructions or other communications hereunder shall be in writing (which shall include telex, telegram or telecopy) and shall be deemed to have been duly given or made upon transmittal thereof by telex, answer back received, if transmitted on a business day, otherwise on the first business day after transmittal, or on the date of confirmed dispatch if sent by telecopy on a business day, otherwise on the first business day thereafter, or upon the delivery thereof to the telegraph office if sent by telegraph on a business day, otherwise on the first business day thereafter, or three (3) business days after deposit in the mail if sent by certified mail, postage prepaid, return receipt requested, or on the next business day if sent by overnight personal delivery, in each case addressed to the party to which such notice is requested or permitted to be given or made hereunder, at the addresses and facsimile numbers set forth underneath such party's signature line to this Contract, or at such other address and/or facsimile number of which such party shall have notified in writing the party giving such notice. For purpose of this Contract, the term "business day" shall mean a day other than a Saturday, Sunday or any day on which the District is authorized or required by law to be closed.

**16. Provisions Required By Law** - Each and every provision of law and clause required to be inserted into this Contract shall be deemed to be inserted herein and this Contract shall be read and enforced as though it were included herein, and if through mistake or otherwise any such provision is not inserted or is not inserted correctly, then upon application of either party this Contract shall forthwith be physically amended to make such insertion or correction.

**17. Attorneys' Fees -** In the event of any dispute between the District and Provisioner pertaining to this Contract or the services or products provided for hereunder, the prevailing party (as determined by the court or arbitrator in any such action) shall be entitled to recover from the other party its reasonable attorneys' fees, costs and expenses incurred in connection therewith. The term "attorneys' fees" or "attorneys' fees and costs" shall mean the fees and expenses of counsel to the parties hereto, which may include printing, photo-stating, duplicating and other expenses, air freight charges, and fees billed for law clerks, paralegals and other persons not admitted to the bar but performing services under the supervision of an attorney, and the costs and fees incurred in connection with the enforcement or collection of any judgment obtained in any such proceeding. The terms and provisions of this Section 17 shall survive the expiration or earlier termination of this Contract.

**18 Piggyback Clause/Other Districts -** For the term of the contract and any mutually agreed extensions pursuant to this request for proposal, **at the option of the Distributor**, other school districts and community college districts, any public corporation or agency, including any county, city, town or public corporation or agency within but not limited to the California Counties of El Dorado may purchase, identical sourcing and distribution services and upon the same terms and conditions pursuant to sections 20118 [K-12] and 20652 [Community Colleges] of the Public Contract Code. The District(s) waive their right to require such other districts and offices to draw their warrants in favor of the District(s) as provided in said Code sections. Acceptance or rejection of this clause will not affect the outcome of this bid.

Piggyback option granted  Piggyback option not granted

**19 Fingerprinting -** Successful Distributor agrees to comply with all provisions of Education Code Section 45125.1. Distributor will conduct a criminal background check of all employees, agents, and representatives assigned to the District that will enter the sites and other district facilities for purposes of providing services covered by this proposal during normal district hours, and will certify in writing that no such employees, agents, and representatives who have been convicted of serious or violent felonies as specified will have contact with pupils. Distributor will provide the District with a list of all employees providing services pursuant to this RFP. In the alternative, Distributor shall agree that all employees, agents, and representatives assigned to the District that will enter the sites and other district facilities during normal district hours shall be accompanied at all times by an individual who has satisfied the fingerprinting requirements of Section 452125.1.

**20. Waiver.** No action or failure to act by the District or any District representative shall constitute a waiver of a right or duty afforded them under this Contract, nor shall such action or failure to act constitute approval of, or acquiescence in, a breach there under, except as may be specifically agreed in writing.

**21. Entire Agreement: Amendments.** This Contract and all documents comprising the RFP constitute the entire and integrated agreement between the parties hereto with respect to the matters set forth therein and supersede all prior negotiations, representations or agreements, either written or oral. The documents comprising the RFP are hereby incorporated into this Contract and made a part hereof. The Contract may be amended or modified only by a writing executed by both parties hereto.

**IN WITNESS WHEREOF**, this Contract has been duly executed by the above-named parties, on the day and year first above written.

**DISTRICT:**

Rescue Union School District/  
Buckeye Union School District  
Joint Use Agreement

By:   
(Title) Director of Food Services

**Address:**


2390 Bass Lake Road  
Rescue, CA 95672

Phone No.: 530-672-4445

FAX No.: 530-677-4098

**PROVISIONER:**

Mission Linen Supply

By:   
(Title): Account Representative

**Address:**

7520 Reese Road  
Sacramento, CA 95828

Phone No.: 916-423-3179

FAX No.: 916-689-8375

**Authorized Officers  
Or Agents  
(CORPORATE SEAL if required)**

**Rescue Union and Buckeye Union School Districts  
Joint Use Agreement**

**PROVISIONING CONTRACT**

**THIS PROVISIONING CONTRACT** (this “**Contract**”) is made and entered into as of this 17th . day of June , 2019, by and between **P&R Paper Supply** (“**Provisioner**”), and the **Rescue Union and Buckeye Union, Joint Use Agreement** (the “**District**”).

**RECITALS**

- A. Rescue Union and Buckeye Union School Districts, Joint Use Agreement has solicited proposals for the distribution of processed USDA Foods end products, commercial food products, Dairy, Paper, Produce, Linens, and Frozen Yogurt via Request for Proposal Number 2019-20-01 (the “RFP”), whereby the District agrees to purchase specified products for the Districts’ use from the successful bidder.
- B. “Provisioner” is the successful bidder under such request for proposal, and the District(s) Joint Use Agreement and Provisioner hereby desire to set forth their agreement with respect to the sale to the District, and the purchase from Provisioner, of Products on the terms and conditions hereinafter set forth. The “Provisioner” has been awarded the following proposal(s): **Paper Products** (District will enter awarded Proposals)

**NOW, THEREFORE**, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Provisioner and the District hereby agree as follows:

**1. Delivery Requirements: Substitution and Discontinued Items** - The District Contact Person shall order Products from time to time by delivery to Provisioner with a Purchase Order. Any and all products delivered during the period covered by this proposal shall be only the exact manufacturer’s products and code numbers as requested by the District unless prior approval has been received to deliver alternate products. The District will not allow substitutions without prior approval. No product will be represented as being in conformance with the specification when such is not the case.

**If the desired product is absolutely not available for any reason, the District shall be notified at least 10 days in advance.**

The District shall be given options of a product that is of the same or higher quality at the same unit cost. Authorization of a substitute product shall be at the sole discretion of the District. When substitutions do occur, Distributor shall adjust ordering quantity to meet original orders and provide nutritional statements and ingredient listings of the replacement product.

The Distributor must provide the specified product or an acceptable substitute, as determined by the District. If, as a result of failure to deliver specified product in a timely manner, the service of meals fails to contain the required components of a reimbursable meal, Distributor shall be required to reimburse the District for the full value of all of the identified meals, as determined by the National School Lunch Program. Financial restitution shall be made within 60 days of written request by the District.

**2. Price** - The price shall be per case or unit. The Provisioner shall provide pricing based on case packaging, catalog, price list, or any other commonly recognized methodology that is standard in the specific industry. The per case/unit delivery fee per this contract shall be as follows on the attached Price Worksheet.

The provisions of this contract shall in no way prohibit the District from making incidental purchases from another supplier for the same services listed herein.

The successful Provisioner shall be allowed to adjust prices upon presentation of suitable proof of a price increase from a manufacturer or processor. A notice shall be sent including proof of any increase thirty (30) days prior to the increase. No increase to the price will be allowed sooner than 180 calendar days from the date of RFP award, including thirty (30) calendar days advance written notice. Any change to the price shall be subject to mutual agreement by both parties. In the event of a decline in price, the successful Distributor is to give the District the immediate advantage of such a decrease and inform the District of the decrease. All orders placed under this agreement shall be delivered and invoiced at the Agreement price prevailing at the time the order is placed, regardless of the actual delivery date.

*\*For award of Distribution of Processed USDA Foods the Provisioner shall enter into a Memorandum of Understanding (MOU) for Distribution Services for Delivery of USDA Foods End Products for Super Co-Op Member Districts in the State of California. Provisioner agrees to fulfill all terms of that MOU, including but not limited to prompt USDA Foods end product sales reporting; maintain records of inventory, sales, and delivery; clearly state Value Pass Through on delivery invoice; and hold/recall responsibilities.*

*Provisioner agrees to report sales of USDA Foods end products on behalf of the manufacturer on a daily basis to the manufacturer's reporting agency (i.e. ProcessorLink, K-12 Foodservice, etc.) Prompt reporting is imperative to ensure proper draw down of Member District entitlement balance. Value Pass Through method and amounts shall be clearly indicated on all invoices for USDA Foods end product sales. Value Pass Through crediting shall be conducted in accordance with 7 CFR 250.36.*

**PRICING FOR DISTRIBUTION WILL BE FOR TWO CATEGORIES (A) Processed USDA Foods end products and commercial equivalents, and (b) additional commercial food products (frozen and groceries).**

*(a) Processed USDA Foods End Products and Commercial Equivalents: Vendors shall utilize manufacturer pricing for USDA Foods end products from the following solicitation documents released and awarded by the Santa Clarita Valley School Food Services Agency:*

*RFP No. 1902 for Processed USDA Foods Products and Commercial Equivalents (Price Catalog) For Super Co-Op Member Districts, released January 15, 2019, and awarded March 28, 2019. Results of RFP No. 1902 can be found at [www.super-coop.org](http://www.super-coop.org) by selecting "RFP 2019-20."*

*For RFP No. 1902, new products and price decreases will be considered mid-year using an Amendment, published in approximately December 2019 for manufacturer pricing January 1 – June 30, 2020. Successful bidders on this Proposal should be aware of this and are responsible to locate the results of the amendment and offer such pricing to the District as part of this Proposal.*

*Quote a per case delivered cost for all items listed on the Proposal Worksheet. Provide prices for the items only as specified on the Proposal Worksheet. Equal products may be offered that meet the same specifications as those listed. If you plan to submit an "equal" product, please contact the district to provide samples prior to submitting your proposal.*

*(b) Commercial Food Products – Frozen and Groceries: Additional commercial food products – frozen and groceries should be quoted as specified on the Proposal Worksheet. Quote a per case delivered cost for all items listed.*

*(c) Additional Items: Additional items may be added to this Proposal, not to exceed 10% of the value of the award. The District shall contact the successful vendor for pricing on additional items to be added to the Proposal award at any time during the bid period.*

5/1/19

24 of 65

**3. No Minimum or Maximum Quantities, Order Charges, or Limitations Upon Number of Orders:** The District does not guarantee orders in these amounts nor shall orders be limited to these specific figures. This is an indefinite-quantity bid, however the quantities listed are a good faith estimate. Bidders shall not specify minimum or maximum quantities or charges for order types, unless specifically allowed on the bid form. Unlimited orders within the term of the contract shall be allowed to the District at prices quoted. The estimated quantities listed are Estimated Quantities are for the purposes of forecasting and not to be considered a promise to purchase.

The provisions of the contract shall in no way prohibit the District from making an incidental purchase from another supplier for the same services listed herein.

**4. Cancellation for Insufficient or Non-Appropriated Funds or USDA Food Products:** The bidder hereby agrees and acknowledges that monies utilized by the District to purchase the items bid is public money appropriated by the United States Department of Agriculture and State of California or acquired by the District from similar public sources and is subject to variation. The District fully reserves the right to cancel this bid at any time and/or to limit quantities of items due to non-availability or non-appropriation of sufficient funds and/or lack of availability of USDA Foods products.

**5 Term of Contract/Contract Renewals.** The initial awarded contract period shall be July 1, 2019 to June 30, 2020. Both parties to the awarded contract will agree to enter into this awarded contract for a one-year period. However, upon mutual consent between Rescue Union, and Buckeye Union School Districts, as Joint Use Agreement, and the awarded Vendor, this bid may be extended (by mutual consent expressed in writing) for up to four (4) additional one (1) year increments (total potential bid life of five (5) years from Board of Education award). Such renewal will be made by notifying the Distributor, in writing, thirty (30) days prior to the expiration of the contract. Contract not to exceed through June 30, 2024. Quoted prices must stay in effect for one (1) year beginning on July 1, 2019 through June 30, 2020. The extension may be granted on a year by year basis provided that the District has deemed the products and services of the vendor satisfactory. Agreement prices that are subject to increase for each period shall be based upon percentage increase in the annual Consumer Price Index (C.P.I.) for all urban consumers for the specific index to be reviewed is the C.P.I. San Francisco, California, not to exceed five percent (5%). The adjustments to the agreement rate (prices) schedule, if any, shall be evaluated by using the percentage of change between the previous year and the current year's Consumer Price Index published by the U.S. Department of Labor's Bureau of Labor Statistics. The specific index to be reviewed is the C.P.I. for San Francisco, California - each year using the "Special Aggregate Index" category of "All Items Less Shelter" under the "All Urban Consumers" column., comparing the current year February to the prior year February rates, typically released in the month of March. The price change should be presented in writing not less than 90 days prior to the contract renewal date.

**6 Discontinuance of Service** Failure on the part of the successful Provisioner to meet contract requirements shall be cause for cancellation. Either party may cancel the contract upon a thirty (30) day written notice to the other party prior to the end of the contract term.

The District reserves the right to discontinue service upon 24-hours' notice for due cause which shall include such reasons as unsatisfactory product or service; or to extend the contract with present Provisioner upon annual review of weighted factors, performance of service and/or provision of quality products. FAILURE TO FURNISH ALL ITEMS INCLUDED IN THE CONTRACT SHALL CONSTITUTE UNSATISFACTORY SERVICE.

The District shall hold the successful Provisioner liable and responsible for all damages which may be sustained because of its failure to comply with any conditions herein. If the successful Provisioner fails to furnish or deliver any material, supplies, equipment, or services at the prices quoted, or at the times and places stated, or otherwise fails to comply with the terms of the documents in their entirety, the District may purchase the items herein specified elsewhere, without notice to the successful Distributor. Additional costs accrued by the member district(s) through this purchase may be deducted from unpaid invoices or must be paid to the district(s) by the successful Provisioner. Prices paid by the district(s) shall be considered the prevailing market prices at the time such purchase is made.

**7. Insurance** - Provisioner shall carry and maintain during the entire term of this Contract the following insurance coverage:

- (a) Comprehensive General Liability Insurance for Combined Single Limit Bodily Injury and/or Property Damage of not less than \$1,000,000 per occurrence and \$2,000,000 aggregate. The policy(ies) so secured and maintained shall include, among other things, coverage for contractual or assumed liability, products liability, and owned, hired and non-owned automobiles insurance and shall be maintained with so self-insured retention;

Workers' Compensation Insurance in such amounts as may be required by law; and

Property Damage Liability Insurance including auto (both owned and non-owned): Not Less Than \$2,000,000 per occurrence.

Such other insurance as is customarily maintained by large-scale processors and distributors of food products of the type, quality and grade provided for under this Contract.

- (b) Provisioner shall furnish to the District certificates of insurance, signed by an authorized representative of the insurance carrier no later than thirty (30) days after the District board's approval of the Contract or prior to the first delivery of food products hereunder, whichever occurs first, which certificates shall be endorsed as follows:

"This policy shall not be suspended, cancelled, reduced in coverage or required limits of liability or amounts of insurance or non-renewed until notice has been mailed to the District. Date of suspension, cancellation, reduction or non-renewal may not be less than thirty (30) days after the date of mailing such notice. The insurance afforded by this policy is primary and any other insurance carried by the District with respect to the matters covered by such policy shall be excess and non-contributing."

- (c) The certificates of insurance and insurance policies required under this Contract shall name the District indemnities named in the Request for Proposals (Rescue Union and Buckeye Union School Districts under Joint Use Agreement) as additional insured. Facsimile or reproduced signatures are not acceptable. If complete and proper insurance certificates as required hereunder are not delivered to the District within the time period provided in subsection (b) above, the District may declare the Contract unexecuted and void. The District reserves the right to require complete certified copies of the required insurance policies.

- (d) The insurance companies providing the insurance required under this Contract shall be subject to the District's prior written approval, which shall not be unreasonably withheld.

(e) If Provisioner fails to purchase and maintain any insurance required under this Section 5, the District may, but shall not be obligated to, upon five (5) days' written notice to Provisioner, purchase such insurance on behalf of Provisioner and shall be entitled to be reimbursed by Provisioner promptly thereafter or deduct the amount of such premiums from amounts otherwise due to Provisioner hereunder. Any amounts expended by the District hereunder shall bear interest from the date expended until repaid to the District at the rate of ten percent (10%) per annum.

**8. Indemnification** - Provisioner shall hold harmless, indemnify and defend (with counsel acceptable to the District) the District, their board, directors, employees, agents and consultants from and against any and all obligations, liabilities, claims, losses, damages, costs and expenses (including attorneys' fees and costs) arising from or in connection with (a) any defects in the food products, (b) Provisioner conduct or negligent, willful or improper procedures in connection with the discharge of its responsibilities and obligations hereunder (including, without limitation, the processing of food products) or any other negligent behavior or willful misconduct of Provisioner, or (c) any breach or default by Provisioner under this Contract. The terms and provisions of this Section 8 shall survive the expiration or earlier termination of this Contract.

**9. Inferior Product** - The Distributor agrees to permit inspection of the delivered items by a representative of the District with the right of rejection of inferior merchandise. Cases and packages shall be so constructed as to ensure safe and sanitary transportation to point of delivery. All packaging materials shall be FDA approved to meet all pertinent State and Federal regulations for safe use with foods. Packaging materials shall impart no odor, flavor, or color to the product. The District's decision shall be final.

**10 Buy American** - Rescue Union and Buckeye Union School Districts are in support of the Richard B. Russell National School Lunch Act (NSLA) Buy American provision and encourage strengthening enforcement of this important requirement. This provision greatly benefits the American agricultural economy and ensures the quality of the food our Nation's children are receiving in school.

Section 104(d) of the William F. Goodling Child Nutrition Reauthorization Act of 1998 Public Law 105-336 added a provision, Section 12(n), to the National School Lunch Act (NSLA) (42 *United States Code* Section 1760[n]), that requires all school food authorities (SFA) to purchase, to the maximum extent practical, domestic commodities or products. Section 12(n) of the NSLA defines a domestic commodity or product as an agricultural commodity (i.e., meat/meat alternate, grain, fruit, vegetable, and fluid milk) or processed product (i.e., processed food product that includes components that contribute to a reimbursable meal, such as a chicken patty that contains a meat/meat alternate and grain component) that is processed in the United States using substantial agricultural commodities that are produced in the United States. Substantial means that over 51 percent of the final processed product consists of agricultural commodities that are grown domestically. Products from Guam, American Samoa, Virgin Islands, Puerto Rico, and the Northern Mariana Islands are allowed under this provision as territories of the United States.

When funds are used from the nonprofit school food service account, SFAs must ensure that procurement transactions for food products comply with the Buy American Provision requirement in 7 *CFR*, sections 210.21(d) and 220.16(d), whether food products are purchased by SFAs or entities that are purchasing on their behalf.

**Note:** The SFA is not required to adhere to the domestic requirement for foods that are not creditable food components.

The **Rescue Union and Buckeye Union** FSD will ensure that the solicitation and contract language include the requirement for domestic agricultural commodities and products and retain records documenting any exceptions in advance of accepting deliveries. Implementation of the Buy American Provision by **Rescue Union and Buckeye Union**



FSD will be ensured by:

- Including the Buy American Provision requirement in bid specifications, IFBs, RFPs, contracts, purchase orders, and other procurement documents issued
- Monitoring the contract to ensure that the domestic products solicited are the ones received
- Requiring suppliers to provide certification of domestic origin for all food products, from bids and proposals through receipts and invoices
- Conducting monthly reviews on storage facilities to ensure the domestic products received are the ones solicited for and awarded.

Exceptions to the Buy American Provision should be used as a last resort and are only allowable for one of the two exceptions listed below and outlined in further detail in the USDA Policy Memo SP 38-2017, Compliance with and Enforcement of the Buy American Provision in the National School Lunch Program.

- The product is not produced or manufactured in the United States in sufficient and reasonably available quantities of a satisfactory quality
- Competitive bids reveal the costs of a United States product are significantly higher than the nondomestic product

**Note:** Ingredients used to flavor, enhance, or prepare products (e.g., herbs, condiments, salad dressing) are not considered components that contribute to a reimbursable meal and should not be considered when determining the percent of domestic food components by weight or volume.

The **Rescue Union and Buckeye Union** FSD or vendor must document exceptions to the Buy American Provision requirement prior to accepting each and every nondomestic agricultural commodity or product. This documentation must be on file for at least three years including the current school year, or until the next CDE review, and must be made available during an on-site administrative review and an off-site procurement review.

The documented exception will include the following:

- A description of the nondomestic item
- Alternative domestic commodities or products that the **Rescue Union and Buckeye Union** FSD considered or the vendor offered and the reason why they were not substituted for the nondomestic item
- A synopsis of what third-party verification (e.g., USDA Agricultural Marketing Service [AMS] Run a Custom Report web page at <https://marketnews.usda.gov/mnp/fv-report-config-step1?type=termPrice> was done by the vendor or the **Rescue Union and Buckeye Union** FSD to determine cost and availability
- Documentation by the vendor or the **Rescue Union and Buckeye Union** FSD outlining the price of both domestic and nondomestic commodities or products or lack of availability to justify the exception
- The dates that the: (1) vendor informed the **Rescue Union and Buckeye Union** FSD of the nondomestic commodity or product, (2) **Rescue Union and Buckeye Union** FSD agreed to accept this food item in advance of

delivery, and (3) commodity or product was received by the **Rescue Union and Buckeye Union FSD**

**Selected Vendor shall notify District in advance of delivery of any product not compliant with this requirement. Product(s) delivered to the District which are not compliant with this requirement will be returned and invoice(s) for those items will not be paid.**

**11. All Processed Foods Should Not Contain Any Artificial Trans Fat** - All ingredients must be declared on the product label and conform to the Food Allergen Labeling and Consumer Protection Act as required by the Food and Drug Administration. Labels must list the presence of ingredients which contain: protein derived from milk, eggs, fish, crustacean shellfish, tree nuts, peanuts, wheat, or soybeans.

**12 Affirmative Action** - The Provisioner shall certify that it is an Equal Opportunity Employer and has made a good faith effort to improve minority employment and agrees to meet Federal and State guidelines. No discrimination shall be made in the employment of persons in this project because of the sex, race, color, national origin or ancestry, religion, or handicap of such personnel.

**13. Due Authorization** - This Contract is duly authorized, executed and delivered by Provisioner, is the legal, valid and binding obligation of Provisioner enforceable against Provisioner in accordance with its terms (except to the extent that such enforcement may be limited by applicable bankruptcy, insolvency, moratorium and other principles relating to or limiting the rights of contracting parties generally), and does not and will not violate any provisions of any agreement to which Provisioner is a party or may become a party or to which is it subject or may become subject. Each individual and entity executing this Contract hereby represents and warrants that he, she or it has the capacity set forth on the signature page hereof with full power and authority to bind the party on whose behalf he, she or it is executing this Contract to the terms and provisions hereof.

**14. Assignment** - Provisioner shall not assign or transfer, by operation of law or otherwise, any or all of its rights, burdens, duties or obligations under this Contract (or any part hereof) without the prior written consent of the District, which may be granted or withheld in the District's sole and absolute discretion.

**15. Notices** - All notices, requests, demands, consents, instructions or other communications hereunder shall be in writing (which shall include telex, telegram or telecopy) and shall be deemed to have been duly given or made upon transmittal thereof by telex, answer back received, if transmitted on a business day, otherwise on the first business day after transmittal, or on the date of confirmed dispatch if sent by telecopy on a business day, otherwise on the first business day thereafter, or upon the delivery thereof to the telegraph office if sent by telegraph on a business day, otherwise on the first business day thereafter, or three (3) business days after deposit in the mail if sent by certified mail, postage prepaid, return receipt requested, or on the next business day if sent by overnight personal delivery, in each case addressed to the party to which such notice is requested or permitted to be given or made hereunder, at the addresses and facsimile numbers set forth underneath such party's signature line to this Contract, or at such other address and/or facsimile number of which such party shall have notified in writing the party giving such notice. For purpose of this Contract, the term "business day" shall mean a day other than a Saturday, Sunday or any day on which the District is authorized or required by law to be closed.

**16. Provisions Required By Law** - Each and every provision of law and clause required to be inserted into this Contract shall be deemed to be inserted herein and this Contract shall be read and enforced as though it were included herein, and if through mistake or otherwise any such provision is not inserted or is not inserted correctly, then upon application of either party this Contract shall forthwith be physically amended to make such insertion or correction.

**17. Attorneys' Fees -** In the event of any dispute between the District and Provisioner pertaining to this Contract or the services or products provided for hereunder, the prevailing party (as determined by the court or arbitrator in any such action) shall be entitled to recover from the other party its reasonable attorneys' fees, costs and expenses incurred in connection therewith. The term "attorneys' fees" or "attorneys' fees and costs" shall mean the fees and expenses of counsel to the parties hereto, which may include printing, photo-stating, duplicating and other expenses, air freight charges, and fees billed for law clerks, paralegals and other persons not admitted to the bar but performing services under the supervision of an attorney, and the costs and fees incurred in connection with the enforcement or collection of any judgment obtained in any such proceeding. The terms and provisions of this Section 17 shall survive the expiration or earlier termination of this Contract.

**18 Piggyback Clause/Other Districts -** For the term of the contract and any mutually agreed extensions pursuant to this request for proposal, **at the option of the Distributor**, other school districts and community college districts, any public corporation or agency, including any county, city, town or public corporation or agency within but not limited to the California Counties of El Dorado may purchase, identical sourcing and distribution services and upon the same terms and conditions pursuant to sections 20118 [K-12] and 20652 [Community Colleges] of the Public Contract Code. The District(s) waive their right to require such other districts and offices to draw their warrants in favor of the District(s) as provided in said Code sections. Acceptance or rejection of this clause will not affect the outcome of this bid.

Piggyback option granted  Piggyback option not granted

**19 Fingerprinting -** Successful Distributor agrees to comply with all provisions of Education Code Section 45125.1. Distributor will conduct a criminal background check of all employees, agents, and representatives assigned to the District that will enter the sites and other district facilities for purposes of providing services covered by this proposal during normal district hours, and will certify in writing that no such employees, agents, and representatives who have been convicted of serious or violent felonies as specified will have contact with pupils. Distributor will provide the District with a list of all employees providing services pursuant to this RFP. In the alternative, Distributor shall agree that all employees, agents, and representatives assigned to the District that will enter the sites and other district facilities during normal district hours shall be accompanied at all times by an individual who has satisfied the fingerprinting requirements of Section 452125.1.

**20. Waiver.** No action or failure to act by the District or any District representative shall constitute a waiver of a right or duty afforded them under this Contract, nor shall such action or failure to act constitute approval of, or acquiescence in, a breach there under, except as may be specifically agreed in writing.

**21. Entire Agreement: Amendments.** This Contract and all documents comprising the RFP constitute the entire and integrated agreement between the parties hereto with respect to the matters set forth therein and supersede all prior negotiations, representations or agreements, either written or oral. The documents comprising the RFP are hereby incorporated into this Contract and made a part hereof. The Contract may be amended or modified only by a writing executed by both parties hereto.

IN WITNESS WHEREOF, this Contract has been duly executed by the above-named parties, on the day and year first above written.

**DISTRICT:**

Rescue Union School District/  
Buckeye Union School District  
Joint Use Agreement

By:   
(Title) Director of Food Services

**Address:**

2390 Bass Lake Road  
Rescue, CA 95672

Phone No.: 530-672-4445

FAX No.: 530-677-4098

**PROVISIONER:**



By:   
(Title):

**Address:**

*P&R Paper Supply Co.*  
P.O. Box 590  
1898 E. Colton Ave.  
Redlands, CA 92373-0201  
Ph: (909) 794-1108 Fax: (909) 794-1237

Phone No.:

FAX No.:

**Authorized Officers  
Or Agents  
(CORPORATE SEAL if required)**

