



RESCUE UNION SCHOOL DISTRICT

2390 Bass Lake Road Rescue, CA 95672 (530) 677-4461 / FAX (530) 677-0719

www.rescueusd.org

BOARD OF TRUSTEES REGULAR MEETING MINUTES

Tuesday, April 25, 2023 - 6:30 p.m. Open Session
Rescue District Office Board Room

The Public's health and well-being are the top priority for the Board of Trustees of the Rescue Union School District and all are urged to take all appropriate health safety precautions. To facilitate this process, there were two options to view and/or participate in this open session meeting in person or via Zoom.

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.

PLEASE NOTE:

These are provided as summary minutes. The audio recording of the meeting is available for review at:
<http://www.rescueusd.org/School-Board/Agendas-Minutes/index.html>

CALL TO ORDER: Board president called the meeting to order at 5:34 p.m.

ROLL CALL:

- ✓ Michael Gordon, President
- ✓ Kim White, Vice President
- ✓ Michelle Bebout, Clerk
- ✓ Jamie Hunter, Member
- ✓ Michael Flaherty
- ✓ Jim Shoemake, Superintendent and Board Secretary

PUBLIC COMMENT:

(Closed session agenda items only)

There were no comments concerning items on the Closed Session agenda.

CLOSED SESSION:

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.

Conference with Labor Negotiator - Discussion with the District's Superintendent, Jim Shoemake, and/or labor negotiators, Lisa Donaldson and Dustin Haley, regarding directions and issues in negotiations with Rescue Union Federation of Teachers (RUFT), California School Employees Association (CSEA), Confidential Staff, and Administrative Management.

OPEN SESSION:

Convened open session in the Board Room at 6:35 p.m.

Welcome - The Board president provided an introduction to Board meeting proceedings.

Flag Salute - Board president led the flag salute.

1. Adoption of Agenda

(Consideration for Action)

Trustee White moved and Trustee Hunter seconded to adopt the agenda as presented. Motion passed 5-0.

REPORTS AND COMMUNICATION:

Report from Closed Session - Board president reported no action taken in closed session.

Superintendent's Report - The Superintendent presented a report on Bright Spots happening around the district, including a recent well-attended EL (English Learner) event for community families, facilities upgrades in progress and planned, as well as Employee Proclamations celebrating many Rescue Union School District employees such as administrative professionals, bus drivers, school principals, school nutrition employees and certificated faculty and staff.

Celebrating Community Members and Community Member Service - RUSD alumna Kaitlynn Shedd reported on her Girl Scout landscape project at Lake Forest Elementary, which has been continuously worked on for eight months and already delivered great results on the campus grounds. As a part of the process, she reached out to Boy Scouts, school parent groups, families came with kids, and also had a few firefighters on the scene to pitch in and assist with moving rocks and wheelbarrows of bark chips.

Celebrating Excellence - Lakeview Elementary Principal Kathy Miracle gave a site update, establishing "Eagles Revitalize" as the school theme this year. The school year started with a new mural in the amphitheater from multiple staff and PTO members. Principal Miracle emphasized the school motto of "SOAR" - Solve Problems, Own good decisions, Achieve leadership, and Radiate respect. Mentioned specifically was dedicated Lakeview staff, from teachers to yard supervisors to bus drivers. PTO events such as Breakfast Social, Fall Festival, Santa Fun Run have added fun and spirit to the school year. Dance and sports are back, and arts and the garden program are going strong. 4th graders enjoyed an overnight trip to Coloma. Nature Bowl student presenters Liam, Sullivan, and Diana spoke on this academic group identifying ecological programs and waste on campus. Highlights promoting student involvement are IMPACT Leadership, Safety Patrol, and Kindness Crew.

Difference Makers honored were teacher Jenni Bazor and school secretary Jennifer Washburn.

There were no public comments.

GENERAL:

(Closed Session Report)

2. Stipulated Expulsion Agreement - Student 22-23A

Board President Gordon reported that in Closed Session the Trustees voted 5-0 to accept the recommended expulsion for student 22-23A.

3. LCAP Update and Two-Year Parent Survey Data

(Information Only)

The Superintendent recommended the Board receive information on the status of our LCAP presentation. This was Part One of a Two Part Presentation. Part Two will be shared at the May 9, 2023 Board Meeting. The LCAP data focused on results from parent surveys with significant increases in participation. Information gathered relates to curriculum, safety, socio-emotional supports, quality of facilities, maintenance and custodial re-organization, site staff communication, instructional materials.

There were no public comments.

CURRICULUM AND INSTRUCTION

(Consideration for Action)

4. Science Curriculum Adoption

Rescue Union elementary school teachers participated in an in-depth review of materials on the State Approved List. After piloting two programs and analyzing them for standards alignment, student engagement, and how well they promoted critical thinking and collaboration by consensus, the Twig Science program has been selected to best meet the needs of students. The Superintendent recommended adoption of the Twig Science program for grades K-5.

1. Presentation

2. Public comment

OPEN PUBLIC HEARING: 8:12 p.m.

CLOSE PUBLIC HEARING: 8:13 p.m.

Trustee Flaherty moved and Trustee Bebout seconded to approve the adoption of the Twig Science program for grades K-5. Motion passed 5-0.

CONSENT AGENDA:

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 enacts all items.

The Board President called for public comment on any of the items on the consent agenda. There were no public comments. Trustee White moved and Trustee Bebout seconded to approve the balance of the Consent Agenda. Motion passed 5-0.

5. Board Meeting Minutes- Minutes of the March 21, 2023 Regular Board Meeting (Materials provided)
6. Study Session Meeting Minutes - Minutes of the April 18, 2023 Study Session (Materials provided)
7. Human Resources-the District's long-range goal is to recruit a diverse, high quality staff with student focused goals and philosophies. Periodically, changes in staffing occur due to need for additional positions, resignations, or leaves of absence. All positions listed are within current budget allocations (Materials provided)
8. Williams Act Quarterly Report - The Superintendent recommends the Board approve the Williams Act Quarterly Report for the period of 1/1/23 - 3/31/23 (Materials provided)
9. District Expenditure- 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 3/1/23 through 3/31/23 (Materials provided)
10. District Purchase Orders - Purchase orders must regularly be presented to the Board of Trustees for ratification. The supplemental reflects expenditures from 3/1/23 through 3/31/23 (Materials provided)
11. Report of Surplus Materials - Tech Dept.
12. Administrative Professionals Week Proclamation - Rescue Union School District recognizes April 23–29, 2023 as Administrative Professionals Week.
13. School Bus Drivers Day Proclamation - Rescue Union School District recognizes April 25, 2023 as School Bus Drivers Day.
14. School Principals Day - Rescue Union School District recognizes May 1, 2023 as School Principals' Day.
15. School Nutrition Employee Week Proclamation - Rescue Union School District recognizes May 1-5, 2023 as School Nutrition Employee Week.
16. Certificated Employee Week Proclamation - Rescue Union School District recognizes May 7-13, 2023 as Certificated Employee Week.
17. Jackson Overnight Field Trip to Sierra Outdoor School - March 2024
18. Comcast Internet E-Rate Agreement
19. RUSD Food Services Pest Management Agreement
20. All Abilities Playground Contract - Jackson Elementary School Campus

ADJOURNMENT:

Trustee White moved to adjourn the meeting at 8:23 p.m.

Michelle Bebout, Clerk

Date

Michael Gordon, President

Date

RESCUE UNION SCHOOL DISTRICT

FUNDING AGREEMENT #7655

THIS AGREEMENT, made and entered by and between the El Dorado County Air Quality Management District, a county air quality management district formed pursuant to California Health and Safety Code section 40100, et seq. (hereinafter referred to as "AQMD") and Rescue Union School District, (hereinafter referred to as "District");

W I T N E S S E T H:

WHEREAS, the California Clean Air Act requires local air districts to reduce emissions from motor vehicles; and

WHEREAS, AB 923, codified in California Health and Safety Code (H&SC) section 44225, authorizes districts to impose an additional fee of up to two dollars upon certain registered motor vehicles within the AQMD, and the Governing Board of the AQMD has imposed said fee; and

WHEREAS, AB 923 (H&SC section 44229(b)) requires the AQMD to use said funds for: (1) projects eligible for grants under the Carl Moyer Air Quality Standards Attainment Program; (2) the new purchase, retrofit, repower or add on equipment for previously unregulated agricultural sources of air pollution, (3) the purchase of new, or retrofit of emissions control equipment for existing, school buses pursuant to the Lower-Emission School Bus Program ("LESBP") adopted by the state board; and (4) an accelerated vehicle retirement or repair program, and

WHEREAS, District has proposed a Project Proposal that meets the eligibility criteria of LESBP and AQMD and that has been approved by AQMD for funding; and

WHEREAS, District represents that it is willing and able to perform the activities set forth herein; and

WHEREAS, it is the intent of the parties hereto that such activities be in conformity with all applicable federal, state and local laws;

NOW, THEREFORE, AQMD and District mutually agree as follows:

ARTICLE I

Project/Project Milestones: District shall perform all activities and work necessary to complete the Project as set forth in the "New School Bus Replacement Project, Completion and Implementation Workplan and Schedule" attached hereto as Exhibit A and incorporated herein by this reference. District agrees to furnish all labor, materials, equipment, licenses, permits, fees, and other incidentals necessary to perform and complete, per schedule, in a professional manner, the services described herein. District represents that District has the expertise necessary to adequately perform the Project specified in Exhibit A, marked "New School Bus Replacement Project, Completion and Implementation Workplan and Schedule," all applicable updates, amendments, and clarifications, and agrees that:

1. District shall own, operate, and maintain the new replacement school bus within El Dorado County in a daily use status for five (5) years or more. District is responsible for reporting to AQMD, on a yearly basis (Exhibit B) and in accordance with guidelines established by the Air Pollution Control Officer (APCO), the use status of each replacement bus. If District fails to own, operate, and maintain the new replacement bus for at least five (5) years after purchase, District shall immediately reimburse to AQMD the pro rata share of the awarded funding based on the minimum five year requirement.
2. District agrees to operate and maintain the new replacement school bus in accordance with the manufacturer's specifications and recommendations and the terms of this Agreement.
3. The obligations set forth in this Article I shall survive any termination of this Agreement.

In the event of any conflict between or among the terms and conditions of this Agreement, the Project Proposal incorporated herein, and the documents referred to and incorporated herein, such conflict shall be resolved by giving precedence in the following order of priority:

1. The text of this Agreement;
2. The California Air Resources Board (ARB) 2008 Lower-Emission School Bus Program (LESBP) Guidelines, issued April 15, 2008 including all applicable updates, amendments and clarifications found in the Advisory Mail outs and all collectively referred to as the "LESBP Guidelines" throughout this Agreement;
3. Exhibit A to this Agreement; and
4. The "School Bus Replacement Request for Proposals" (RFP) released to Interested Parties and published by AQMD on January 10, 2023.

ARTICLE II

Term and Performance Timetable: District shall commence performance of work and produce all work products, and complete the Project within the deadlines for performance, as identified in Exhibit A of this Agreement, unless this Agreement is terminated sooner as provided for elsewhere in this Agreement. No work may begin on the Project until this Agreement is fully executed.

District shall ensure the existing school bus, which is being replaced, is dismantled within six (6) months of the receipt of the new, replacement bus, in accordance with the definition of "dismantle" set forth in 2008 LESBP Guidelines, Appendix A. In accordance with Appendix E of the LESBP Guidelines, District shall obtain, retain and send to AQMD required documentation of the dismantling and disposal of the replaced bus. District shall submit all other regular reports as specified in Exhibit A.

ARTICLE III

Reimbursement/Funding Cap: AQMD will reimburse District for the cost of the Project in an amount not to exceed one hundred sixty five thousand dollars and no cents (\$165,000.00), as follows:

1. If the funding identified above does not cover the total cost of the Project as outlined in the Project Proposal, District shall obtain through other sources sufficient additional monies to fund the total cost of the Project. Proof of such additional monies in the form required by

AQMD shall be submitted to AQMD for approval prior to starting any work under this Agreement. In the event funding from other sources for the total cost of the Project is not received by District, AQMD reserves the right to terminate or renegotiate this Agreement in its sole discretion.

2. The total obligation of the AQMD under this Agreement Shall Not Exceed one hundred sixty five thousand dollars and no cents (\$165,000.00) inclusive of all applicable sales taxes and use taxes.
3. In no event shall funding under this Agreement exceed the applicable funding cap set forth in the LESBP Guidelines.

ARTICLE IV

Payments: AQMD shall reimburse District after itemized invoices and verification are submitted to AQMD, Attention: AB923 Grant Administrator, and such invoices and verification are approved by AQMD as set forth below.

- A. Said invoice shall set forth in detail the eligible Project expenses incurred pursuant to this Agreement.
- B. The itemized invoices and supporting documentation are subject to verification and approval by the APCO. Payment to District for eligible Project expenses will be made within sixty (60) calendar days of the APCO's approval and verification. Submitted documentation must include the original invoice from the District to the AQMD for the amount allowable under the LESBP.
- C. The amount to be paid to District under this Agreement is applicable only to the base cost of the replacement school bus and eligible optional equipment, including all sales and use taxes.
- D. In no event shall reimbursement paid by the AQMD to District for the eligible Project expenses pursuant to this Agreement exceed the amount set forth in ARTICLE III, Reimbursement / Funding Cap.

Surplus Funds: Any funding under this Agreement, which is not expended by District or subject to reimbursement to District pursuant to the terms and conditions of this Agreement shall automatically revert to the AQMD. Only expenditures incurred by District in the direct performance of this Agreement will be reimbursed by the AQMD. Allowable expenditures under this Agreement are specifically established and included in Exhibit A.

ARTICLE V

Non-Allocation of Funds: The terms of this Agreement and the reimbursement to be provided hereunder are contingent on the approval of funding by the appropriating government agency. If sufficient funds are not allocated for AB 923 funding, AQMD may request that the Project be modified and the Agreement amended or AQMD may, in its sole discretion, terminate this Agreement at any time by giving the District written notice of termination of this Agreement due to non-allocation of funds. Such notice shall be effective immediately subject to reimbursement for activities properly performed prior to termination and as limited by available funding.

ARTICLE VI

Changes to Agreement: This Agreement may be amended by mutual consent of the parties hereto. Said amendments shall become effective only when in writing and fully executed by duly authorized officers of the parties hereto.

ARTICLE VII

Independent District/Liability: District is, and shall be at all times, deemed independent and shall be wholly responsible for the manner in which it performs work required by the terms of this Agreement and exclusively assumes responsibility for the acts of District's employees, associates, and subcontractors in connection with the performance of District's obligations under the Project and this Agreement.

District shall be responsible for performing the work under this Agreement in a safe, professional, skillful, and workmanlike manner and shall be liable for its own negligence and negligent acts of its employees. AQMD shall have no right of control over the manner in which work is to be done and shall, therefore, not be charged with responsibility of preventing risk to District or its employees.

ARTICLE VII, Independent District/Liability, shall survive any termination of this Agreement.

ARTICLE VIII

Termination: AQMD may withhold payments or immediately suspend or terminate this Agreement, in whole or in part, where in the determination of the AQMD there is:

1. An illegal or improper use of the grant funds;
2. A failure to comply with any term of this Agreement;
3. A substantially incorrect or incomplete report is submitted to the AQMD;
4. A failure to submit documentation detailing disposition of the replacement school bus, in compliance with the 2008 LESBP Guidelines, within 60 days of accepting delivery of the new school bus; or
5. Improperly performed services.

In no event shall any payment by the AQMD constitute a waiver by the AQMD of any breach of this Agreement or any default, which may then exist on the part of District. Neither shall such payment impair or prejudice any remedy available to the AQMD with respect to the breach or default. District shall promptly refund to the AQMD, upon demand, any funds disbursed to District under this Agreement which in the judgment of the AQMD were not expended in accordance with the terms of this Agreement. This obligation of District to refund monies shall survive any termination of the Agreement.

In addition to immediate suspension or termination, AQMD may impose any other remedies available at law, in equity, or otherwise specified in this Agreement.

Either party may terminate this Agreement without cause at any time upon giving the other party thirty (30) days advance, written notice of termination. In such case, the AQMD shall, pursuant to the requirements of Section 3, pay it's pro rata share of the reasonable value of all services satisfactorily

rendered and actual, reasonable costs incurred up to the time of the termination. Upon such termination, the entire work product produced by District shall be promptly delivered to the AQMD. However, District acknowledges and agrees that its obligations under ARTICLE I, Project/Project Milestones, survive any termination of this Agreement.

ARTICLE IX

Notice to Parties: All notices to be given by the parties hereto shall be in writing and served by depositing same in the United States Post Office, postage prepaid and return receipt requested. Notices to AQMD shall be addressed as follows:

AIR QUALITY MANAGEMENT DISTRICT
330 Fair Lane
Placerville, CA 95667
ATTN: Dave Johnston, Air Pollution Control Officer

or to such other location as the County directs.

with a copy to:

COUNTY OF EL DORADO
Chief Administrative Office
Procurement and Contracts Division
360 Fair Lane
Placerville, CA 95667
ATTN: Michele Weimer, Procurement and Contracts Manager

Notices to District shall be addressed as follows:

RESCUE UNION SCHOOL DISTRICT
2390 Bass Lake Road
Rescue, CA 95672
ATTN: Lisa Donaldson, Assistant Superintendent

or to such other location as the Consultant directs.

ARTICLE X

Change of Address: In the event of a change in address for District's principal place of business, District's Agent for Service of Process, or Notices to District, District shall notify AQMD in writing as provided in ARTICLE IX, Notice to Parties. Said notice shall become part of this Agreement upon acknowledgment in writing by AQMD's Contract Administrator, and no further amendment of the Agreement shall be necessary provided that such change of address does not conflict with any other provisions of this Agreement.

ARTICLE XI

Indemnity: District shall defend, indemnify, and hold AQMD, El Dorado County, and their Boards, officers, agents, and employees harmless against and from any and all claims, suits, losses, damages, and liability for damages of every name, kind, and description, including attorney's fees and costs incurred, brought for, or on account of, injuries to or death of any person, including but not limited to workers, AQMD and El Dorado County employees, and the public, or damage to property, or any

economic or consequential losses, which are claimed to or in any way arise out of or are connected with District's services, operations, or performance hereunder or the purchase, installation, maintenance, or use of equipment, or any other goods, services, or equipment purchased pursuant to this Agreement regardless of the existence or degree of fault or negligence on the part of AQMD or El Dorado County, the District, contractor(s), subcontractor(s) and employee(s) of any of these, except for the sole, negligence, active negligence, or willful misconduct of AQMD, El Dorado County, and their officers and employees, or as expressly prescribed by statute. This duty of District to indemnify and save AQMD and El Dorado County harmless includes the duties to defend set forth in California Civil Code Section 2778.

In no event shall AQMD or El Dorado County be liable to District or any third party for any direct, indirect, consequential, special, incidental, or punitive damages for the design, manufacture, operation, use, maintenance, performance, or demonstration of the equipment, or any other goods, services, or equipment purchased pursuant to this Agreement under any theory, including but not limited to tort, contract, breach of warranty, or strict liability.

The insurance obligations of Contractor are separate, independent obligations under the Agreement, and the provisions of this defense and indemnity are not intended to modify nor should they be construed as modifying or in any way limiting the insurance obligations set forth in the Agreement.

Nothing herein shall be construed to seek indemnity in excess of that permitted by Civil Code section 2782, et seq. In the event any portion of this Article is found invalid, the Parties agree that this Article shall survive and be interpreted consistent with the provisions of Civil Code section 2782, et seq.

The obligations in this Article shall survive any termination of this Agreement.

ARTICLE XII

Insurance: District shall provide proof of a policy of insurance satisfactory to the County of El Dorado Risk Management Division and documentation evidencing that District maintains insurance that meets the following requirements:

- A. Full Workers' Compensation and Employers' Liability Insurance covering all employees of District as required by law in the State of California.
- B. Commercial General Liability Insurance (providing scope of coverage equivalent to ISO policy form CG 00 01) of not less than \$1,000,000.00 combined single limit per occurrence for bodily injury and property damage and a \$2,000,000.00 aggregate limit. County, including, without limitation, its officers, officials, employees, and volunteers shall be named as an additional insured on ISO form CG 2010 1185, or its equivalent.
- C. Automobile Liability Insurance of not less than \$1,000,000.00 is required in the event motor vehicles are used by District in the performance of the Agreement.
- D. District shall furnish a certificate of insurance satisfactory to the County of El Dorado Risk Management Division as evidence that the insurance required above is being maintained.
- E. The insurance will be issued by an insurance company acceptable to County of El Dorado Risk Management Division, or be provided through partial or total self-insurance likewise acceptable to the Risk Management Division.

- F. District agrees that the insurance required herein shall be in effect at all times during the term of this Agreement. In the event said insurance coverage expires at any time or times during the term of this Agreement, District shall immediately provide a new certificate of insurance as evidence of the required insurance coverage. In the event District fails to keep in effect at all times insurance coverage as herein provided, AQMD may, in addition to any other remedies it may have, terminate this Agreement upon the occurrence of such event. New certificates of insurance are subject to the approval of County's Risk Management Division, and District agrees that no work or services shall be performed prior to the giving of such approval.
- G. The certificate of insurance must include the following provisions stating that:
1. The insurer will not cancel the insured's coverage without prior written notice to El Dorado County and AQMD; and
 2. The County of El Dorado, AQMD, its officers, officials, employees and volunteers are included as additional insured, on an additional insured endorsement, but only insofar as the operations under this Agreement are concerned. This provision shall apply to the general liability policy.
- H. District's insurance coverage shall be primary insurance as respects the County of El Dorado, AQMD, its officers, officials, employees and volunteers. Any insurance or self-insurance maintained by AQMD, its officers, officials, employees or volunteers shall be in excess of District's insurance and shall not contribute with it.
- I. Any deductibles or self-insured retentions must be declared to, and approved by, the County of El Dorado and AQMD. At the option of the County of El Dorado and AQMD, either: The insurer shall reduce or eliminate such deductibles or self-insured retentions as respects to the County of El Dorado, AQMD, its officers, officials, employees and volunteers; or District shall procure a bond guaranteeing payment of losses and related investigations, claim administration, and defense expenses.
- J. Any failure to comply with the reporting provisions of the policies shall not affect coverage provided to the County of El Dorado, AQMD, its officers, officials, employees, or volunteers.
- K. The insurance companies shall have no recourse against the County of El Dorado, AQMD, its officers and employees or any of them for payment of any premiums or assessments under any policy issued by any insurance company.
- L. District's obligations shall not be limited by the foregoing insurance requirements and shall survive expiration of this Agreement.
- M. In the event District cannot provide an occurrence policy, District shall provide insurance covering claims made as a result of performance of this Agreement for not less than three (3) years following completion of performance of this Agreement.
- N. The certificate of insurance shall meet such additional standards as may be determined by the County of El Dorado, AQMD, either independently or in consultation with County's Risk Management Division as essential for protection of the County of El Dorado and AQMD.

ARTICLE XIII

Audits, Inspections and Enforcement: District shall maintain and retain all required documentation and records pertaining to the Project listed in 2008 LESBP Guidelines (Appendix E, Section B). District shall retain the documentation for activities performed under this Agreement for at least two years from the termination of District's obligations under this Agreement or until all state and federal audits are completed for the applicable fiscal year, whichever is later.

The AQMD, ARB, the California Department of Finance (DoF), or their designated representative shall have the right to review and to copy any records and supporting documentation pertaining to the performance of the Agreement – this includes programmatic and fiscal records and documentation. The AQMD and ARB, as an intended third party beneficiary, have the right to audit and enforce the terms of the Agreement at any time during the Agreement term plus two years. District shall maintain such records for possible audit for a minimum of the Agreement term plus two years. District shall allow the auditor(s) access to such records during normal business hours and to allow interviews of any employees who might reasonably have information related to such records for a minimum of the Agreement term plus two years. Further, District agrees to include a similar right of AQMD and the State to audit records and interview staff in any subcontract related to performance of the Agreement. The AQMD, ARB, or their designated representative shall have the right to inspect the Project equipment during the entire term of the Agreement plus two years as long as it is still in use after the Agreement term. If, after audit, AQMD, ARB or DoF make a determination that funds provided to District pursuant to this Agreement were not spent in conformance with this Agreement, the 2008 LESBP Guidelines or any other applicable provisions of law, District agrees to immediately reimburse AQMD all funds determined to have been expended not in conformance with said provisions.

District acknowledges that if total compensation under this Agreement is greater than \$10,000.00, this Agreement is subject to examination and audit by the California State Auditor for a period of three (3) years, or for any longer period required by law, after final payment under this Agreement, pursuant to Government Code section 8546.7. In order to facilitate these potential examinations and audits, District shall maintain, for a period of at least three (3) years, or for any longer period required by law, after final payment under the Agreement, all books, records and documentation necessary to demonstrate performance under the Agreement.

The obligations set forth in this section shall survive any termination of this Agreement.

ARTICLE XIV

Time is of the Essence and Liquidated Damages: It is understood that time is of the essence for the purchase of new school buses to replace older, higher-polluting buses. The parties reasonably anticipate that DISTRICT will, to the reasonable satisfaction of the AQMD, complete all activities provided herein within the time schedule outlined in Exhibit A to this Agreement. Failure to timely deliver the new school buses will result in harm to AQMD, District, schoolchildren, and air quality in El Dorado County. Further, every day in which deliver of a new school bus has been delayed may result in additional costs to AQMD and District to rent or lease an equivalent bus or otherwise mitigate the damages from the delay; such costs are definite but unquantifiable at the time of execution of this Agreement. Therefore, the parties acknowledge and agree to pay liquidated damages for failure to timely deliver the new school buses, as specified below:

For every day after the deadline specified in Exhibit A to this Agreement in which a bus has not delivered as specified in this Agreement, AQMD shall reduce the grant payment by \$100 per day per bus purchased with AB 923 funds.

Contracts/purchase orders between District and school bus distributors/vendors shall include a similar liquidated damages clause in which school bus distributor/vendor shall be liable to the school district for liquidated damages in the amount of \$100 per day per bus purchased with AB 923 funds for each day a bus is delivered after the deadline specified in Exhibit A.

ARTICLE XV

Compliance With Applicable Laws: District will comply, for the full term of this Agreement, with all federal, State, and local laws and ordinances which are or may be applicable to the Project to be undertaken by District including but not limited to the 2008 LESBP Guidelines, criteria, and program requirements, California Health and Safety Code sections 44220 et seq, all ARB and AQMD criteria there under, prevailing wage requirements and work day definitions where applicable, Government Code section 8546.7, contracting license requirements and permits.

ARTICLE XVI

CHP Safety Inspection: District agrees to have a CHP safety certification inspection [per Title 13, CCR section 1272(c)] after purchase of the new replacement bus and prior to the bus's return to service.

Upon satisfactory completion of the CHP safety certification inspection, District must obtain a copy of a Safety Compliance Report/Terminal Record Update (CHP 343), or a copy of a Vehicle/Equipment Inspection Report Motor Carrier Safety Operations form (CHP 343A).

ARTICLE XVII

Maintenance: District shall operate and maintain the replacement bus according to the manufacturer's warranty specifications for as long as District owns and operates each replacement bus.

ARTICLE XVIII

Fuel Additives: District agrees fuel additives are not allowed to be used unless specifically identified as allowable in the specific engine Executive Order.

ARTICLE XIX

California Forum and Law: Any dispute resolution action arising out of this Agreement, including but not limited to litigation, mediation, or arbitration, shall be brought in El Dorado County, California, and shall be resolved in accordance with the laws of the State of California.

ARTICLE XX

Agreement Administrator: The AQMD Officer or employee with responsibility for administration of this Agreement is Dave Johnston, Air Pollution Control Officer, or successor.

ARTICLE XXI

Authorized Signatures: The parties to this Agreement represent that the undersigned individuals executing this Agreement on their respective behalf are fully authorized to do so by law or other appropriate instrument and to bind upon said parties to the obligations set forth herein.

ARTICLE XXII

Partial Invalidity: If any provision of this Agreement is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remaining provisions will continue in full force and effect without being impaired or invalidated in any way.

ARTICLE XXIII

No Third Party Beneficiaries: Except as otherwise provided in Article XIII, nothing in this Agreement is intended, nor will be deemed, to confer rights or remedies upon any person or legal entity not a party to this Agreement.

ARTICLE XXIV

Counterparts: This Agreement may be executed in one or more counterparts, each of which shall be an original and all of which together shall constitute one and the same instrument.

ARTICLE XXV

Entire Agreement: This document and the documents referred to herein or exhibits hereto are the entire Agreement between the parties, and they incorporate or supersede all prior written or oral Agreements or understandings.

**--COUNTY OF EL DORADO
AIR QUALITY MANAGEMENT DISTRICT--**

By: *Dave Johnston*
Dave Johnston (Apr 28, 2023 13:22 PDT)

Dave Johnston
Air Pollution Control Officer
"AQMD"

Dated: 04/28/2023

--RESCUE UNION SCHOOL DISTRICT--

By: *Lisa Donaldson*
Lisa Donaldson (Apr 28, 2023 14:42 PDT)

Lisa Donaldson
Assistant Superintendent
"District"

Dated: 04/28/2023

Exhibit A

NEW SCHOOL BUS REPLACEMENT PROJECT COMPLETION AND IMPLEMENTATION WORKPLAN AND SCHEDULE FOR

RESCUE UNION SCHOOL DISTRICT

The Lower-Emission School Bus Program (LESBP) provides grants for the purchase of new, lower emission school buses to reduce school children's exposure to both cancer-causing and smog forming pollution. The intent is to offset up to 100% of the cost of a basic school bus plus selected safety options, subject to LESBP constraints.

RESCUE UNION SCHOOL DISTRICT (DISTRICT) has submitted the attached "AB923 Funding Application New School Bus Replacement (Application) and Vehicle Quotation" to the El Dorado County Air Quality Management District (AQMD) seeking incentive funds to replace an existing school bus 1998 Thomas, VIN# 1T75U4B29W1149688 with a new Thomas School Bus. The school bus to be replaced meets all the eligibility requirements as described in the 2008 LESBP Guidelines.

I. PROJECT COMPLETION (ends 1 year from signed Agreement date)

TASK 1 – Order of Replacement Bus

Upon execution of the Agreement by both parties the DISTRICT shall:

- Order the replacement school bus as specified in the attached Vehicle Quotation (Thomas)
- Notify the AQMD upon delivery and acceptance of the school bus (2008 LESBP Guidelines Chapter V, Section N)
- The anticipated date of delivery for the new, replacement school bus is Q3 of calendar year 2023.

TASK 2 – Disposal of the Replaced School Bus

Within **60 days** of accepting delivery of the new replacement bus:

- The replaced bus (Thomas, VIN# 1T75U4B29W1149688) must be taken out of service and dismantled in accordance with the definition of "dismantle" set forth in 2008 LESBP Guidelines (Appendix A)
- DISTRICT must maintain all documentation pertaining to the disposal of the replaced bus in accordance with the requirements detailed in Appendix E of the 2008 LESBP Guidelines.

TASK 3 – Invoice AQMD

Within **60 days** of accepting delivery of the new replacement bus, DISTRICT shall invoice AQMD and provide the following information:

- Copy of the Purchase Order, original Vendor Invoice and Proof of Payment.
- Documentation certifying disposal of the replaced bus (Thomas, VIN# 1T75U4B29W1149688) as detailed in Appendix E, Section B (and also in Chapter V, Section N) of the 2008 LESBP Guidelines.
- Any other documentation deemed necessary by AQMD to verify compliance with this Agreement and the 2008 LESBP Guidelines.

TASK 4 – Reporting and Records Submittal

Within **60 days** of accepting delivery of the new replacement bus DISTRICT shall submit to AQMD the following records:

- A copy of the Department of CA Highway Patrol Inspection Approval Certificate (292 Card) for the new replacement bus.
- A copy of the DMV registration for the new replacement bus.

II. PROJECT IMPLEMENTATION
(5 years beginning on final invoice payment of replacement bus)

TASK 4 – Bus Operation

- DISTRICT shall own, operate and maintain the replacement bus within El Dorado County in a daily use status for at least five years (per 2008 LESBP requirements) which coincides with the end of the Agreement. Fuel additives are not allowed to be used unless specifically identified as allowable in the Engine Certification Executive Order.

TASK 5 – Annual Usage Reporting and Records Submittal

Within **1 year and 60 days** of the date of the signed Agreement, and every year after until the end of the Agreement, the DISTRICT shall submit to AQMD the following records:

- Exhibit B completed for each replacement bus including annual mileage for each bus. Exhibit B must be signed by an authorized agent of the DISTRICT.
- In accordance with Appendix E, Section B of the 2008 LESBP Guidelines DISTRICT shall retain, for the full term of this Agreement plus two years all documents and records pertaining to the replacement bus Project.
- DISTRICT acknowledges that this Agreement is subject to examination and audit by the California State Auditor pursuant to Government Code section 8546.7

Exhibit B

AB 923/CARL MOYER PROGRAM NEW SCHOOL BUS REPLACEMENT PROJECT ANNUAL USAGE REPORTING FORM

RESCUE UNION SCHOOL DISTRICT

AGREEMENT NO. 7655

In accordance with the requirements of AB 923, Carl Moyer Program, and 2008 Lower-Emission School Bus Program (LESBP), DISTRICTS that received grant monies to replace their school buses with new buses must own and operate the bus for at least five years after purchase. This form must be completed by each DISTRICT and returned to the El Dorado County Air Quality Management District (AQMD) once annually during the five years to ensure compliance with this provision.

District Bus ID #	Vehicle Identification Number (VIN)	Mileage Begin Date	Mileage End Date	Annual Miles

I am an authorized employee/agent of the DISTRICT and I certify that the above information is correct and accurate.

Printed Name

Title

Phone #

Signature

Date

RESCUE UNION SCHOOL DISTRICT

AGENDA: Certificated Personnel

RECOMMENDATION:

The Superintendent recommends the Board approve the following personnel actions.

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 certificated personnel changes are listed on the agenda.

Name	Personnel Action	Position FTE	Position	School or Dept.	Effective Date
Heffington, Susan	Retirement	1.0	Teacher	Jackson	5/26/2023

FISCAL IMPACT:

Fiscal impact will be reflected in the 2023-2024 budget.

BOARD GOALS:

Board Focus Goal IV - STAFF NEEDS

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

RESCUE UNION SCHOOL DISTRICT

AGENDA: Certificated Administrative Personnel

RECOMMENDATION:

The Superintendent recommends the Board of Trustees approve the following personnel action(s).

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.

Name	Personnel Action	FT E	Position	School or Dept.	Effective Date
Lam, Khanh Linh	Resignation	1.0	Psychologist	District	6/30/2023

FISCAL IMPACT:

Fiscal impact will be reflected in the 2023-2024 budget.

BOARD GOALS:

Board Focus Goal IV - STAFF NEEDS

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

RESCUE UNION SCHOOL DISTRICT

AGENDA ITEM: Classified Personnel

RECOMMENDATION:

The Superintendent recommends the Board approve the following personnel actions.

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:

Name	Personnel Action	Position FTE	Position	School or Dept.	Effective Date
Danner, Heidi	100% Unpaid LOA	.49	Yard Supervisor	Lake Forest	5/16/2023
Hughes, Margaux	Resignation	.75	Instructional Assistant	Lake Forest	5/9/2023
King, Elisa	Resignation	.1133	Bus Driver - Mail Run	Transportation	5/26/2023
Knight, Abby	Resignation	.75	Instructional Assistant SDC	Lake Forest	5/26/2023
Verdin, Mariela	Resignation	.75	II Facilitator	Green Valley	5/26/2023
Allen, Sheryl	Retirement	1.0	Library Media Coordinator	Rescue	6/9/2023
Harmon, Eula	Retirement	.3125	Food Service Worker	Food Services	5/26/2023
Hutchcraft-Vargas, Dawn	Retirement	.3718	Certified Occupational Therapist Assistant	Support Services	5/25/2023
Sharp, Billie	Retirement	.50	Instructional Assistant - SHC	Rescue	5/26/2023

FISCAL IMPACT:

Fiscal impact will be reflected in the 2022-2023 budget years.

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.

RESCUE UNION SCHOOL DISTRICT

AGENDA ITEM: Retirement Recognition

RECOMMENDATION: The Superintendent recommends the Board approve the following personnel actions.

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 personnel changes are listed on the agenda.

FISCAL IMPACT: Fiscal impact will be reflected in the 2023-2024 budget.

Name	Personnel Action	Pos. FTE	Position	School/Dept.	Effective Date
Allen, Sheryl (Sheri)	Retirement	1.0	Library/Media Coordinator	Rescue	6/9/2023
Harmon, Eula	Retirement	.3125	Food Service Worker	Food Services	5/26/2023
Hutchcraft-Vargas, Dawn	Retirement	.3718	Certified Occupational Therapy Assistant	Support Services	5/25/2023
Sharp, Billie	Retirement	.50	Instructional Assistant - SHC	Rescue	5/29/2023
Burkhardt, Julie	Retirement	1.0	Teacher	Lake Forest	5/26/2023
Cartwright, Margaret	Retirement	1.0	Teacher	Lake Forest	7/7/2023
Eisenhart, Sharon (Kim)	Retirement	1.0	Teacher	Pleasant Grove	5/26/2023
Ferrara, Charlene	Retirement	1.0	Teacher	Marina Village	5/26/2023
Heffington, Susan	Retirement	1.0	Teacher	Jackson	5/26/2023
Nelson, Vicki	Retirement	1.0	Teacher	Lakeview	5/26/2023
Steffano, Kathleen	Retirement	1.0	Teacher	Jackson	5/26/2023

BOARD GOALS:

Board Focus Goal IV - STAFF NEEDS

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

015 RESCUE UNION SCHOOL DISTRICT J73170
 0056 04_17_2023 LQ
 Vendor/Addr Remit name Description
 Req Reference Date
 001293/00 ZEP SALES & SERVICE
 FILE 50188
 LOS ANGELES, CA 90074-0188
 235165 PO-230147 03/24/2023 9008400756

ACCOUNTS PAYABLE PRELIST
 BATCH: 0056 0056 04_17_2023 LQ
 Tax ID num Deposit type
 FD RESC Y OBJT GOAL FUNC LC1 LOC2 L3 SCH T9MPS

APY500 L.00.21 04/13/23 16:14 PAGE 19
 << Held for Audit >>

1 01-0842-0-4360-0000-3600-083-0000-00-000 NN P
 649.09 *
 TOTAL PAYMENT AMOUNT
 176,876.51 ***
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 176,876.51
 92.68
 TOTAL BATCH PAYMENT
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 92.68
 TOTAL DISTRICT PAYMENT
 TOTAL USE TAX AMOUNT
 176,876.51
 92.68
 TOTAL FOR ALL DISTRICTS:
 TOTAL USE TAX AMOUNT
 176,876.51
 92.68

Number of checks to be printed: 60, not counting voids due to stub overflows.
 Number of zero dollar checks: 10, will be printed.

Pursuant to Rescue Union School District Policy, the El
 Dorado County Superintendent of Schools is hereby
 authorized and directed to issue individual warrants to the
 payees named hereon


 District Designee
 Date 4/13/23

BATCH: 0057 0057 04 20 2023 LQ

<< Held for Audit >>

Vendor/Addr	Remit name	Description	Tax ID num	Deposit type	ABA num	Account num	EE ES	E-Term	E-ExtRef
				FD RESC	Y OBJJT GOAL FUNC LC1 LOC2 L3 SCH T9MPS		Liq Amt		Net Amount

[illegible][illegible]

101193/00	STAPLES ADVANTAGE PO BOX 660409 DALLAS, TX 75266-0409																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																													
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102998/00	WELLS FARGO FINANCIAL LEASING PO BOX 77096 MINNEAPOLIS, MN 55480
235311	PO-230303 04/13/2023 CLOSE PER TIM
	TOTAL PAYMENT AMOUNT
	1 01-0000-0-5690-1110-1000-081-0000-00-000 NN C
	0.00 *
	649.33
	0.00
	0.00

Pursuant to Rescue Union School District Policy, the El Dorado County Superintendent of Schools is hereby authorized and directed to issue individual warrants to the payees named hereon

payees named herein.

 District Designee

 Date

Number of checks to be printed:
Number of zero dollar checks:

4


Vendor/Addr Remit name Description Tax ID num Deposit type ABA num Account num EE ES E-Term E-ExtRef
 Req Reference Date FD RESC Y OBJT GOAL FUNC LC1 LOC2 L3 SCH T9MPS Liq Amt Net Amount


020201/00 SWRCB STATE WATER RES. CONT. BOARD
 PO BOX 1888
 SACRAMENTO, CA 95812-1888
 235321 PO-230312 04/05/2023 SW-0263761 5S091000233 1 01-0842-0-5806-0000-3600-083-0000-00-000 NN P 1,700.00 1,738.00
 TOTAL PAYMENT AMOUNT 1,738.00

003783/00 SYSCO - SACRAMENTO
 P O BOX 138007
 SACRAMENTO, CA 95813-8007
 PV-230994 04/20/2023 431255777 13-5310-0-4710-0000-3700-000-0000-00-000 NN 131.79
 PV-230994 04/20/2023 431267460 13-5310-0-4710-0000-3700-000-0000-00-000 NN 71.75
 TOTAL PAYMENT AMOUNT 203.54

105011/00 TEACHER SYNERGY LLC
 75 REMITTANCE DRIVE
 DEPARTMENT 6759
 CHICAGO, IL 60675-6759
 235707 PO-230694 04/17/2023 228453341 1 01-1100-0-4300-1110-1000-022-0000-92-000 NY P 27.24
 TOTAL PAYMENT AMOUNT 27.24

104986/00 TPX COMMUNICATIONS
 PO BOX 509013
 SAN DIEGO, CA 92150-9013
 235307 PO-230299 04/09/2023 169184948-0 APR 1 01-0000-0-5901-0000-7600-081-0000-00-000 NN P 2,062.70
 TOTAL PAYMENT AMOUNT 2,062.70

Pursuant to Rescue Union School District Policy, the El
 Dorado County Superintendent of Schools is hereby
 authorized and directed to issue individual warrants to the
 payees named hereon

 District Designee Date
 TOTAL BATCH PAYMENT 139,322.77 *** 0.00 139,322.77
 TOTAL USE TAX AMOUNT 473.29
 TOTAL DISTRICT PAYMENT 139,322.77 **** 0.00 139,322.77
 TOTAL USE TAX AMOUNT 473.29
 TOTAL FOR ALL DISTRICTS: 139,322.77 ***** 0.00 139,322.77
 TOTAL USE TAX AMOUNT 473.29

Number of checks to be printed: 73, not counting voids due to stub overflows. 

01 GENERAL FUND

P.O.#	VENDOR NAME	DESCRIPTION	AMOUNT	SITE NAMES
230832	2NDGEAR LLC	Jackson's PowerLite Projector	542.69	DISTRICTWIDE SERVICES
230861	AG IN THE CLASSROOM EDC	3rd grade FT	370.00	Rescue School
230833	AMAZON CAPITAL SERVICES INC	Labels for Rescue Library	119.62	DISTRICTWIDE SERVICES
230836	AMAZON CAPITAL SERVICES INC	Tech Supplies from list	2,204.70	DISTRICTWIDE SERVICES
230839	AMAZON CAPITAL SERVICES INC	MV - Library posters	107.25	DISTRICTWIDE SERVICES
230858	AMAZON CAPITAL SERVICES INC	PE 3K Grant supplies	1,996.99	Pleasant Grove Middle School
230863	AMAZON CAPITAL SERVICES INC	5160 Avery Labels	106.89	DISTRICTWIDE SERVICES
230867	AMAZON CAPITAL SERVICES INC	TEACHER SUPPLIES FOR SUMMER RIS	800.00	DISTRICTWIDE SERVICES
230870	AMAZON CAPITAL SERVICES INC	GENERAL SUPPLIES FOR SUMMER RIS	1,000.00	DISTRICTWIDE SERVICES
230844	ANATOMY WAREHOUSE	7th Science/ Donations	128.70	Pleasant Grove Middle School
230837	CHROMEBOOKPARTS.COM	Chromebook Parts	1,583.29	DISTRICTWIDE SERVICES
230852	CHROMEBOOKPARTS.COM	7 G5 chromebook batteries	187.61	DISTRICTWIDE SERVICES
230842	CROWN AWARDS	Mustang Pride crystal trophies	683.75	Marina Village School
230847	DAVE BANG ASSOCIATES	LV - Playworld	4,282.38	Maintenance
230845	DECKER EQUIPMENT	Bulletin Brd for MV quad outsd	511.67	Marina Village School
230834	DEMCO INC	Library Supplies	991.86	DISTRICTWIDE SERVICES
230835	DHARMA TRADING COMPANY	8th science tie dye supplies	403.47	Marina Village School
230864	E3 DIAGNOSTICS INC	Annual Audiometer Calibration	770.00	DISTRICTWIDE SERVICES
230862	EL DORADO COUNTY	Tardy Slips	188.76	Jackson School
230838	EXPLORE LEARNING	Renew	1,496.25	Jackson School
230840	FLINN SCIENTIFIC INC	8th science	129.80	Marina Village School
230841	FOLLETT SCHOOLS SOLUTIONS INC	J - lost/damaged bk replacemen	809.74	DISTRICTWIDE SERVICES
230865	FOLLETT SCHOOLS SOLUTIONS INC	Library Follett	698.24	Pleasant Grove Middle School
230843	GOPHER SPORT PLAY WITH A PURP	ODE funds for PE supplies	892.00	Green Valley School
230859	GOPHER SPORT PLAY WITH A PURP	PE 3K Grant supplies	885.18	Pleasant Grove Middle School
230854	HEGERTY PHONEMIC AWARENESS	Phonic aware, bridge, pri ext	546.29	Green Valley School
230853	K-LOG INC	10 'kidney' tables for classes	4,117.81	Green Valley School
230872	QUILL CORPORATION	GENERAL SUPPLIES FOR SUMMER RI	1,000.00	DISTRICTWIDE SERVICES
230855	SCHOOL DATEBOOKS INC	Non-date Planners	514.92	Green Valley School
230868	STAPLES ADVANTAGE	TEACHER SUPPLIES FOR SUMMER RI	100.00	DISTRICTWIDE SERVICES
230871	STAPLES ADVANTAGE	GENERAL SUPPLIES FOR SUMMER RIS	1,500.00	DISTRICTWIDE SERVICES
230860	TAGUE MUSIC LLC	YAMAHA BASS CLARINET	2,466.75	DISTRICTWIDE SERVICES
230866	TeachersPayTeachers	TEACHER SUPPLIES FOR SUMMER RI	1,500.00	DISTRICTWIDE SERVICES
230851	UBEO BUSINESS SERVICES	staples for copiers	287.77	Green Valley School
230869	US BANK EQUIPMENT FINANCE	PAPER COPIES FOR SUMMER RISE	160.88	DISTRICTWIDE SERVICES
230848	WAYNES LOCKSMITH INC	J - Bathroom hardware	8,852.14	Maintenance
230849	WAYNES LOCKSMITH INC	LF-New Bathroom Hardware	7,403.03	Maintenance
TOTAL FUND			50,340.43	

13 CAFETERIA FUND


P.O.#	VENDOR NAME	DESCRIPTION	AMOUNT	SITE NAMES
230850	CHEFS TOYS LLC	LKNIGHT FOR KANDREASEN	5,000.00	Food Services - Req Entry
230856	CHEFS TOYS LLC	Retherm for PG	13,435.21	Food Services - Req Entry
230857	CHEFS TOYS LLC	Oven for PG	17,827.10	Food Services - Req Entry
230846	EKON-O-PAC LLC	Bag Sealers/Bags/Tape	1,190.85	Food Services - Req Entry
		TOTAL FUND	37,453.16	
		TOTAL DISTRICT	87,793.59	

FUND	AMOUNT
01 GENERAL FUND	50,340.43
13 CAFETERIA FUND	37,453.16
TOTAL DISTRICT	87,793.59

Date: 4/24/2023

School / Department Data	District Use Only
Name of School / Department:	Type of Disposition:
Green Valley Library	
Name / Title of Person to Contact for Further Information:	Board Approval Date:
Carrie Cash	
Building / Room Number Which Equipment Was Assigned:	Disposition Contact:
Equipment from Library	

[illegible]


Principal / Supervisor Signature

Code	Description
A	Fair Equipment that is usable without repairs, but is somewhat worn or deteriorated and soon may require repair.
B	Poor Equipment that is usable but is considerably worn or deteriorated. The remaining utility is limited or major repairs will be required.
C	Unusable, cannot be repaired.

* If there is no inventory number on the equipment, please record the serial number or model number in its place.

Equipment to Surplus, April 2023

ITEM:	QUANTITY:
8 mm Sony video camera	1
Blank 8 mm video cassette tapes	24
Sony digital video camera	1
Camera tripods	2
Digital Camera PowerShot 1200 Elph	1
Polaroid camera	1
Blank VHS tapes	8
Personal cassette tape player	4
Personal CD player with headphones	25

RP

TC Landscape Construction, Inc.

PO Box 1923
Shingle Springs, CA 95682 US
+1 9168347495
taylor@tclandscapeconstruction.com
www.tclandscapeconstruction.com



Estimate

ADDRESS
Brandon Page
3880 Green Valley Road
Rescue, CA 95672

ESTIMATE #
1423

DATE
04/11/2023

EXPIRATION DATE
05/11/2023

DESCRIPTION

AMOUNT

TC Landscape INC will complete work as follows:

36,580.00

- Prep area for requested artificial turf with bark perimeter as discussed
- Cap off existing sprinklers
- Install 2x4 pressure treated board to divide tree line from proposed artificial turf line
- Install 25 foot wide by 95 foot long playground rated artificial turf
- Install 10 foot wide by 11 foot long playground rated artificial turf
- Infill with polymeric sand
- Install 12 yards of client choose bark on 9 x95 foot long area to border existing trees and roots

-Quote includes prevailing wage pay to all employees on site


Thank you for the opportunity!
Please confirm receipt of this Estimate!

TOTAL

\$36,580.00

Accepted By

Accepted Date


4/24/23

License #959403
PO Box 549, Diamond Springs, Ca 95619
Phone: (530) 647-0653 / Fax: (530) 644-5727



Submitted to (Owner): Rescue Union School District
Address: 2540 Green Valley Rd
City/State/Zip Code: Rescue Ca, 95672
Phone: 530-417-4908
Date: 03/06/2023
Name of Estimator: Sean O'Neal

Job: Pleasant Grove School Gymnasium equipment well

Email: bpage@ruscueusd.org

Due to the constant change in material pricing, this bid is only good for 30 days from proposal date.

Mountain Roofing Systems (“MRS”) hereby submits specifications and the bid proposal for a Single Ply Roofing System. Description of the Project and Significant Materials to be Used and Installed:

- 1) Provide El Dorado County re roof permit.
- 2) Remove one layer of existing built-up roofing
- 3) Remove counter flash at parapet walls
- 4) Install 1/4" dens deck fire board to entire roof surface
- 5) Install GAF 60 mil low slope TPO single ply membrane and mechanically fasten to the wood deck.

Color to be

Initial
- 6) Install all new TPO plumbing and exhaust flashings
- 7) Re install existing counter flash at parapet walls
- 8) Seal all flashing with TPO water cut off mastic
- 9) Blow debris from roof surface
- 10) Remove and dispose of all debris from premises

Initial

CONTRACT PRICE: The Contract Price shall be \$35,847.00.

I understand and agree to the scope of the work

Customer Signature ("Owner")

CONTRACT PRICE TERMS AND CONDITIONS:

The Contract Price shall be payable as follows:

Down payment: A down payment of \$1,000.00 shall be payable when Contract is signed. Down payment may not exceed \$1,000 or ten percent (10%) of the contract price, whichever is less. The deposit is non-refundable upon expiration of the "Three-Day Right to Cancel" period as set forth herein.

Final payment: Balance is due upon completion of work; **Exception:** only 5% can be withheld from final payment when job is complete, and downspouts are still waiting to be done.

Other fees: Cash, check or credit card payments are accepted however, **credit card payments will incur a 3% fee** and there will be a \$25- fee for returned checks. As a courtesy, MRS provides each customer a folder containing all the documents related to your roofing project upon completion including a copy of this contract, any change orders, invoices, and warranty information. Should you need additional copies, there will be a \$25.00 administration fee. Sometimes homeowner's fire alarm must be inspected by a Fire Chief per Bldg. Dept. If this is the case, the customer will be charged the extra fee that the Bldg. Dept imposes. (Approx. \$40-).

Final payment is NOT contingent on final inspection signed off from Building Department for permit. Any balance not paid in full at time of final invoice will be charged 1.5% interest per month till payment is made in full.

NOTICE OF CANCELLATION: The Notice of Cancellation may be sent to MRS at the following business address: PO Box 549, Diamond Springs, CA 95619.

PERFORMANCE BY MRS:

MRS performance shall be based upon contract processing and the following terms and conditions.

Approximate Start Date: Substantial commencement of work under this Contract shall be defined as the date upon which MRS begins performing its scope of work on the physical job site. Weather permitting and all other conditions having been met (including the ability to acquire materials necessitated for MRS performance), MRS shall exercise best efforts to substantially commence work on or about _____. **(Date to be filled in upon signing of contract.)**

Approximate Completion Date: Work should be completed in approximately _____ business days after commencement.

Substantial Completion: Performance under this Contract will be substantially complete when the project is completed to the point where Owner can use it for its intended purpose.

MRS reserves the right to leave job unfinished due to hostile work environment.

All pages of contract must be signed and/or initialed, along with down payment and returned before commencement of job scheduling. You are entitled to a filled in copy of this Contract, signed by both you and Mountain Roofing Systems before any work may be started.

PLEASE INITIAL YOUR PREFERENCE TO THE FOLLOWING STATEMENTS:

It is ok to use pictures of my home in advertisements including print and online.

YES ☐ NO ☒

It is ok to include my information on the MRS reference list.

YES ☐ NO ☒

The law requires that the contractor give you a notice explaining your right to cancel. Initial here if the contractor has given you a "Notice of the Three-Day Right to Cancel."

Initial ☒

I understand the above proposal and agree to its specifications and pricing:

Building Owner

Customer Signature ("Owner")

Date

4/25/23

Respectfully submitted,

Authorized Signature

Mountain Roofing Systems

Date

NOTE ON EXTRA WORK AND CHANGE ORDERS:

Owner may not require MRS to perform extra or change-order work without providing written authorization prior to the commencement of work covered by the new change order, and any such change order so signed by the parties shall become incorporated into this Contract. This bid is based on the knowledge that there is only one layer of roofing to be removed; additional layers will be charged at an additional fee. If MRS runs into dry rot or other extra work not included in this original contract, MRS will make every effort to notify you (the Owner) of any extra work/cost needed. Dry rot or damaged lumber will be replaced on a time and materials basis at the rate of \$180.00 per man hour plus the cost of materials. Extra work and change orders become part of the Contract once the order is prepared in writing and signed by the parties prior to the commencement of work covered by the new order. The order must describe the scope of the extra work or change and the cost to be added or subtracted from the Contract. If there are ducts in the attic, the insulation may need to be brought up to the current code of R-38 unless cool shingles are installed on roof. MRS will provide this service if not already addressed in contract herein, for an additional fee pursuant to a written change order. MRS failure to comply with the requirements of this paragraph does not preclude the recovery of compensation for work performed based upon legal or equitable remedies designed to prevent unjust enrichment.

WARRANTY INFORMATION:

All workmanship carries a five (5) year warranty and conforms to all local codes and meets manufacturer's specifications. The workmanship warranty is nontransferable without prior written consent from MRS. MRS will not warranty defects in the material or the design. MRS expressly refuses any and all liability associated with the design of the roof system. This workmanship warranty does not include damage to roof, gutters or gutter guard caused by wind, lightning, hailstorms, ice dams, earthquakes, or other causes beyond our control. MRS is not responsible for roof failure due to inadequate roof ventilation. The warranty is null & void if any alterations are done to MRS's completed roof project as set forth herein. Warranties are null and void if contract is not paid in full.

DISCLAIMERS:

The Owner will be responsible for the cost of materials in the event of color change or job cancellation in addition to any other applicable costs. At times, it becomes necessary to leave equipment on the job site i.e., ladders, trucks, trailers. MRS is not responsible for property damage or injury caused from unauthorized use of said equipment. It will be necessary for heavy trucks and or equipment to be on and around your property during the re-roofing process; MRS accepts no liability for damages to driveway, deck, landscaping, etc. MRS will make every effort and follow precautions to prevent damage if possible. Should a satellite dish be present, and roof mounted, it will need to be removed by homeowner or MRS for the re-roofing process and will be the responsibility of the homeowner to have it properly realigned. Owner shall give MRS access to all areas of the property necessary to complete the installation of the work described herein. County code states that the nails must penetrate on the overhang leaving a little bump. While we will use the shortest nail possible to alleviate large bumps, MRS is not liable for unsightly bumps on overhang. If at any time Asbestos is found on this project, the Owner will be responsible for testing and abatement costs pursuant to change order. This contract shall not be assigned without prior written consent of MRS. MRS commencement of roof installation indicates only that MRS has visually inspected the top surface of the roof deck for visible defects. MRS shall not be liable for the structural sufficiency, quality of construction, undulation, or moisture content of the roof deck. MRS refuses all liability for claims or disputes arising out of mold, mildew, algae, or other forms of microbial growth (Mold) on the project, including disputes arising out or relating to mold. The customer is solely liable and responsible for all damages caused by mold and incurred by any part. MRS will use reasonable efforts to prevent water intrusion during re-roofing but if mold occurs, MRS shall not be liable. While MRS is providing methods to employees to prevent the spread of COVID-19, MRS releases any and all liability for unintentional exposure or harm due to COVID-19.

WORKERS COMPENSATION & GENERAL LIABILITY INSURANCE:

MRS carries Workers' Compensation, General Liability and Commercial auto insurance, but MRS does not assume risk of any character under this Contract other than those covered by such insurance policies. A notice concerning MRS's Workers' Compensation, General Liability and Commercial Auto Insurance is attached to this Contract. MRS shall not be responsible for damage or delays due to strikes, fires, accident, acts of God, or other causes beyond its control.

DISPUTE RESOLUTION PROCEDURES:

In the event of any dispute or controversy regarding the rights and obligations of the parties hereunder, the parties shall meet and confer in a good faith effort to settle and resolve their differences. In the event that the parties cannot informally resolve their dispute, the parties agree to participate in mediation (with each party to pay for one-half of the mediation fees) prior to instituting arbitration. Should mediation fail to resolve the dispute, the parties agree to submit the dispute to binding arbitration pursuant to the arbitration rules of the American Arbitration Association.

ATTORNEYS' FEES:

In the event legal action is necessary to defend, enforce or interpret any of the provisions of this Contract, the prevailing party shall be entitled to recover all costs and reasonable attorneys' fees incurred in connection therewith.

I agree to the legal specifications of this contract:

Building Owner: _____

Customer Signature ("Owner") _____

Date

4/25/23

CSLB REGULATIONS:

Information about the Contractors' State License Board (CSLB): CSLB is the state consumer protection agency that licenses and regulates construction contractors.

Contact CSLB for information about the licensed contractor you are considering, including information about disclosable complaints, disciplinary actions, and civil judgments that are reported to CSLB.

Use only licensed contractors. If you file a complaint against a licensed contractor within the legal deadline (usually four years), CSLB has authority to investigate the complaint. If you use an unlicensed contractor, CSLB may not be able to help you resolve your complaint. Your only remedy may be in civil court, and you may be liable for damages arising out of any injuries to the unlicensed contractor or the unlicensed contractor's employees. For more information:

CONTRACTOR STATE LICENSE BOARD

PO BOX 26000

SACRAMENTO, CA 95826

1-800-321-2752

WWW.CSLB.CA.GOV

CONTRACTOR TERMINATION:

If Owner fails to perform its obligations set forth herein, MRS shall have the right to declare Owner to be in default under this Contract, claim any payments made to be partial payments, cease all further work on the project, and pursue all other legal rights and remedies available by law or in equity. Inasmuch as damages in the event of Owner's breach of this Contract are difficult to ascertain and often entail specially ordered materials, it is understood and agreed that if Owner shall fail to accept delivery or installation of the work and/or materials listed herein, that Owner shall, at MRS's election, pay to MRS thirty-percent (30%) of the price of this Contract as liquidated damages. However, nothing set forth herein shall be construed to prevent Contractor from recovering the full cash sale price for any items delivered or installed.

ENTIRE AGREEMENT:

This Contract constitutes the entire agreement between the parties hereunder pertaining to the subject matter contained herein and supersedes all prior and contemporaneous agreements, representations, and understandings of the parties. No supplement, modification, or amendment of this Contract shall be binding unless executed in writing by both parties. No waiver of any of the provisions of this Contract shall be deemed, or shall constitute, a waiver of any other provision, whether or not similar, nor shall any waiver constitute a continuing waiver. No waiver shall be binding unless executed in writing by the Party making the waiver.

SEVERABILITY:

If any provision of this Contract is held invalid or unenforceable by any court of appropriate jurisdiction, it is the intent of the parties hereunder that all other provisions of this Contract be construed to remain fully valid, enforceable, and binding on the parties.

SUCCESSOR IN INTEREST:

This Contract shall be binding on, and shall inure to the benefit of, the parties hereunder to it and their respective heirs, legal representatives, successors, and assigns.

GOVERNING LAW:

This Contract is entered into in the State of California and shall be governed and enforced in all respects by the laws of the State of California applicable to contracts made and to be performed in the State of California.

PERFORMANCE & PAYMENT BOND:

Owner has the right to require MRS to have a performance and payment bond.

LIST OF DOCUMENTS INCORPORATED INTO THE CONTRACT:

The following documents are hereby incorporated into and are made a part of the Contract as though set forth in full: (1) Building Owner Re-Roof Notice, (2) Notice of Three-Day Right to Cancel, (3) Notice of Three-Day Right to Cancel (in duplicate), and (4) Change Order Form.

I understand the terms of this agreement and my rights,

Building Owner:

Customer Signature ("Owner")

Date

4/25/23



License # 959403
PO Box 549, Diamond Springs, CA 95619
Phone: 530-647-0653 / Fax: 530-644-5727
Mountainroofingsystems.net

NOTICE OF RIGHT TO CANCEL Notice of Cancellation

Regarding date of signed contract herein

You may cancel this transaction, without any penalty or obligation, within three business days from the date of contract signed herein.

If you cancel any property traded in, any payments made by you under the contract or sale, and any negotiable instrument executed by you will be returned within 10 days following receipt by the seller of your cancellation notice and any security interest arising out of the transaction will be canceled.

If you cancel, you must make available to the seller at your residence, in as good condition as when received, any goods delivered to you under this contract or sale, or you may, if you wish, comply with the instructions of the seller regarding the return shipment of the goods at the seller's expense and risk.

If you do make the goods available to the seller and the seller does not pick them up within 20 days of the date of your notice of cancellation, you may retain or dispose of the goods without any further obligation.

If you fail to make the goods available to the seller or if you agree to return the goods to the seller and fail to do so, then you remain liable for performance of all obligations under the contract.

To cancel this transaction, mail (PO Box 549, Diamond Springs, CA 95619) or deliver a signed and dated copy of this cancellation notice, or any other written notice, or send an e-mail to contact@mountainroofingsystems.net.

Mountain Roofing Systems

(Name of Seller)

4640 Chrome Ridge Ct, Placerville, CA 95667

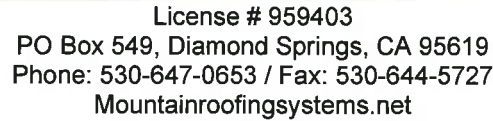
(Address of Seller's place of business)

Not later than midnight of the date on signed contract herein

I hereby cancel this transaction

(Date)

(Buyer's signature)



Regarding date of signed contract herein

To cancel this transaction, mail (PO Box 549, Diamond Springs, CA 95619) or deliver a signed and dated copy of this cancellation notice, or any other written notice, or send an e-mail to contact@mountainroofingsystems.net.

(Buyer's signature)



License #959403
PO Box 549, Diamond Springs, CA 95619
Office phone: 530-647-0653 / Fax: 530-644-5727
Mountainroofingsystems.net

Building Owner Re-Roof Alert Notice

Dear Building Owner:

We value our customers at Mountain Roofing Systems and in doing so we put together this list to help you prepare for your upcoming re-roof project. It is important to be available to help assure all goes well for your upcoming project. Please read and sign that you have read and understand these alerts.

1. Please notify us of any valuable shrubs, plants, trees, etc. you would like special protection of; as well as any underground pipes, conduits, sprinkler systems etc. so we can be sure to take the precautions to not damage any unseen utilities.
2. The re-roof process can vibrate and shake loose things you value; please secure any wall hangings, i.e., pictures, plates, paintings, breakable shelves with knick-knacks, etc. that can be damaged by this process. Mountain Roofing Systems will not be liable for such damage.
3. Please park cars away from driveways and out of garages to allow full access during the roofing process.
4. Regarding dry rot, it is often unseen until after the roof is torn off. We will inspect materials before proceeding and inform you of any extra incurred cost should they arise. Please make sure you are available during this process, so we may proceed as soon as possible. Due to State building codes that Mountain Roofing Systems is liable for, a new roof cannot be put on any known dry rot.
5. **Please Note: In the event a change order needs to be done due to unforeseen costs, you as the Building Owner is responsible to be available to understand and sign the change order. If for whatever reason we are not able to contact the Building Owner regarding changes, Mountain Roofing Systems has the right to continue construction with change order in place to finish project in a timely manner and all costs including unsigned change order will be due at the end of the project pursuant to the applicable contract.**

We would like to thank you for this opportunity and look forward to working with you.

I have read and understood:

Building Owners:


(Customers Signature ("Owner"))

Date



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

PROVISIONING CONTRACT

THIS PROVISIONING CONTRACT (this "**Contract**") is made and entered into as July 1, 2023, by and between BIG WEST

("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 Food end products, commercial food products, Dairy, Paper, Produce, Linens, and Frozen Yogurt via Request for Proposal Number 2023-2024-01 (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)

The "Provisioner" has won the following bid proposals

2023-24-01 Frozen Yogurt

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.

And 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

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 Vendor Pricing 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 awarded by the San Mateo Foster City School District:

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, 2023 to June 30, 2024. 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, 2028. Quoted prices must stay in effect for one (1) year beginning on July 1, 2023 through June 30, 2024. 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 6 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 [M/MA], 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 an M/MA 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.

In compliance with this policy, the Nutrition Director or designee 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 Nutrition Director or designee will be ensured by:

- Including the Buy American Provision requirement in food 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 will 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 Memorandum 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 as determined by the price being at least 15% higher.

Note: Ingredients used to flavor, enhance, or prepare products (e.g., oil, yeast, spices, condiments, salad dressing) must also comply with the Buy American Provision requirement **only if** the first ingredient (or second after water) is one of the five components (breads/grains, fruits, vegetables, M/MA, and fluid milk) that contribute to a reimbursable meal. If the first ingredient in these products is not one of the five components that contribute to a reimbursable meal, the product does not have to comply with the Buy American Provision requirement. For example, catsup with tomato paste as the first ingredient must comply with the Buy American Provision requirement since tomato paste is creditable as a red/orange vegetable, **even though catsup is not a creditable item**. Mustard with distilled white vinegar as the first ingredient does not need to comply with the Buy American Provision requirement since vinegar is not a component that contributes to a reimbursable meal. Additionally, nonagricultural products such as paper, water, packaging, and labor do not need to comply with the Buy American Provision requirement.

The Nutrition Director or designee 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 the current year plus three years, 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 Nutrition Director or designee considered or the vendor offered and the reason they were not substituted for the nondomestic item

- A synopsis of what third-party verification (e.g., USDA Agricultural Marketing Service 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 Nutrition Director or designee to determine cost and availability
- Documentation by the vendor or the Nutrition Director or designee 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 Nutrition Director or designee of the nondomestic commodity or product, (2) Nutrition Director or designee agreed to accept this food item in advance of delivery, and (3) commodity or product was received by the Agency

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 12 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 x **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 45125.1.

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

9/4/23

Address:

2390 Bass Lake Road
Rescue, CA 95672

Phone No.: 530-672-4445

FAX No.: 530-677-4098

PROVISIONER:

(Insert Provisioner Name) [Click here to enter text.](#)
Big West Distribution

By: 

(Title): [Click here to enter text.](#)
V.P Of Sales

Address: Po Box 4348
El Dorado Hills, ca 95762
[Click here to enter text.](#)
[Click here to enter text.](#)

Phone No.: [Click here to enter text.](#)
916.231.0395

FAX No.: [Click here to enter text.](#)

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



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



May 5, 2023

Big West Distribution
Attn: Keith Sansone
P.O. Box 4348
El Dorado Hills, CA 95762

SUBJECT: RFP 2023-24-01 Bid **AWARD**

Thank you for submitting your Bid to the Rescue Union School District and Buckeye Union School District Joint Use Agreement for the upcoming School year. We are pleased to announce the Bid items that have been awarded to your company:

Frozen Yogurt

Attached please find a copy of our District's Student Calendars indicating the Following starting dates:

Buckeye Union School Districts starts August 9, 2023
Rescue Union School District starts August 9, 2023

Please submit an Insurance Certificate, signed by an authorized representative of the insurance carrier no later than 30 days after each District's board approval, which is May 9, 2023, or prior to the first delivery of products, whichever occurs first. (See page 26 of RFP)

Thank you,
Kim Andreasen
Kim Andreasen
Director of Food Services

Rescue Union School District
Attn: Kim Andreasen, Director of Food Services
2390 Bass Lake Road
Rescue, CA 95672
530-672-4445

Buckeye Union School District
Attn: Kim Andreasen, Director of Food Services
5049 Robert J. Mathews Parkway
El Dorado Hills, CA 95762
530-677-2277 Ext. 1248

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

PROVISIONING CONTRACT

THIS PROVISIONING CONTRACT (this “Contract”) is made and entered into as July 1, 2023, by and between Frances 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 Food end products, commercial food products, Dairy, Paper, Produce, Linens, and Frozen Yogurt via Request for Proposal Number 2023-2024-01 (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)

The “Provisioner” has won the following bid proposals

2023-24-01 Dairy Products

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.

And 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

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 Vendor Pricing 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 awarded by the San Mateo Foster City School District:

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, 2023 to June 30, 2024. 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, 2028. Quoted prices must stay in effect for one (1) year beginning on July 1, 2023 through June 30, 2024. 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 6 shall survive the expiration or earlier termination of this Contract.

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

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exceptions in advance of accepting deliveries. Implementation of the Buy American Provision by Nutrition Director or designee will be ensured by:

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- Requiring suppliers to provide certification of domestic origin for all food products, from bids and proposals through receipts and invoices
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- Competitive bids reveal the costs of a United States product are significantly higher than the nondomestic product as determined by the price being at least 15% higher.

Note: Ingredients used to flavor, enhance, or prepare products (e.g., oil, yeast, spices, condiments, salad dressing) must also comply with the Buy American Provision requirement **only if** the first ingredient (or second after water) is one of the five components (breads/grains, fruits, vegetables, M/MA, and fluid milk) that contribute to a reimbursable meal. If the first ingredient in these products is not one of the five components that contribute to a reimbursable meal, the product does not have to comply with the Buy American Provision requirement. For example, catsup with tomato paste as the first ingredient must comply with the Buy American Provision requirement since tomato paste is creditable as a red/orange vegetable, **even though catsup is not a creditable item**. Mustard with distilled white vinegar as the first ingredient does not need to comply with the Buy American Provision requirement since vinegar is not a component that contributes to a reimbursable meal. Additionally, nonagricultural products such as paper, water, packaging, and labor do not need to comply with the Buy American Provision requirement.

The Nutrition Director or designee 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 the current year plus three years, 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 Nutrition Director or designee considered or the vendor offered and the reason they were not substituted for the nondomestic item

- A synopsis of what third-party verification (e.g., USDA Agricultural Marketing Service 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 Nutrition Director or designee to determine cost and availability
- Documentation by the vendor or the Nutrition Director or designee 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 Nutrition Director or designee of the nondomestic commodity or product, (2) Nutrition Director or designee agreed to accept this food item in advance of delivery, and (3) commodity or product was received by the Agency

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 12 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.

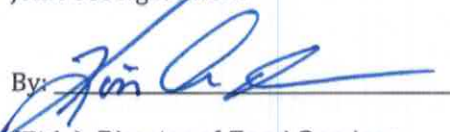
20. Waiver. No action or failure to act by the District or any District representative shall constitute a waiver of a right or duty afforded them under this Contract, nor shall such action or failure to act constitute approval of, or acquiescence in, a breach there under, except as may be specifically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

(Insert Provisioner Name) FRANCIS DISTRIBUTING INC.

By: JASON PLATH
(Title): General Manager

Address:

6188 ENTERPRISE DR. 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 School District And Buckeye Union School District Joint Use Agreement



May 5, 2023

Francis Distributing Inc.
Attn: Brian Francis
6188 Enterprise Drive Ste. D
Diamond Springs, CA 95619

SUBJECT: RFP 2023-24-01 Bid **AWARD**

Thank you for submitting your Bid to the Rescue Union School District and Buckeye Union School District Joint Use Agreement for the upcoming School year. We are pleased to announce the Bid items that have been awarded to your company:

Dairy

Attached please find a copy of our District's Student Calendars indicating the Following starting dates:

Buckeye Union School Districts starts August 9, 2023
Rescue Union School District starts August 9, 2023

Please submit an Insurance Certificate, signed by an authorized representative of the insurance carrier no later than 30 days after each District's board approval, which is May 9th, 2023, or prior to the first delivery of products, whichever occurs first. (See page 26 of RFP)

Thank you,

Kim Andreasen

Kim Andreasen
Director of Food Services

Rescue Union School District
Attn: Kim Andreasen, Director of Food Services
2390 Bass Lake Road
Rescue, CA 95672
530-672-4445

Buckeye Union School District
Attn: Kim Andreasen, Director of Food Services
5049 Robert J. Mathews Parkway
El Dorado Hills, CA 95762
530-677-2277 Ext. 1248

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

PROVISIONING CONTRACT

THIS PROVISIONING CONTRACT (this “**Contract**”) is made and entered into as July 1, 2023, 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 Food end products, commercial food products, Dairy, Paper, Produce, Linens, and Frozen Yogurt via Request for Proposal Number 2023-2024-01 (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)

The “Provisioner” has won the following bid proposals

**2023-24-01 Commodity Distribution
2023-24-01 Commercial Grocery**

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.

And 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

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 Vendor Pricing 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 awarded by the San Mateo Foster City School District:

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, 2023 to June 30, 2024. 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, 2028. Quoted prices must stay in effect for one (1) year beginning on July 1, 2023 through June 30, 2024. 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 6 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 [M/MA], 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 an M/MA 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.

In compliance with this policy, the Nutrition Director or designee 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 Nutrition Director or designee will be ensured by:

- Including the Buy American Provision requirement in food 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 will 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 Memorandum 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 as determined by the price being at least 15% higher.

Note: Ingredients used to flavor, enhance, or prepare products (e.g., oil, yeast, spices, condiments, salad dressing) must also comply with the Buy American Provision requirement **only if** the first ingredient (or second after water) is one of the five components (breads/grains, fruits, vegetables, M/MA, and fluid milk) that contribute to a reimbursable meal. If the first ingredient in these products is not one of the five components that contribute to a reimbursable meal, the product does not have to comply with the Buy American Provision requirement. For example, catsup with tomato paste as the first ingredient must comply with the Buy American Provision requirement since tomato paste is creditable as a red/orange vegetable, **even though catsup is not a creditable item**. Mustard with distilled white vinegar as the first ingredient does not need to comply with the Buy American Provision requirement since vinegar is not a component that contributes to a reimbursable meal. Additionally, nonagricultural products such as paper, water, packaging, and labor do not need to comply with the Buy American Provision requirement.

The Nutrition Director or designee 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 the current year plus three years, 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 Nutrition Director or designee considered or the vendor offered and the reason they were not substituted for the nondomestic item

- A synopsis of what third-party verification (e.g., USDA Agricultural Marketing Service 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 Nutrition Director or designee to determine cost and availability
- Documentation by the vendor or the Nutrition Director or designee 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 Nutrition Director or designee of the nondomestic commodity or product, (2) Nutrition Director or designee agreed to accept this food item in advance of delivery, and (3) commodity or product was received by the Agency

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 it is 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 12 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

(Insert Provisioner Name) [Click here to enter text.](#)

By: 
(Title): [Click here to enter text.](#)

Address:

[Click here to enter text.](#) 3781 E. Airport Drive,
[Click here to enter text.](#) Ontario, CA 91761

Phone No.: [Click here to enter text.](#) 909-843-9600

FAX No.: [Click here to enter text.](#) 909-843-9658

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





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



May 5, 2023

Gold Star Foods
Attn: John Cho
3781 E. Airport Drive
Ontario, CA 91761

SUBJECT: RFP 2023-24-01 Bid **AWARD**

Thank you for submitting your Bid to the Rescue Union School District and Buckeye Union School District Joint Use Agreement for the upcoming School year. We are pleased to announce the Bid items that have been awarded to your company:

Commodity Distribution Commercial Food Products

Attached please find a copy of our District's Student Calendars indicating the Following starting dates:

Buckeye Union School Districts starts August 9, 2023
Rescue Union School District starts August 9, 2023

Please submit an Insurance Certificate, signed by an authorized representative of the insurance carrier no later than 30 days after each District's board approval, which is May 9th, 2023, or prior to the first delivery of products, whichever occurs first. (See page 26 of RFP)

Thank you,
Kim Andreasen
Kim Andreasen

Rescue Union School District
Attn: Kim Andreasen, Director of Food Services
2390 Bass Lake Road
Rescue, CA 95672
530-672-4445

Buckeye Union School District
Attn: Kim Andreasen, Director of Food Services
5049 Robert J. Mathews Parkway
El Dorado Hills, CA 95762
530-677-2277 Ext. 1248

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

PROVISIONING CONTRACT

THIS PROVISIONING CONTRACT (this "**Contract**") is made and entered into as July 1, 2023, by and between P & R Paper

(**"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 Food end products, commercial food products, Dairy, Paper, Produce, Linens, and Frozen Yogurt via Request for Proposal Number 2023-2024-01 (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)

The "Provisioner" has won the following bid proposals

2023-24-01 Paper Products

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.

And 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

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 Vendor Pricing 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 awarded by the San Mateo Foster City School District:

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, 2023 to June 30, 2024. 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, 2028. Quoted prices must stay in effect for one (1) year beginning on July 1, 2023 through June 30, 2024. 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 6 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 [M/MA], 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 an M/MA 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.

In compliance with this policy, the Nutrition Director or designee 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 Nutrition Director or designee will be ensured by:

- Including the Buy American Provision requirement in food 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 will 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 Memorandum 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 as determined by the price being at least 15% higher.

Note: Ingredients used to flavor, enhance, or prepare products (e.g., oil, yeast, spices, condiments, salad dressing) must also comply with the Buy American Provision requirement **only if** the first ingredient (or second after water) is one of the five components (breads/grains, fruits, vegetables, M/MA, and fluid milk) that contribute to a reimbursable meal. If the first ingredient in these products is not one of the five components that contribute to a reimbursable meal, the product does not have to comply with the Buy American Provision requirement. For example, catsup with tomato paste as the first ingredient must comply with the Buy American Provision requirement since tomato paste is creditable as a red/orange vegetable, **even though catsup is not a creditable item**. Mustard with distilled white vinegar as the first ingredient does not need to comply with the Buy American Provision requirement since vinegar is not a component that contributes to a reimbursable meal. Additionally, nonagricultural products such as paper, water, packaging, and labor do not need to comply with the Buy American Provision requirement.

The Nutrition Director or designee 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 the current year plus three years, 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 Nutrition Director or designee considered or the vendor offered and the reason they were not substituted for the nondomestic item

- A synopsis of what third-party verification (e.g., USDA Agricultural Marketing Service 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 Nutrition Director or designee to determine cost and availability
- Documentation by the vendor or the Nutrition Director or designee 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 Nutrition Director or designee of the nondomestic commodity or product, (2) Nutrition Director or designee agreed to accept this food item in advance of delivery, and (3) commodity or product was received by the Agency

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 12 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:

(Insert Provisioner Name) Click here to enter text.

P&R Paper Supply

By: 

(Title): Director of Internal Sales

Address:

Click here to enter text.

Click here to enter text.

1898 E. Colton Ave.
Redlands, CA 92374

Phone No.: Click here to enter text. (909) 794-1108

FAX No.: Click here to enter text. (909) 794-1237

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



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



May 5, 2023

P & R Paper.
Attn: Lindsey Ineichen
1898 E. Colton Ave.
Redlands, CA 92374

SUBJECT: RFP 2023-24-01 Bid **AWARD**

Thank you for submitting your Bid to the Rescue Union School District and Buckeye Union School District Joint Use Agreement for the upcoming School year. We are pleased to announce the Bid items that have been awarded to your company:

Paper Products

Attached please find a copy of our District's Student Calendars indicating the Following starting dates:

Buckeye Union School Districts starts August 9, 2023
Rescue Union School District starts August 9, 2023

Please submit an Insurance Certificate, signed by an authorized representative of the insurance carrier no later than 30 days after each District's board approval, which is May 9, 2023, or prior to the first delivery of products, whichever occurs first. (See page 26 of RFP)

Thank you,
Kim Andreasen
Kim Andreasen
Director of Food Services

Rescue Union School District
Attn: Kim Andreasen, Director of Food Services
2390 Bass Lake Road
Rescue, CA 95672
530-672-4445

Buckeye Union School District
Attn: Kim Andreasen, Director of Food Services
5049 Robert J. Mathews Parkway
El Dorado Hills, CA 95762
530-677-2277 Ext. 1248

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

PROVISIONING CONTRACT

THIS PROVISIONING CONTRACT (this “Contract”) is made and entered into as July 1, 2023, by and between Pro Pacific Fresh

(“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 Food end products, commercial food products, Dairy, Paper, Produce, Linens, and Frozen Yogurt via Request for Proposal Number 2023-2024-01 (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)

The “Provisioner” has won the following bid proposals

2023-24-01 Produce

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.

And 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

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 Vendor Pricing 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 awarded by the San Mateo Foster City School District:

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, 2023 to June 30, 2024. 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, 2028. Quoted prices must stay in effect for one (1) year beginning on July 1, 2023 through June 30, 2024. 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 6 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 [M/MA], 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 an M/MA 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.

In compliance with this policy, the Nutrition Director or designee 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 Nutrition Director or designee will be ensured by:

- Including the Buy American Provision requirement in food 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 will 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 Memorandum 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 as determined by the price being at least 15% higher.

Note: Ingredients used to flavor, enhance, or prepare products (e.g., oil, yeast, spices, condiments, salad dressing) must also comply with the Buy American Provision requirement **only if** the first ingredient (or second after water) is one of the five components (breads/grains, fruits, vegetables, M/MA, and fluid milk) that contribute to a reimbursable meal. If the first ingredient in these products is not one of the five components that contribute to a reimbursable meal, the product does not have to comply with the Buy American Provision requirement. For example, catsup with tomato paste as the first ingredient must comply with the Buy American Provision requirement since tomato paste is creditable as a red/orange vegetable, **even though catsup is not a creditable item**. Mustard with distilled white vinegar as the first ingredient does not need to comply with the Buy American Provision requirement since vinegar is not a component that contributes to a reimbursable meal. Additionally, nonagricultural products such as paper, water, packaging, and labor do not need to comply with the Buy American Provision requirement.

The Nutrition Director or designee 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 the current year plus three years, 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 Nutrition Director or designee considered or the vendor offered and the reason they were not substituted for the nondomestic item

- A synopsis of what third-party verification (e.g., USDA Agricultural Marketing Service 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 Nutrition Director or designee to determine cost and availability
- Documentation by the vendor or the Nutrition Director or designee 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 Nutrition Director or designee of the nondomestic commodity or product, (2) Nutrition Director or designee agreed to accept this food item in advance of delivery, and (3) commodity or product was received by the Agency

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 12 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 Yes 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 45125.1.


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 thereunder, 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: Chico Produce DBA Propacific Fresh

(Insert Provisioner Name) [Click here to enter text.](#)

By: 
Vice President Sales
(Title): [Click here to enter text.](#)

Address:

[Click here to enter text.](#) 70 Pepsi Way
[Click here to enter text.](#) Durham, CA 95938

Phone No.: [Click here to enter text.](#) 530-893-0596

FAX No.: [Click here to enter text.](#) 530-893-0679

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



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



May 5, 2023

Pro Pacific Fresh
Attn: Tony Knight
70 Pepsi Way
Durham, CA 95938

SUBJECT: RFP 2023-24-01 Bid **AWARD**

Thank you for submitting your Bid to the Rescue Union School District and Buckeye Union School District Joint Use Agreement for the upcoming School year. We are pleased to announce the Bid items that have been awarded to your company:

Produce

Attached please find a copy of our District's Student Calendars indicating the Following starting dates:

Buckeye Union School Districts starts August 9, 2023

Rescue Union School District starts August 9, 2023

Please submit an Insurance Certificate, signed by an authorized representative of the insurance carrier no later than 30 days after each District's board approval, which is May 9, 2023, or prior to the first delivery of products, whichever occurs first. (See page 26 of RFP)

Thank you,

Kim Andreasen

Kim Andreasen
Director of Food Services

Rescue Union School District
Attn: Kim Andreasen, Director of Food Services
2390 Bass Lake Road
Rescue, CA 95672
530-672-4445

Buckeye Union School District
Attn: Kim Andreasen, Director of Food Services
5049 Robert J. Mathews Parkway
El Dorado Hills, CA 95762
530-677-2277 Ext. 1248



Rescue Union School District CHILD NUTRITION PROGRAMS PROCUREMENT PROCEDURES

This procurement plan contained on the following pages 1 through 12 will be implemented on February 1, 2023 from that date forward until amended. All procurement must adhere to free and open competition. District Food Nutrition staff must retain all documentation for procurement per regulations.

X *Kim Andreasen*

Authorized Signature*

1/24/23

Amended Date

Kim Andreasen

Director of Food and Nutrition Services
Rescue Union School District
2390 Bass Lake Road
Rescue, CA 95672

*Authorized Representative on RUSD's Food Program Permanent Service Agreement

Amended 1/24/23

Rescue Union School District

PROCUREMENT PROCEDURES

Rescue Union School District (RUSD) Nutrition Services will purchase goods, products, and/or services for use in the Child Nutrition Programs (CNP) in compliance with 2 CFR Part 200 and State Law using the procedures outlined as follows.

The primary purpose of this procurement plan is to ensure that open and free competition exists to the maximum extent possible. The procurement process practiced by the RUSD Nutrition Services Department must not restrict or eliminate competition (2 CFR Part 200.319(a)(1-7)).

Some of these situations include but are not limited to:

- Placing unreasonable requirements on firms in order for them to qualify to do business
- Requiring unnecessary experience and excessive bonding
- Organizational conflicts of interest
- Specifying only a brand name product instead of allowing an equivalent product to be offered
- Any arbitrary action in the procurement process

When a procurement has been properly conducted, and there is only one respondent, Agency will evaluate the scope of work or services requested to determine whether they were too restrictive by contacting potential respondents who did not participate, and by reviewing the requested services for possible modification. Agency will then resolicit. If, after the second solicitation, there is only one respondent, Agency will move forward with that award. Competition helps assure that goods, products, and/or services will be obtained that best meets the needs of the CNP.

New procurement procedures do not need to be developed every year. However, an annual review of the procurement program will be done to assure its relevance to current procedures.

It will be the responsibility of the Food Service Director to evaluate the procurement needs and forecast the amounts to be purchased so the correct method of procurement will be followed.

Director of Food Services will perform a cost analysis in connection with every procurement action in excess of the current Maximum Acquisition Threshold in effect by the California Department of Education including modifications prior to solicitation. (2 CFR Part 200.323(a))

Small and Minority Businesses, Women's Business Enterprises (2 CFR Part 200.321)

The Agency FSD or designee will ensure that minority businesses, women's business enterprises, and labor surplus area firms are used when possible by taking the following affirmative steps:

- Placing qualified small and minority businesses and women's business enterprises on solicitation lists.
- Assuring that small and minority businesses and women's business enterprises are solicited whenever they are potential sources.
- Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority businesses, and women's business enterprises.
- Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority businesses, and women's business enterprises

- Using the services and assistance, as appropriate, of organizations such as the Small Business Administration and the Minority Business Development Agency of the Department of Commerce.
- Requiring the prime contractor, if subcontracts are to be let, to take the affirmative steps listed in paragraphs (1) through (5) of this section

The Rescue Union School District entity alone must be responsible, in accordance with good administrative practice and sound business judgment, for the settlement of all contractual and administrative issues arising out of procurements. These issues include, but are not limited to, source evaluation, protests, disputes, and claims. These standards do not relieve the non-Federal entity of any contractual responsibilities under its contracts. The Federal awarding agency will not substitute its judgment for that of the non-Federal entity unless the matter is primarily a Federal concern. Violations of law will be referred to the local, state, or Federal authority having proper jurisdiction. (2 CFR 200.318(k))

METHODS OF PROCUREMENT

Three methods of procurement are to be used based on the aggregate dollar amount of supplies or services being purchased as outlined in 2 CFR 200.318-.326. For purchases not exceeding **\$50,000**; procurement by micro purchases shall be utilized. For purchases not exceeding **\$250,000** but greater than **\$50,000**, procurement by small purchase procedures shall be utilized. For purchases in excess of the California Department of Education simplified acquisition threshold (currently valued at \$250,000) procurement by sealed bids or procurement by competitive proposals shall be utilized.

1. Micro-purchase Method (2 CFR, Section 200.320[a])

Micro-purchases may be awarded without soliciting competitive quotations or comparing prices among qualified suppliers if the following two conditions are met:

- The aggregate value of a single transaction is \$50,000 or less, effective December 15, 2021. As a public institution, this agency self-certifies annually for a micro-purchasing threshold of \$50,000, consistent with State law. Justification for the higher threshold includes staffing shortages and ongoing supply chain issues as well as the increased cost of food due to inflation.
- Agency staff considers the price to be reasonable based on research, experience, purchase history or other information and documents accordingly. Documentation (e.g., receipts and invoices) must be maintained for three years plus the current program year or until the next program review, to document costs that are reasonable.

The Agency will try to distribute micro-purchases equitably among qualified suppliers to the extent practical.

Micro-purchases are not intended to be used to avoid a small, informal or formal procurement.

2. Small Purchase Method (2 CFR, Section 200.320[b])

The small purchase method is used to procure goods and services when the aggregate value of the purchase is equal to or less than the small purchase threshold adhered to by the Agency. The Agency

does not have a local small purchase threshold; therefore, the Agency is required to adhere to the federal small purchase threshold of \$250,000, effective August 1, 2018. The Agency will check the Federal Acquisition Regulation (FAR), Part 2, on the FAR web page at <https://www.acquisition.gov/?q=browsefar> annually on January 1 to verify the federal small purchase threshold.

The Agency will follow the following steps when conducting procurements using the small purchase method:

- **Step 1:** The Nutrition Director or designee will develop and provide a clear and accurate description of the technical requirements of the goods or services to be procured from potential sources per 2 *CFR*, Section 200.319(c)(1), including the requirement to comply with the Buy American Provision per 7 *CFR*, sections 210.21(d) and 220.16(d) when procuring food. The same specifications will be provided to each potential vendor so that each vendor can provide price quotes on the same goods or services.
- **Step 2:** Price or rate quotations will be obtained from a minimum of two responsible and responsive sources. Price quotes can be provided in writing via email or if provided verbally can be transcribed on to a written log that will be kept on file by the Nutrition Director or designee.

Agency Small Purchase Quotation forms and other forms of written quotes submitted by potential vendors will be retained by the Nutrition Director or designee with other related procurement documentation (e.g., invoices) for the term of the contract plus extensions and three additional school years, or until the next review, whichever is longer.

- **Step 3:** The Nutrition Director or designee will evaluate the written quotes received based on stated evaluation criteria in order to determine responsiveness.
- **Step 4:** The Nutrition Director or designee will evaluate the written responses and references received based on stated evaluation criteria to determine responsibility.
- **Step 5:** The Nutrition Director or designee will award small purchases to the lowest priced responsible and responsive vendor.
- **Step 6:** The Nutrition Director or designee will monitor the contract to ensure goods or services solicited for are the ones received and all deliverables are met per 2 *CFR*, Section 200.318(b) eff

3. Formal Purchase Methods (2 *CFR*, Section 200.320[c][d])

This method applies to the purchase of supplies or services when the aggregate dollar amount is in excess of the California Department of Education maximum threshold of **\$250,000 effective August 1, 2018**. Procurement by sealed bids is also referred to as an Invitation for Bid (IFB) and procurement by competitive proposals is also referred to as a Request for Proposal (RFP). Both methods could be used by this Agency. The Nutrition Director or designee will check the FAR, Part 2, web page at <https://www.acquisition.gov/?q=browsefar> annually on January 1 to verify the federal small purchase threshold.

The terms of the formal contracts will be for one year. Renewal options will be mutually agreed between Agency and the awarded contractor. If mutually agreeable, the District reserves the right to renew the contract for two (4) additional twelve (12) month periods not to exceed three (5) years. This renewal is contingent upon competitive pricing and upon all terms and conditions of the original contract having been met to the satisfaction of the District. Such renewal will be made by notifying the Distributor, in writing, thirty (30) days prior to the expiration of the contract. The percentage markup and the landed costs may be “subject to adjustment” at the beginning of each annual contract period. It is expressly understood that the contract rate increases are not automatic or guaranteed. The Distributor’s request to increase the current rate schedule will be evaluated and considered when such adjustments are requested. The District reserves the right to reject any such request and re-bid and/or terminate said contract within the provisions of the existing agreement. It is understood that increases in the manufacturer’s and/or processors landed costs to the Distributor are out of the control of the Distributor. Those price adjustments may be accepted or rejected by the District. Increases in the percentage markup price(s) in this RFP may not exceed the increase in the Consumer Price Index Urban for the San Francisco region or price increases verified by labor rate increases justified by increases in labor contracts or State of California Department of Industrial Relations prevailing wage rates. The specific index to be reviewed is the C.P.I. San Francisco, California for the month of [that month which is six (6) months prior to the contract’s annual end date] each year using the “Special Aggregate Index” category of “All Items Less Shelter” under the “All Urban Consumers” column.

- The Director of Food Services is the current Approving Authority for these types of purchases in the Child Nutrition Program.

The Agency will complete the following steps when conducting formal procurements:

- **Step 1:** The Nutrition Director or designee will describe how it performs a **cost or price analysis (2 CFR, Section 200.323)** for every procurement in excess of the federal small purchase threshold including contract modifications. The method and degree of analysis is dependent on the facts surrounding the particular procurement situation, but as a starting point, the Nutrition Director or designee will make independent estimates before receiving bids or proposals to ensure the bids or proposals received are reasonable.
- **Step 2:** The Nutrition Director or designee will develop a written solicitation, which will incorporate:
 - A clear and accurate description of the technical requirements for the goods or services to be procured per 2 CFR, sections 200.319(c)(1) and 200.320(c)(d).
 - The requirement to comply with the Buy American Provision per 7 CFR, sections 210.21(d) and 220.16(d)
 - All requirements that the offerers must fulfill and all other factors (IFBs and RFPs) and their relative importance (RFPs only) used in evaluating bids or proposals per 2 CFR, sections 200.319(c)(2) and 200.320(c)(d) to judge responsive and responsible firms

- Instructions for responding vendors
- The general terms and conditions of the contract
- **Step 3:** The Agency FSD or designee will advertise the solicitation in print and on the website a minimum of 14 days prior to the deadline for submission of bids and proposals. An advertisement in the local papers, Mountain Democrat and Sacramento Bee, is required for all purchases over the most restrictive simplified acquisition threshold. The announcement (advertisement or legal notice) will contain a general description of items to be purchased, the deadline for submission of sealed IFB's and RFP's and the address where complete specifications and other procurement documents may be obtained.
- **Step 4:** The Agency FSD and purchasing manager will open bids resulting from IFBs at the time and place prescribed in the solicitation. RFPs will be opened according to the Agency's determination.

The Nutrition Director or designee and purchasing manager will evaluate offers from responding firms by using the evaluation criteria outlined in the solicitation for both IFBs and RFPs. If there is not a minimum of two respondents, the Nutrition Director or designee and purchasing manager will review the solicitation to ensure that it is not limiting competition as outlined in 2 *CFR*, Section 200.319, and consider expanding advertising efforts before reissuing the solicitation or accepting the single bid.

The offers will be ranked based on cost only for IFBs and on evaluation criteria (i.e., technical criteria) and cost for RFPs for all responsible and responsive responders. Nutrition Director or designee and purchasing manager must describe their written method used to conduct a technical evaluation of all proposals received, as required by 2 *CFR*, Section 200.320(d)(1) for RFPs only. The Agency purchasing manager will negotiate the technical aspects of each RFP prior to negotiating the cost aspect of the RFP. Any or all bids may be rejected if there is sound documented reason.

- **Step 5: Responsible and Responsive Contractors (2 *CFR*, Section 200.318[h])**

The Agency will award contracts only to responsive and responsible contractors possessing the ability to conform to all of the SFA's stated terms and conditions and to perform successfully under the terms and conditions of a proposed procurement. Consideration will be given to such matters as contractor integrity, compliance with public policy, record of past performance, and financial and technical resources. Agency defines responsive as respondent conforms to all of the stated terms and conditions and defines responsible as respondent is capable of performing successfully under the terms and conditions of the contract.

- **Step 6:** The Nutrition Director or designee will award the contract to the responsible and responsive bidder who offers the lowest price for IFBs. All IFBs will result in a firm, fixed-price contract.

For RFPs, the Nutrition Director or designee will award the contract to the responsible and responsive respondent whose proposal is most advantageous to the Agency, with price and

other factors considered. All RFPs will result in either a fixed-price or cost reimbursable contract. **Cost plus a percentage of cost contracts will never be used.**

- **Step 7:** The Nutrition Director or designee will monitor the contract per 2 *CFR*, Section 200.318[b] by:
 - Overseeing deliveries to ensure that the goods solicited for were received
 - Periodic on-site visits to ensure services solicited are being satisfactorily performed
 - Reviewing the contract's terms, conditions, and deliverables monthly to ensure that they are being met and done so in accordance with all federal, state, and local rules
 - Ensuring that discounts, rebates, and credits in cost reimbursable contracts are provided

4. Noncompetitive Procurement Method (2 *CFR*, Section 200.320[f])

The Agency will only enter into a noncompetitive agreement when one or more of the following circumstances apply:

- The item is available only from a single source.
- An emergency exists, and the urgency for the requirement will not permit a delay resulting from competitive solicitation.
- The Agency received prior approval from the State agency after submitting a written request with justification for conducting a noncompetitive procurement.
- After solicitation from a number of sources, competition is determined inadequate.

Purchasing Cooperatives and Intergovernmental Procurement (2 *CFR*, Section 200.318[e])

The Agency may choose to make purchases through a cooperative agreement with a group of other schools to increase purchasing power or the Agency may piggyback on contracts awarded to a vendor from another school district when all procurement principles are followed.

While intergovernmental agreements can benefit the Agency, the Agency may only enter into an intergovernmental agreement with a local government (e.g., school district). Agency may also join or piggyback onto a cooperative when that agreement was procured and awarded consistent with federal and state procurement regulations.

The Agency purchasing manager and local counsel will carefully review the solicitation issued by a cooperative. The Agency purchasing manager and local counsel will ensure the procurement of the contract, and the contract itself, complies with applicable federal, state, and local procurement rules. The Agency purchasing manager and local counsel will confirm that the addition of their purchasing power to the procurement does not create a material change in scope or in services.

For cooperative purchasing, the Agency purchasing manager must maintain a copy of the solicitation and contract, proof of advertising, and bid award documents (e.g., evaluation documentation) from the lead entity on file for the term of

the contract, plus any extensions, and three additional school years.

For piggybacking, the Agency purchasing manager must obtain prior written permission from the lead entity awarding the bid and the vendor who was awarded the bid. A copy of the solicitation and contract, including the piggyback clause, proof of advertising, and bid award documents (e.g., evaluation documentation) must be retained for the term of the contract plus extensions and three additional school years.

A copy of all documents listed above will be made available during a procurement review.

Buy American Provision (7 CFR, sections 210.21[d] and 220.16[d]; U.S. Department of Agriculture Policy Memorandum SP 38-2017)

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 [M/MA], 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 an M/MA 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.

In compliance with this policy, the Nutrition Director or designee 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 Nutrition Director or designee will be ensured by:

- Including the Buy American Provision requirement in food 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 will 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 Memorandum 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 as determined by the price being at least 15% higher.

Note: Ingredients used to flavor, enhance, or prepare products (e.g., oil, yeast, spices, condiments, salad dressing) must also comply with the Buy American Provision requirement **only if** the first ingredient (or second after water) is one of the five components (breads/grains, fruits, vegetables, M/MA, and fluid milk) that contribute to a reimbursable meal. If the first ingredient in these products is not one of the five components that contribute to a reimbursable meal, the product does not have to comply with the Buy American Provision requirement. For example, catsup with tomato paste as the first ingredient must comply with the Buy American Provision requirement since tomato paste is creditable as a red/orange vegetable, **even though catsup is not a creditable item**. Mustard with distilled white vinegar as the first ingredient does not need to comply with the Buy American Provision requirement since vinegar is not a component that contributes to a reimbursable meal. Additionally, nonagricultural products such as paper, water, packaging, and labor do not need to comply with the Buy American Provision requirement.

The Nutrition Director or designee 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 the current year plus three years, 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 Nutrition Director or designee considered or the vendor offered and the reason they were not substituted for the nondomestic item
- A synopsis of what third-party verification (e.g., USDA Agricultural Marketing Service 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 Nutrition Director or designee to determine cost and availability
- Documentation by the vendor or the Nutrition Director or designee 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 Nutrition Director or designee of the nondomestic commodity or product, (2) Nutrition Director or designee agreed to accept this food item in advance of delivery, and (3) commodity or product was received by the Agency

Brand Name or Equivalent (2 CFR, Section 200.319[a][6])

When using a brand name or product code in the specification, the Agency will adhere to the following procedures:

- The Nutrition Director or designee will ensure that the description in the specification will always include a clause that an equivalent product is acceptable.
- A copy of the specified brand or code will be posted on the Agency website by the purchasing manager so vendors can verify that the product they are bidding on is actually an equal.

- Vendors bidding an item as an equal product to the brand name specified will be required to provide the Nutrition Director or designee with a product specification sheet and a sample case of the product for taste testing and verification by all Agency **nutrition department staff and a selected number of students** to ensure that the product is an equal product to the brand name specified.

Contractor Involvement (2 *CFR*, Section 200.319[a])

The Agency will ensure objective contractor performance and eliminate unfair competitive advantage by excluding contractors that develop or draft specifications, requirements, statements of work, and IFBs and RFPs from competing for such procurements. The Nutrition Director or designee will maintain documentation to prove that the appropriate procurement procedures were used and that the final selection is the most efficient and economical for the Agency.

Clear and Accurate Description of Technical Requirements Required (2 *CFR*, Section 200.319[c][1–2])

The Agency will have written procedures for procurement transactions. These procedures will ensure that all solicitations incorporate a clear and accurate description of the technical requirements for the material, product, or service being procured and will not contain features which unduly restrict competition. The description may include a statement of the qualitative nature of the material, product or service being procured and minimum essential characteristics and standards. A **brand name** or **equivalent** description may be used as a means to define the performance or other salient requirements of procurement. The specific desired features of the named brand must be clearly stated, along with all requirements which the offerors must fulfill, and all other factors to be used in evaluating bids or proposals.

Bid Protest (2 *CFR*, Section 200.318[k])

The Agency is responsible, in accordance with good administrative practice and sound business judgment, for the settlement of all contractual and administrative issues arising out of procurements. These issues include, but are not limited to, source evaluation, protests, disputes, and claims. These standards do not relieve the Agency of any contractual responsibilities under its contracts. Violations of law will be referred to the local, state, or federal authority having proper jurisdiction.

All solicitations over the Simplified Acquisition Threshold must include bid protest language. The Agency accepts a prospective bidder's protest to a bid award if the protesting party believes the award is not in compliance with the law, does not follow bid procedures, or does not meet bid specifications. A protest must be filed with the Agency designated point of contact for that bid. Such protests must be made in writing and received by the Agency Business Services Office within five working days of bid award date and shall include all documents supporting or justifying the protest. The protesting party must mail or deliver copies of the protest to the Agency Business Services Office. A bidder's failure to file the protest documents in a timely manner shall constitute a waiver of their right to protest the award of the contract.

Maintenance of Records (2 *CFR*, Section 200.318[i])

The Agency will maintain records sufficient to detail the history of the procurement. These records will include, but are not necessarily limited to, the following: Rationale for the method of procurement, selection of contract type, contractor selection or rejection, a copy of the solicitation and contract, the basis for the contract price (the bidding history), rationale and approval for noncompetitive procurements, any contract amendments, billing and payment records, and history of contractor claims and for the full term of the contract plus extensions and three additional school years, or

until the next review. The State agency and USDA reviewers shall have full access to and the right to examine all procurement documentation occurring during this time period.

Contract Management (2 *CFR*, Section 200.318[b])

The Agency must maintain oversight to ensure that contractors perform in accordance with the terms, conditions, and specifications of their contracts or purchase orders. Agency will perform the following tasks to ensure compliance: inspecting invoices, reviewing deliveries or work completed before paying invoices, completing facility inspections, and/or regular meetings with vendors.

Certifications (including, but not limited to 2 *CFR*, Appendix II)

The Agency will require any successful respondent to provide proof of having and maintaining, during the life of any contract with the Agency, Public Liability and Property Damage Insurance to protect themselves and the Agency from all claims for personal injury, including accidental death, as well as from all claims for property damage arising from the operations any contract that the Agency enters into.

The Agency will not enter into a contract with any company or individual that has been debarred or suspended. The Agency will require that vendors and potential vendors certify their compliance with the Lunsford Act, which prohibits anyone required to register as a sex offender under Article 27A of Chapter 4 of the General Statutes from knowingly being on the premises of any school.

Vendors that are awarded contracts are required to submit a completed Debarment and Suspension Certificate, and Disclosure of Lobbying Activities. These forms must be completed prior to commencement of work.

Continuing Education/Training Standards (7 *CFR*, sections 210.30[b][3],[c][1–5], [d][1–6], [e][1–2])

The Agency operates the School Nutrition Programs (SNP) and must ensure that all SNP directors (7 *CFR*, Section 210.30[b][3]), SNP managers (7 *CFR*, Section 210.30[c][1–5]), and staff (7 *CFR*, Section 210.30[d][1–6]) with responsibility for SNP, complete their required annual trainings. The annual training should include, but is not limited to, the following topics as applicable: training in procurement procedures, and any other specific topics identified by USDA Food and Nutrition Service as needed to address program integrity or other critical issues. Annual training requirements for SNP managers, directors, and staff are summarized under 7 *CFR*, Section 210.30[e][1–2].

Contact Information

For questions and concerns regarding procurement solicitations, contract evaluations, and awards, please get in touch with the Nutrition Director.

USDA Nondiscrimination Statement

In accordance with federal civil rights law and U.S. Department of Agriculture (USDA) civil rights regulations and policies, this institution is prohibited from discriminating on the basis of race, color, national origin, sex (including gender identity and sexual orientation), disability, age, or reprisal or retaliation for prior civil rights activity.

Program information may be made available in languages other than English. Persons with disabilities who require alternative means of communication to obtain program information (e.g., Braille, large print, audiotape, American Sign Language), should contact the responsible state or local agency that administers the program or USDA's TARGET Center at (202) 720-2600 (voice and TTY) or contact USDA through the Federal Relay Service at (800) 877-8339.

To file a program discrimination complaint, a Complainant should complete a Form AD-3027, USDA Program Discrimination Complaint Form (PDF), from any USDA office, by calling (866) 632-9992, or by writing a letter addressed to USDA. The letter must contain the complainant's name, address, telephone number, and a written description of the alleged discriminatory action in sufficient detail to inform the Assistant Secretary for Civil Rights (ASCR) about the nature and date of an alleged civil rights violation. The completed AD-3027 form or letter must be submitted to USDA by:

1. mail: U.S. Department of Agriculture
Office of the Assistant Secretary for Civil Rights
1400 Independence Avenue, SW
Washington, D.C. 20250-9410;
2. fax: 833-256-1665 or 202-690-7442; or
3. email: program.intake@usda.gov

This institution is an equal opportunity provider.



Rescue Union School District

Child Nutrition Programs

CODE OF CONDUCT

Rescue Union School District will conduct all procurement transactions in compliance with the regulations and state laws included in Title 2, *Code of Federal Regulations* (2 *CFR*), sections 200.318(c)(1)(2), and 400.2(b)(1), and California *Government Code* (GC), sections 1090 and 87100 et seq.

Employees, officers, and agents of Rescue Union School District who participate in the selection, award, or administration of a contract must read, sign, and agree to abide by the Code of Conduct annually by September 1 of each year.

Conflict of Interest Policy: No employee, officer, or agent of Rescue Union School District may participate in the selection, award, or administration of a contract if he or she has a real or apparent conflict of interest. Such a conflict of interest would arise when the employee, officer, or agent, any member of his or her immediate family, his or her partner, or an organization which employs or is about to employ any of the parties indicated herein, has a financial or other interest in or a tangible personal benefit from a firm considered for a contract.

Gratuities, Favors, and Gifts Policy: The officers, employees, and agents of Rescue Union School District may never solicit gratuities, favors, gifts or anything of monetary value from contractors or parties to subcontracts. However, officers, employees, and agents of Rescue Union School District may accept unsolicited gratuities, favors, and gifts when the value is nominal, which Rescue Union School District has established as \$25 or less per gift, not to exceed \$200 per vendor per school year.

The terms gratuities, favors, and gifts include discounts, entertainment, hospitality, loans, forbearance, services, training, transportation, lodging, and meals, whether provided in-kind, by purchase of a ticket, payment in advance, or reimbursement after the expense has been incurred.

No gift or prize over the documented value of over \$25 can be accepted. If a gift or prize is received that is over the \$25 limit, the gift must be returned to the vendor with an explanation provided as follows: Thank you for your gift; however, the Rescue Union School District staff is

not allowed to accept gratuities, favors, or gifts that exceed \$25 per gift or \$200 cumulatively per school year.

All gifts are to be documented and reported on the Rescue Union School District Gift Form, maintained by the Food Service Department's Administrative Assistant. These forms are to be kept for a minimum of the current year plus three additional years.

Disciplinary Action Policy: Penalties for violations of the Rescue Union School District Code of Conduct may include any or all of the following:

- Reprimand or other disciplinary action (e.g., suspension without pay) by Rescue Union School District board
- Dismissal by school board
- Additional legal action necessary

Volunteer Policy: If an employee, officer, or agent of Rescue Union School District is found to be in a paid or volunteer capacity in any organization that does business with or receives funds from the [Insert School/District Name], the employee, officer, or agent is subject to suspension or possible termination.

Organizational Conflict of Interest Policy: Agencies with a parent, affiliate, or subsidiary organization that is not a state, local government, or Indian tribe, must maintain written standards of conduct covering organizational conflicts of interest.

California GC, Section 87100 et seq.: Requirements that each designated employee, other than those specified in California GC, Section 87200, file statements at times and under circumstances described in this section, disclosing reportable investments, business positions, interests in real property and income. The information disclosed with respect to reportable investments, interests in real property, and income shall be the same as the information required by sections 87206 and 87207. The first statement filed under a Conflict of Interest Code by a designated employee shall disclose any reportable investments, business positions, interests in real property, and income. An initial statement shall be filed by each designated employee within 30 days after the effective date of the Conflict of Interest Code, disclosing investments, business positions, and interests in real property held on the effective date of the Conflict of Interest Code and income received during the 12 months before the effective date of the Conflict of Interest Code.

- If applicable, employees who make or influence governmental decisions are to submit a Statement of Economic Interest, Form 700, annually.

By signing below annually, I acknowledge that I fully understand and agree to abide by the policies of the Rescue Union School District Code of Conduct.

Kim Andreasen
Employee Name

Director of Nutrition Services
Title

1-20-23
Date

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