

REQUEST FOR PROPOSAL

Proposals for a **FOOD SERVICE MANAGEMENT PROVIDER** will be received by the Helena Elementary School District #1 and the Helena High School District #1 of Lewis and Clark County, until **2:30 p.m., Friday, March 20, 2020.**

Details and specifications may be obtained from the Business Office, School District #1, 55 South Rodney Street, Helena, Montana, 59601 or on our website helenaschools.org under Business and Finance. Proposals must be received prior to Proposal opening time. Late Proposals will not be accepted.

The Board of Trustees reserves the right to reject any and all Proposals, and to award the contract to the organization considered to be best suited to the needs of the School District, and to waive informalities. All Proposals will be considered at time of opening. The Business Office reserves the right to contact providers for clarification or additional information. **ALL COMMUNICATION REGARDING THIS RFP MUST BE DIRECTED TO JANELLE MICKELSON AT THE BUSINESS DEPARTMENT OF HELENA PUBLIC SCHOOLS AT (406) 324-2040 or jmickelson@helenaschools.org**

LUKE MUSZKIEWICZ
Chairperson

ATTEST: T. Janelle Mickelson
January 19, 26, 2020
February 23, 2020
March 1, 2020

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1.0 INTRODUCTION

February 14, 2020

To Whom It May Concern:

Helena Public Schools is enclosing a Proposal for Food Service Management.

All responses to this Proposal are due by 2:30 pm on Monday, March 20, 2020.

The Helena Public Schools thanks you in advance for your interest and response.

If you have any questions, please contact me at (406) 324-2040

Sincerely,

T. Janelle Mickelson
Business Services Administrator

SCHEDULE OF EVENTS

Task Description	Completion Date
Issue Proposal	1/19/2020
Proposal Due by 2:30 p.m.	3/20/2020
Evaluations of Vendors	after 3/20/2020
Complete Reference Check	after 3/20/2020
Select apparent successful Vendor	After Evaluation

2.0 PROPOSAL REQUIREMENTS

The District Business Services Administrator, 55 South Rodney Street, Helena, Montana 59601, must receive sealed Proposals by 2:30 p.m. of the date and time listed in the cover letter. Proposals must meet all specifications and requirements, or they will not be considered.

2.1 FORM OF QUESTIONS

Offerors with questions or requiring clarification or interpretation of any section within this RFP must address these questions in writing or via e-mail to the business services administrator referenced below on or before January 30, 2020, no later than 1:30 pm. Each question must provide clear reference to the section, page and item in quest. Question received after the deadline may not be considered.

Janelle Mickelson
Business Services Administrator
Helena Public Schools
55 South Rodney Street
Helena, Montana 59601
Phone (406) 324-2040
e-mail jmickelson@helenaschools.org

2.2 PROPOSAL CHANGES OR AMENDMENTS

The School District will provide an official written response by 4:00 pm on February 3, 2020 to all questions received by January 30, 2020. The School District's response will be by formal written addendum. Any other form of interpretation, correction, or change to this RFP will not be binding upon the School District. Any formal written addendum will be posted on the School District's website alongside the posting of the RFP at <https://helenaschools.org/departments/business-finance/>. **Offerors must sign and return with their RFP response and Acknowledgment of Addendum for any addendum issued.**

2.3 PERIOD OF VALIDITY OF PROPOSAL

The vendor must certify that its Proposal will remain in effect for 90 days after the Proposal due date.

2.4 QUANTITY

The District reserves the right to purchase more or less quantity than originally listed or purchase additional services up to 90 days. If this requirement cannot be met, please specify allowance date.

2.5 PROPOSAL COORDINATOR

Upon release of this Proposal, all communications concerning this acquisition must be directed to the Business Services Administrator or her representative. The address, telephone number, fax number and e-mail are listed below:

Janelle Mickelson
Business Services Administrator
Helena Public Schools
55 South Rodney Street
Helena, Montana 59601
Phone (406) 324-2040
e-mail jmickelson@helenaschools.org

Failure to observe this requirement may result in the disqualification of the vendor from further consideration.

2.6 PROPOSAL RESPONSE DATE AND LOCATION

The District Business Services Administrator, 55 South Rodney Street, Helena, Montana 59601, must receive sealed Proposals by 2:30 p.m. of the date and time listed in the cover letter. Proposals arriving after the deadline will be returned unopened. Vendors are solely responsible for ensuring that Proposals are delivered on time to the Business Office. **Please submit 3 copies of your Proposal.**

NOTICE: The District assumes no responsibility for delays caused by the U.S. Postal Service or any other delivery service. Late Proposals will not be accepted, nor will additional time be granted to individual vendors unless the District extends the required submittal date to all vendors.

Proposals must address all requirements in the Proposal. Failure to do so may result in the Proposal being rejected as non-responsive.

2.7 COST OF PREPARING PROPOSAL

The District will not be liable for costs incurred by vendors in preparation and presentation of Proposals submitted in response to this Proposal or in the participation of demonstration.

2.8 ERRORS IN PROPOSAL

Vendors are responsible for errors and omissions in the Proposal and any such errors and omissions will not serve to diminish their obligation to the District.

2.9 MULTIPLE PROPOSALS

Vendors may submit more than one Proposal in response to this Proposal. However, each Proposal must be a separate, complete package, which can be considered independently of any other Proposals from the same Vendor.

2.10 CLARIFICATION OF PROPOSALS

The District reserves the right to obtain clarification of any point in a Vendor's Proposal or to obtain additional information necessary to properly evaluate a Proposal. Failure of a Vendor to respond to such a request for additional information or clarification may result in rejection of the Vendor's Proposal.

Such requests for clarification shall be made at the sole discretion of the District, and the District's retention of this right shall in no way reduce the responsibility of Vendors to submit complete, accurate and clear Proposals.

2.11 REJECTION OF PROPOSALS

The District reserves the right to reject any or all Proposals at any time with no penalty and to waive immaterial defects and minor irregularities in Proposals.

2.12 PROPOSAL DISPOSITION

All materials submitted in response to the Proposal, except for proprietary material become the property of the District upon delivery to the Purchasing Director. In order to claim confidentiality for any proprietary information, the Vendor must identify all information that is proprietary and must complete the Affidavit for Trade Secret Confidentiality provided herewith.

2.13 INCORPORATION OF PROPOSAL AND PROPOSAL IN CONTRACT

This Proposal and the Vendor's response, including all promises, warranties, commitments and representations made in the successful Proposal shall be binding and incorporated by reference in the District's contract with the Vendor. A template contract is included in this RFP with standard terms and conditions. Objections to any standard terms and conditions must be submitted with the Proposal and any requested alternate language. The District reserves the right to negotiate a new contract with the selected Vendor.

2.14 READABILITY

Vendors are advised that the District's ability to conduct a thorough evaluation of Proposals is dependent on the Vendor's ability and willingness to submit Proposals, which are well ordered, detailed, comprehensive, and readable. Clarity of language and adequate, accessible documentation is essential, and is the Vendor's responsibility.

2.15 PRIME CONTRACT RESPONSIBILITY

If a Vendor's Proposal includes hardware, software, or services to be provided by other entities, it is mandatory for the proposing Vendor to be able to act as prime contractor for the procurement of all of the products proposed to meet the mandatory specifications. In this role, the prime contractor must be the sole point of contact for any and all charges resulting from the purchase of the proposed hardware, software, and services for the initial procurement, as well as any additional items that are proposed to be supplied directly by the Vendor. The primary Vendor must take full responsibility for the demonstration, delivery, and acceptance testing of all of the items proposed to be supplied directly by the Vendor. The prime contractor must also provide maintenance and warranty for its products and pass through warranties of other Vendors.

The Vendor's Proposal must clearly indicate the hardware, software, or services, which are not marketed or maintained by his/her firm.

2.16 CERTIFICATION OF PROPOSAL

The submission of the Proposal shall indicate the intention of the Vendor to adhere to the provisions described in this Proposal.

2.17 WITHDRAWAL OF PROPOSALS

Vendors may withdraw their Proposals in person or in writing, provided that such request must be received by the District prior to the scheduled closing time for filing Proposals.

2.18 FINANCIAL REQUIREMENT

Each Vendor's financial Proposal must include all costs associated with delivering and installing a system that meets the specifications of Section 3.0. Any other costs beyond those associated with meeting the specifications in Section 3.0 must be separately identified as supplemental. Each Vendor's financial Proposal must certify that the price submitted in this Proposal is inclusive of all hardware, software, delivery, installation, maintenance, training, service, and any other components.

Vendors may propose prices for future purchases of components that remain constant for the term of the contract or proposed prices, which increase over time. If the proposed prices are related to a percentage increase or decrease from a price list published by the Vendor, the price

list must be included, and the Vendor must describe the number and names of different price lists that are published.

2.19 PROTEST

All protests must be submitted to the Business Office in writing within 72 hours after award of Proposal. Upon receipt of the protest, the Director of Business Services shall suspend award of the Proposal until the protest is resolved. The Business Office will gather all necessary information regarding Proposal documentation. The Superintendent or designee will evaluate the protest. If such resolution does not occur to the mutual satisfactions of all parties involved, the Board will decide final action in awarding the dispute.

2.20 SPECIFICATIONS

Only the District may determine what product is best suited and meets specifications outlined in this Proposal. Items that do not meet specifications will be rejected.

2.21 FREIGHT

All prices should be quoted F.O.B. our dock, Helena, Montana.

2.22 INSURANCE

Upon request, School District #1 may require proof of insurance that is required by State Law.

2.23 VENDOR AUTHORIZATION

Vendor Name _____

Vendor Address _____

City _____, State _____ Zip _____

Vendor Phone Number _____

Vendor Fax Number _____

e-mail Address _____

TAX ID# _____

Authorized Signature _____

A CURRENT W-9 MUST BE SUBMITTED WITH PROPOSAL

HELENA PUBLIC SCHOOLS MAY REQUIRE ELECTRONIC PAY OR PCARDS AS OUR SOURCE OF

PAYMENT. DO YOU ACCEPT THESE FORMS OF PAYMENT?

PCARD YES NO

ELECTRONIC PAY YES NO

3.0 SPECIFICATIONS

PROPOSAL REQUIREMENTS AND SPECIFICATIONS

FOR

FOOD SERVICES

FOR

HELENA PUBLIC SCHOOL DISTRICT

55 South Rodney Street

Helena, Montana 59601

PROPOSAL DEADLINE: 2:30 p.m., March 20, 2020

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SECTION A
NOTICE OF REQUEST FOR PROPOSALS

The Helena Public School District (District) is accepting written food service Proposals from qualified food service management companies (FSMC) to provide food services according to District specifications.

Detailed specifications may be obtained from and Proposals shall be filed with:

Janelle Mickelson, Business Services Administrator, Helena Public School District #1, 55 South Rodney Street, Helena, Montana 59601.

Phone: (406) 324-2040 e-mail: jmickelson@helenaschools.org

Sealed Proposals must be received no later than 2:30 p.m., February March 20, 2020.
Proposals received after scheduled closing cannot be considered.

The District reserves the right to accept any Proposal which it deems most favorable to the interests of the District. It also reserves the right to waive any informalities and irregularities and reject any and/or all Proposals or any portion of any Proposal submitted which in their opinion is not in the best interest of the District.

No bidder may withdraw or alter his/her Proposal after the time set for opening thereof, unless award of contract is delayed for a period of more than ninety (90) days from the date of opening.

Helena Public School District

Lewis and Clark County, Montana

Published January 19, 26, 2020

Submitted by T. Janelle Mickelson, Business Services Administrator

SECTION B
INSTRUCTIONS TO FSMC (CONTRACTOR)

1.0 NOTICE TO FSMC (CONTRACTOR)

- 1.1 Proposals are invited by the Board of Directors of the Helena Public Schools School District for FOOD SERVICES FOR HELENA PUBLIC SCHOOL DISTRICT. PROPOSALS WILL BE RECEIVED until 2:30 p.m. on March 20, 2020, at Helena Public School District's Business Office, 55 South Rodney Street, Helena, Montana 59601. It is the sole responsibility of the Proposal author to see that his/her sealed Proposal is received at the designated place prior to the time set for termination of receiving Proposals.
- 1.2 Before submitting their Proposal, each FSMC (Contractor) shall become fully informed as to the specifications and requirements of this contract. The failure or omission of the FSMC (Contractor) to receive or examine any form, instrument, and addendum or acquaint himself/herself with conditions existing shall in no way relieve the FSMC (Contractor) from obligations with respect to his/her Proposal. The District will in no case be responsible for any loss for any anticipated costs, which may be suffered by the FSMC (Contractor) as a result of the FSMC's (Contractor's) failure to be fully informed in regard to all conditions pertaining to the completion of the contract. It being understood that the tender of a Proposal carries with it the agreement to all terms and conditions referred to herein.
- 1.3 At any time prior to the scheduled closing time for receipt of Proposals, any FSMC (Contractor) may withdraw his/her Proposal. No bidder may withdraw or alter his/her Proposal after the time set for opening thereof, unless award of contract is delayed for a period of more than ninety (90) days from the date of opening. Any Proposals received after the scheduled closing time will be returned to the bidder unopened.
- 1.4 The District reserves the right to accept any Proposal which it deems most favorable to the interests of the District. It also reserves the right to waive any informalities and irregularities and reject any and/or all Proposals or any portion of any Proposal submitted which in their opinion is not in the best interest of the District.

2.0 PROPOSALS

Proposals, to be entitled for consideration, must be in accordance with the following instructions:

- 2.1 FSMCs (Contractors) are required to use the enclosed Proposal forms and supply all information in the format requested. Alternatives may be submitted along with the Proposal; however, any alternatives should be fully described therein.

- 2.2 The Proposal must be submitted in a sealed opaque envelope addressed to the Helena Public School District, 55 South Rodney Street, Helena, Montana 59601. The name and address of the FSMC (Contractor) and Food Service Proposal must appear on the outside of the envelope. The FSMC (Contractor) must submit three (3) copies of the Proposal.
- 2.3 The Proposal must bear the title and signature in long hand of a person duly authorized to sign the Proposal. If the Proposal is made by a partnership, it shall be so stated, and it shall contain the names of each partner and shall be signed in the firm name, followed by the signatures of the partners. If the Proposal is made by a corporation, it shall be signed by the name of the corporation followed by the written signature of the officer signing, and the printed or typewritten designation of the office he or she holds in the corporation.
- 2.4 Any erasures, inter-lineation or other corrections in the Proposal must be initialed by the person(s) signing the Proposal.
- 2.5 Interpretation of Proposal Documents and Addenda.

If any FSMC (Contractor) or interested person contemplating submitting a Proposal for the proposed service is in doubt as to the true meaning of any part of the instructions and specifications, he/she may submit to the District a written request for an interpretation to:

Helena Public School District, 55 South Rodney Street Helena, Montana 59601 or e-mail: jmickelson@helenaschools.org

All such requests must be received no later than January 30, 2020. This means that any requests received after that date will be summarily ignored and not responded to. The person submitting the request will be responsible for its prompt delivery.

Any interpretation, correction, or other change of the specifications will be made solely at the District's option. Any interpretation, correction, or change judged by the District to be necessary, will be issued in writing on our website and will become an addendum to the Proposal specifications and procedures. The addendum will be provided on the District's website: helenaschools.org under Business and Finance, or by e-mail to all FSMCs (Contractors) or persons interested in bidding who have provided the District Business Services Administrator, in writing, with an e-mail address.

The District disavows and denies responsibility for any other explanations or interpretations of the proposed documents.

3.0 PROPOSAL COSTS

All costs, directly or indirectly related to preparation of a response to the Proposal invitation or any oral presentation required to supplement and/or clarify a bid which may be required by the District shall be the sole responsibility of and shall be borne by the FSMCs (Contractors).

4.0 LEGAL FEES

If suit or action is instituted in connection with any controversy arising out of this Proposal or the contract relating thereto, the prevailing party shall be entitled to recover, in addition to costs, such sums as the court of jurisdiction may adjudge reasonable as attorney's fees, including such attorney's fees on appeal to the Montana Supreme Court. (Court of Jurisdiction - State of Montana, First Judicial District, Lewis and Clark County).

5.0 HOLD HARMLESS AGREEMENT

FSMC (Contractor) shall protect, indemnify and hold the District harmless from all claims and against any damage, cost or liability for injury or death to persons or damage to or destruction of property arising out of work performed under this contract. The FSMC (Contractor) accepts liability caused by FSMC (Contractor) negligence for claims assessed as a result of federal/state reviews/audits, corresponding with the Districts period of liability. The FSMC (Contractor) accepts liability for any negligence on its part that results in any loss of, improper use of, or damage to USDA donated foods.

6.0 PROPOSALS APART OF CONTRACT

The NOTICE OF REQUEST FOR PROPOSALS, INSTRUCTION TO FSMCs (CONTRACTORS), GENERAL REQUIREMENTS, SPECIFICATIONS, AND PROPOSAL SUBMITTALS are part of all contracts and purchase orders that are issued as a result of this Proposal. It is understood by each FSMC (Contractor) that tenders this Proposal carries with it the implied agreement to all the terms and conditions contained herein.

SECTION C GENERAL REQUIREMENTS

1.0 SCOPE

1.1 Helena School District No. 1, a public school district in the State of Montana, hereafter referred to as the District, is seeking proposals from qualified food service management companies, hereafter referred to as the FSMC (Contractor) for the intent of selecting a FSMC (Contractor) to manage the District's food service program. The District wishes to enter into a contract with the successful FSMC (Contractor), to provide a food service program for the District for a period of one year with up to four one-year renewals, beginning July 1, 2020. The purpose of this document is to obtain Proposals from prospective FSMCs (Contractors) and to obtain as complete data as possible from which the FSMC (Contractor) will be selected. FSMC (Contractor) will be selected from the prospective FSMCs (Contractors) that are judged by the District to be best able to meet the criteria considered in the selection process and, therefore, judged most advantageous to the District. Currently the District participates in the National School Lunch Program (NSLP) at all sites, School Breakfast Program (SBP) at all sites, Fresh Fruit and Vegetable Program at 3 sites, and Summer Food Service Program (SFSP) at 9 sites. The District is comprised of an elementary K-8 district with approximately 3,606 K-5th graders in 11 elementary schools, 1,784 middle schoolers in two middle schools and a pre-school. Two elementary schools are participating in CEP. The District operates two high schools and one alternative high school with approximately 2,705 students. The District employees approximately 960 employees. The District secretaries manage the collection and tracking of breakfast and lunch sales, while the FSMC (Contractor) is expected to employ kitchen personnel, transportation personnel, and two part-time revenue personnel at each of the middle and high schools for daily operations. All food is prepared at a centralized kitchen at Capital High School and transported by the contractor's personnel to the school district breakfast and lunch sites.

- 1.2 The successful FSMC (Contractor) shall conduct the food service program(s) in a manner which best fulfills the following program objectives:
- To provide an appealing and nutritionally sound program for students as economically as possible.
 - To increase the awareness of students, parents, staff and the community of the advantages of sound food services program.
 - To promote educational value and nutritional awareness wherever the food service operation can interface with the District programs.
 - To maintain reasonable, competitive prices in the program.
 - To maintain student and staff morale at a high level.
 - To demonstrate environmental and energy awareness and responsibility by minimizing waste in any form.
 - To maintain a food service program that is self-supporting for direct costs.
 - To reach maximum participation and show a reasonable increase throughout the year and from year to year.
 - To maintain a stable, well-trained, and supportive food service staff.
 - To provide catering as requested for school-related events.
 - On-site supervisor to serve on the District Wellness Committee.

2.0 CONTRACT PERIOD

- 2.1 The initial contract period shall commence on July 1, 2020 (should not be prior to the date the contract is signed). The contract may be renewed at District option for up to four additional one-year periods as allowed by federal and state regulations. The total contract period is not to extend beyond June 30, 2025.
- 2.2 Either party may terminate the contract during any year by giving 90 days written notice to the other party of its intention to terminate the contract. Further, the FSMC (Contractor) shall provide written notice to the District, 90 days prior to the annual renewal date, of its intent to renew the contract.
- 2.3 District reserves the right, by written notice, to terminate the contract immediately due to circumstances beyond the control of either party.

3.0 TERMINATION OF CONTRACT

Non-compliance with the terms of this specification and ensuing contract can result in cancellation of the contract. In the event of cancellation, the District will not be obligated to compensate the FSMC (Contractor) for any work undertaken. The FSMC (Contractor) shall be liable for any damages incurred by the District due to non-compliance.

4.0 FSMC (CONTRACTOR) QUALIFICATION

- 4.1 At the time of Proposal opening, the successful bidder must be an established and qualified FSMC (Contractor) with personnel and business structure in place to perform all requirements in the event of award. Each FSMC (Contractor) must submit for consideration such record of work and further evidence as may be required by the District regarding experience and ability in similar work, a statement showing financial standing, and assurance that the FSMC (Contractor) has provided or will promptly provide suitable labor and materials to satisfactorily complete the work specified. Failure to furnish such a record of work and evidence of capacity, the inclusion of any false or misleading statements therein, or the omission of any important part thereof, shall be sufficient cause for the rejection of the Proposal.
- 4.2 FSMC (Contractor) must be licensed to conduct business in the state of Montana.
- 4.3 FSMC (Contractor) must have successful prior experience providing similar contracted food service activities with school districts of similar volume and enrollment.
- 4.4 By reading this pre-qualification outline and submitting a Proposal, the interested FSMC (Contractor) acknowledges that the District has no obligation to contract unless in its sole opinion it is in its best interest to do so.

5.0 ASSIGNMENT

No part of this award may be sub-contracted without the prior approval of the District. The successful FSMC (Contractor) shall not assign any portion of the contract nor may a right in regard thereto be conferred on any third person by any other means without prior

written consent of the District. This provision shall apply to all transfers by operation of law and transfers to and by trustees in bankruptcy, receivers, personal representatives, and legatees.

6.0 PERFORMANCE BOND

- 6.1 The interested FSMC (Contractor) may be required to provide a performance bond in the full amount of the one-year contract should the contract be awarded. A statement from an acceptable bonding or surety company must be included with the submittal data. Acceptable bonding company will have a Best's rating of "A" or better and must be licensed to conduct business in the state of Montana.
- 6.2 The FSMC (Contractor) if required has ten (10) calendar days after receipt of the prepared contract and before commencing the work hereunder, to furnish a corporate performance bond as described in 7.1 above. The contract shall not be binding until such bond is so furnished and approved by the District, and, if not so furnished within ten (10) days, the District may, at its option, determine that the FSMC (Contractor) has abandoned the Contract.

7.0 CERTIFICATE OF INSURANCE

FSMC (Contractor) shall maintain, as a direct cost of operation, the following minimum insurance coverage while performing services hereunder. The policy(s) will provide for at least thirty (30) days written notice of cancellation or material alteration of coverage to be given to the District. The District shall receive, on the effective date of the Contract, a certificate(s) of insurance verifying the coverage and naming the District as co-insured.

- 7.1 Comprehensive General Liability with Bodily Injury and Property Damage limit of \$5,000,000 per occurrence/aggregate. This will include coverage for all premises, Contractual Liability, Personal Injury Liability, and Products/Completed Operation Liability.
- 7.2 Worker's Compensation insurance to cover the FSMC (Contractor's) employees.

8.0 OSHA REQUIREMENT

FSMC (Contractor) agrees to comply with conditions of the Federal Occupational Safety and Health Act of 1972 (OSHA). FSMC (Contractor) further agrees to indemnify and hold harmless the District from all damages assessed the District as a result of FSMC's (Contractor's) failure to comply with the act and standards thereunder and for the failure of the items furnished under this order to so comply.

9.0 STATE AND FEDERAL REGULATIONS

- 9.1 All services offered under this Proposal shall be in accordance with all applicable local, state and federal laws and regulations regarding but not limited to equal opportunity employment, prevailing wages, overtime compensation, licensing and training of FSMC's (Contractor's) employees, sanitation, and quality and quantity of materials supplied.

- 9.2 The Proposal and contract offered must comply with all Federal and State requirements pertaining to the National School Lunch Program (NSLP), School Breakfast Program (SBP), the Special Milk Program, and Summer Food Service Program (SFSP) (7 CFR Parts 210,215,220,225,245,250 and FNS instructions and policies, as applicable).
- 9.3 The FSMC (Contractor) must comply with Section 306 of the Clean Air Act, Section 508 of the Clean Water Act, Energy Policy and Conservation Act, Executive Order 11738 and EPA regulations. Violations will be reported by Federal Nutrition Services (FNS), and vendor/FSMC will not utilize a facility listed on the EPA List of Violating Facilities.
- 9.4 The FSMC (Contractor) agrees to the "Buy American" provision in compliance with Section 12 of the National School Lunch Act 42 USC 1760.
- 9.5 The District shall maintain approval and signatory responsibility for free and reduced- price meals and free milk in accordance with 7 CFR Part 245. Such responsibilities include the approval of applications for such meals and/or milk, conduct of any hearings related to such determinations and verification of applications for free and reduced-price meals.

10.0 SITE INSPECTION

The District reserves the right to inspect the FSMC's (Contractor's) facilities and other food service operations under its management prior to any award of this contract.

11.0 CONCURRENT OPERATIONS

Because other activities of the District will be proceeding at the same time as the work covered by this contract, the FSMC (Contractor) shall cooperate with the District's representative to ensure that all contract work progresses in a manner which does not conflict with the operation of the school.

It is specifically understood that the District may, without interfering with normal food service, use the dining, production, and service areas from time to time for such purposes as student testing and community functions as may be required. Appropriate set-up and clean-up for non-food service use shall be the responsibility of the District.

12.0 TAXES

Taxes, whether state or federal SHALL NOT be included in the Proposal.

12.1 The District is exempt from federal excise taxes.

13.0 AWARDS

The District reserves the right to reject any or all Proposals and/or call for new Proposals. Any award will be made on the basis of the District's evaluation of the

Proposals against the stated evaluative criteria/factors, and to the FSMC (Contractor) whose Proposal is judged by the District to be most advantageous to the District. Award will be made by the District on the basis of the Proposal which, in the District's sole and absolute judgment, will best serve the interests of the District.

- 13.1 The District will evaluate each Proposal based upon the following ten significant factors.

Rating System	Factor Number	Factor Description
50	1	Financial proforma; Proposed amount of the management fee; Projected overall program financial results.
20	2	21-day cycle elementary menu and proposed program for middle and high school.
30	3	FSMC (Contractor) experience, ability, responsibility and work record in management of school food service programs.
20	4	References of present and prior school food service contracts in the state of Montana.
15	5	Nutritional marketing, communication plan, and menu planning option (see Specifications at section 2.0 Meal Services).
15	6	Employee training and development plan.
10	7	Purchasing specification and purchasing power.
10	8	Support for clean preparation areas and safe food.
5	9	FSMC's (Contractor's) accounting and reporting system.
25	10	FSMC's (Contractor's) proposed on-site supervisor.

- 13.2 A review of all Proposals will be made by District administration. This may include interviews and site visits. An administrative recommendation regarding award of Contract will be made to the school board. Final decision regarding award of Contract will be made by the school board.

14.0 MANAGEMENT OF DONATED FOODS-FIXED-PRICE CONTRACTS

Required contract provisions in fixed-price contracts. In accordance with 7 CFR 250.53, the following provisions relating to the use of donated foods must be included, as applicable, in a recipient agency's fixed-price contract with a FSMC (Contractor). Such provisions must also be included in procurement documents. The required provisions are:

- 14.1 A statement that the FSMC (Contractor) must credit the recipient agency for the value of all donated foods received for use in the recipient agency's meal service in the school year or fiscal year (including both entitlement and bonus foods), and including the value of donated foods contained in processed end products, in accordance with the contingencies in Sec. 250.51(a);
- 14.2 The method and frequency by which crediting will occur, and the means of documentation to be utilized to verify that the value of all donated foods has been credited;

- 14.3 The method of determining the donated food values to be used in crediting, in accordance with Sec. 250.51(c), or the actual donated food values;
- 14.4 Any activities relating to donated foods that the FSMC (Contractor) will be responsible for, in accordance with Sec. 250.50(d), and assurance that such activities will be performed in accordance with the applicable requirements in 7 CFR part 250;
- 14.5 A statement that the FSMC (Contractor) will use all donated ground beef and ground pork products, and all processed end products, in the recipient agency's food service;
- 14.6 A statement that the FSMC (Contractor) will use all other donated foods, or will use commercially purchased foods of the same generic identity, of U.S. origin, and of equal or better quality than the donated foods, in the recipient agency's food service;
- 14.7 Assurance that the procurement of processed end products on behalf of the recipient agency, as applicable, will ensure compliance with the requirements in subpart C of 7 CFR part 250 and with the provisions of distributing or recipient agency processing agreements, and will ensure crediting of the recipient agency for the value of donated foods contained in such end products at the processing agreement value;
- 14.8 Assurance that the FSMC (Contractor) will not itself enter into the processing agreement with the processor required in subpart C of 7 CFR part 250;
- 14.9 Assurance that the FSMC (Contractor) will comply with the storage and inventory requirements for donated foods;
- 14.10 A statement that the distributing agency, subdistributing agency, or recipient agency, the Comptroller General, the Department of Agriculture, or their duly authorized representatives, may perform onsite reviews of the FSMC's (Contractor's) food service operation, including the review of records, to ensure compliance with requirements for the management and use of donated foods;
- 14.11 A statement that the FSMC (Contractor) will maintain records to document its compliance with requirements relating to donated foods, in accordance with Sec. 250.54(b); and
- 14.12 A statement that extensions or renewals of the contract, if applicable, are contingent upon the fulfillment of all contract provisions relating to donated foods.

SECTION D
SPECIFICATIONS

1.0 SCOPE

To provide a School Lunch and Breakfast Program, Summer School Food Program, and Child and Adult Care Food Program that includes, but is not limited to, the following:

- Provide management necessary to operate a quality food service program.
- Prepare specifications for food, supplies, and equipment.
- Direct the purchase and storage of raw food and supplies.
- Plan menus.
- Manage the preparation, delivery, and service of food.
- Participate in nutrition education programs.
- Supervise food service preparation and serving staff.
- Manage personnel development and training.
- Provide adequate insurance coverage as specified.
- Conduct field audits to check selected daily records and controls.
- Provide periodic visits by responsible FSMC (Contractor) executives.
- Prepare weekly or monthly reports on operations.
- Supply information for the preparation of state, federal, and school district fiscal and management reports and other special reports as required.
- Administer operation in accordance with District policy and standard practice.

2.0 MEAL SERVICES

The FSMC (Contractor) will provide reimbursable meals each day schools are in session. "Reimbursable meals" are defined as those lunches and breakfasts or snacks that qualify for USDA reimbursement. Proposals should be based on 181 school days consisting of 180 serving days for lunch and breakfast. The following estimated meal counts and equivalents budget shall be used by all FSMCs (Contractors) to construct the financial pro forma:

Number of Lunch Meals	475,603
Number of Breakfast Meals	304,559
Number of Equivalents@ 2.873	102,709
Number of Snacks (if applicable)	<i>N/A</i>

The District currently operates and prefers to continue operating under Component Base menu planning option. It is the desire of the District that the following meal options be available. Method of service and portion sizes shall be recommended by bidder subject to the approval of the District, but as a minimum, shall meet USDA National School Lunch and Breakfast Program requirements. If the FSMC (Contractor) wishes to recommend different prices from those specified, they must be so noted. The FSMC (Contractor) may not alter the prices without prior approval of the Board of Trustees of the District.

Elementary Schools

At a minimum, the program must include 3 main entree choices each day and only offer high quality and tasty food that is healthy and wholesome (with one comfort food choice, so kids will always know they have a favorite food offered). Students also must be presented with daily choices of fresh fruit/canned fruit, fresh/frozen vegetables, and a variety of milk.

2.1 Secondary Schools

At a minimum, the program must include 12 main entree choices each day. Currently, several varieties of the following formats are offered daily:

Pizza, Yes, Included
Hot Sandwiches, Yes, Included
Cold Sandwiches, Yes, Included

In addition, a traditional school lunch hot entree is to be offered daily. Students must also be presented with a variety of fresh fruits, vegetables, and milk.

Helena School District's goal is to become a visionary leader in transforming the way we deliver contract food services to provide optimal nutrition for students by improving the quality of breakfast and lunch offerings. Food should be cooked from scratch when possible with the goal of transitioning from processed, pre-packaged food to healthy and wholesome food. Breakfast cereal must follow CACFP and WIC meal standards and contain no more than 6g/1oz of added sugar. Homemade baked goods should be offered daily at breakfast and sweetened with real food (i.e. applesauce and bananas), keeping added sugar as low as possible. Real food with simple and wholesome ingredients should be offered at breakfast the majority of the time (i.e. toast, oatmeal, eggs, plain yogurt minimally sweetened with fruit compote/agave/100% maple syrup). A large variety of prepared raw fruit and vegetable salads should be offered on the salad bar daily to encourage students to try something new.

The FSMC (Contractor) may also provide ala carte items each day school is in session at all secondary schools. Ala carte is defined as those items that may be priced on an individual item basis in the District's food service areas but may constitute a part of program meals.

2.2 Other Meal Services

The FSMC (Contractor) shall provide meal service at special functions at schools during the year as requested by the District. The prices and items to be served will be negotiated between the FSMC (Contractor) and the District. The FSMC (Contractor) shall not double bill the District for labor costs used to prepare program and special function meals.

2.3 Other Meal Program Information

The District reserves the right to cancel or shorten any school day. A twenty-four (24) hour notice will be given to the FSMC (Contractor) in non-emergency situations. In the event of emergency closure, the District shall provide the FSMC (Contractor) with as much advance notice of the closure as possible.

The District reserves the right to add or delete locations of food service as conditions change.

The FSMC (Contractor) shall properly utilize USDA commodity foods, letters of credit or monetary payments in lieu of commodities to which the District is entitled. USDA foods are not to be used for special functions conducted outside the nonprofit school food service (e.g., catered meals). The FSMC (Contractor) and District will agree to a method which delineates how the FSMC (Contractor) will pass the value of USDA donated foods to the District.

Meals may be prepared on-site or off-site. The quality of food as served shall be of such condition as to be pleasing, appealing, appetizing, palatable, and of such color, texture, size, shape, and temperature as is appropriate to the food items served.

3.0 PERSONNEL

The FSMC (Contractor) shall employ a qualified manager to administer the food service operations and supervise all employees employed therein. All non-management food service employees, including the manager of the central kitchen, shall be employees of the FSMC (Contractor). The FSMC (Contractor) shall be solely responsible for employees on its payroll, including responsibility for recruitment, employment, promotion, transfer, layoff and termination. The FSMC's (Contractor's) management shall direct and supervise employees assigned to food service operations. FSMC (Contractor) shall prepare and process the payroll for its employees and shall withhold and pay all applicable federal and state employment taxes and payroll insurance relating to its employees, including any income, social security and unemployment taxes and workers' compensation costs. The FSMC (Contractor) shall require all employees to pass a fingerprinting background check to be administered by the District at FSMC (Contractor's) Expense. The FSMC (Contractor) shall indemnify, defend and hold the other harmless, the District from and against any claims, liabilities and expenses related to or arising out of the FSMC (Contractor's) actions or omissions with respect to its obligations and authority regarding its employees or contracts under federal or state law or as set forth herein.

FSMC (Contractor) shall employ a resident food service director to operate the school food service program and work in close liaison with the District. FSMC's (Contractor's) proposed director must be experienced in educational food service operations. FSMC's (Contractor's) director must be available within the Helena Public School District or attending to District business at least 40 hours per week, on average, when school is in session.

The District reserves the right to accept or reject the FSMC's (Contractor's) selection of said director. The director's responsibilities will include, but shall not be limited to, providing the following:

- Normal operating responsibilities.
- Short-range budget and financial planning.
- Long-range budget and financial planning.
- Weekly and/or monthly reports and financial data.
- Collaborating routinely with building principals on food service operations.

FSMC (Contractor) will include in the Proposal a suggested plan and schedule describing employee training with as much detail as possible, which FSMC (Contractor) would perform during the term of

the contract.

It shall be the FSMC's (Contractor's) policy to maintain the highest ethical relationships with its customers, employees, suppliers, and competitors.

4.0 FOOD PREPARATION AND TRANSPORTATION

Meals shall be prepared and/or delivered in accordance with all applicable health and sanitary regulations and prepared at the locations presently used or such other kitchen service arrangements as are proposed by FSMC (Contractor) and acceptable to the District. If food is prepared in a facility not located on school premises, the FSMC (Contractor) assures the health certification of facility. If food preparation is at a District facility the District shall ensure health certification requirements are met.

The District will not pay for meals that are spoiled at the time of delivery, do not meet the detailed specifications for each food and menu item specified for the National School Lunch and Breakfast Programs, and Summer Food Service Program, or do not otherwise fulfill the requirements of this contract.

5.0 PURCHASE AND INVENTORIES

FSMC (Contractor) and District shall jointly conduct an inventory count of all foods and supplies owned by the District and presently located at various kitchens and schools prior to initiation of the program. Inventories will become the property of the District.

Disposition and/or acquisition of capital equipment must be approved in advance by the District.

Procurement of supplies and equipment will comply with all state and federal laws applicable to bidding and purchasing.

FSMC (Contractor) shall assume full control, protection, replenishment, storage, and issue of all foods and supplies contained in District's inventory. FSMC (Contractor) shall have use of current storage areas for inventory storage as deemed appropriate by the District.

All USDA commodities shall accrue to the benefit of the District and ownership shall remain with the District as required by USDA regulations.

Any silence, absence, or omission from the contract document specifications concerning any point shall be regarded as meaning that only the best commercial practices are to prevail, and that only materials (food, supplies, etc.) and workmanship of a quality that would normally be specified by the District are to be used.

6.0 FACILITIES AND EQUIPMENT

For all onsite food preparation, the district is responsible for providing existing facilities and equipment for the food service operation, as well as, existing refrigerator/freezer storage at schools shall be provided by the District for use by the FSMC (Contractor).

District shall be responsible for the repair and maintenance of all facilities and equipment in the food preparation, storage, and delivery.

District will provide inventory storage space currently assigned to food service at each kitchen and school. Additional needs may be accommodated if District facilities allow.

In the event FSMC's (Contractor's) Proposal calls for additional equipment or building modifications, this should be indicated in a plan included in the Proposal along with costs, detailed descriptions, and locations. The District would be responsible for the purchase, delivery, and installation of said equipment.

Expendables including small wares, serving trays, pots, pans, and utensils shall be replaced by FSMC (Contractor) as a District expense. Expendables will continue to be the property of the District.

FSMC (Contractor) shall not use District facilities for other than District approved business.

Ownership of all non-expendable supplies and capital equipment shall remain with the District. However, FSMC (Contractor) must take such measures as may be reasonably required by the District for the protection against loss by pilferage or destruction.

FSMC (Contractor) will be responsible for supervising cleaning and sanitation of all kitchen areas, food and supply storage areas, delivery equipment, and service line equipment including preparation equipment. District will be responsible for sweeping, mopping, waxing, and other required cleaning of dining room, snack bar, and kitchen areas. The schedule necessary to accomplish this will be coordinated with each building principal.

District reserves the right to use school food service preparation areas at times other than when facilities are in use by the FSMC (Contractor).

District will provide a suitable office area, within a District facility, for the FSMC (Contractor) and required staff. Suitable office furnishings and equipment shall be provided, as agreed upon by FSMC (Contractor) and District, as well as adequate maintenance of equipment and custodianship of premises. Sufficient telephone service will be provided by District with limitations, as established by contract, on long distance calls and specialized service.

7.0 FINANCE AND ACCOUNTING

FSMC (Contractor) will maintain a data information base using MealTime software or any program selected by the District from which the District will be provided weekly, monthly, quarterly, and annual reports in such detail as may be reasonably expected to manage the program.

FSMC's (Contractor's) records, both costs and revenues, shall be made available for internal audit by District at any time, and annual audit upon reasonable notification.

Books and records of the FSMC (Contractor) pertaining to the school food service operation must be maintained on District premises and shall be available as required by state and federal regulations for inspection and audit by either District, state, or federal auditors. The school food service operation books and records shall be retained for five years plus the current year or until any unresolved audits are closed per 7 CFR 210.23(c).

It will be the FSMC's (Contractor's) responsibility to recommend financial adjustments to the program, including lunch prices, and penalties for noncompliance.

Release of any financial information pertaining to the school food service program will not be allowed except as arranged through and approved by the District.

FSMC (Contractor) shall provide information for the preparation of state, federal, and District fiscal and management reports and other special reports as required by government regulations or District requirements.

As required by NSLP, SBP, SFSP, and CACFP regulation, the District must retain signature authority for all aspects of the food service program.

FSMC (Contractor) shall utilize the following current meal prices for their financial projection:

	Breakfast	Lunch	Snack
Elementary (K-5)	\$1.45	\$2.70	N/A
Middle (6-8)	\$1.45	\$2.80	N/A
High School	\$1.45	\$2.80	N/A
Fixed Equivalent Meal:	\$2.873		

FSMC (Contractor) will not alter the prices without approval of the District's Board of Trustees. The District shall retain control of the quality, extent, and general nature of its food service, and prices to be charged.

State sales taxes and federal excise tax are not to be included in any item of this bid, for purposes of comparison. The District is exempt from Federal Excise Taxes.

8.0 TYPE OF CONTRACT

The District will only consider fixed price contracts that comply with the federal and state regulations regarding school lunch, breakfast, and summer food programs. All bidders need to provide the following prices in their fixed price proposal:

Fixed Breakfast: Elementary and Secondary-\$1.45

Fixed Lunch: Elementary: -\$2.70

Fixed Lunch Secondary: -\$2.80

Fixed Equivalent Meal: -2.873

The basis for computing meal equivalency shall be fully described by the FSMC (Contractor).

9.0 PROGRAM INFORMATION

Interested FSMCs (Contractors) are required to utilize the participation levels, meal prices, federal reimbursements, and state reimbursements as detailed in Program Information that enables the District to compare Proposals from the various FSMCs (Contractors).

9.1 Participation/Prices:

NSLP, SBP and SFSP Reimbursement Rates are available on the Montana Office of Public Instruction's website at the following link:

<http://opi.mt.gov/LinkClick.aspx?fileticket=7eqdm6NeQ10%3d&portalid=182> and

<http://opi.mt.gov/Leadership/Management-Operations/School-Nutrition/Summer-Food-Service-Program>. The value of USDA foods is \$0.2375.

9.2 Serving Locations/Times/Program

NSLPI SBP Location	Eligible	Grades	NSLP	SBP	CEP	Method*
Ray Bjork	*	Varies				Satellite
Broadwater	273	K-5	Yes	Yes		Satellite
Bryant	252	K-5	Yes	Yes	Yes	Satellite
Central	282	K-5	Yes	Yes	Yes	Satellite
4 G's	469	K-5	Yes	Yes		Satellite
Hawthorne	250	K-5	Yes	Yes		Satellite
Jefferson	287	K-5	Yes	Yes		Satellite
Jim Darcy	465	K-5	Yes	Yes		Satellite
Kessler	255	K-5	Yes	Yes		Satellite
Rossiter	474	K-5	Yes	Yes		Satellite
Smith	282	K-5	Yes	Yes		Satellite
Warren	317	K-5	Yes	Yes		Satellite
CR Anderson	1065	6-8	Yes	Yes		Satellite
Helena MS	719	6-8	Yes	Yes		Satellite
Capital HS	1361	9-12	Yes	Yes		Base Kitchen
Helena HS	1344	9-12	Yes	Yes		Satellite
PAL	*	9-12	Yes	Yes		Satellite

NSLPI SBP Location	Breakfast	2nd Chance Breakfast	Monday Lunch	Thurs-Fri Lunch
Ray Bjork	Varies based on the program day and classes			
Broadwater	7:50-8:30	N/A	11:50-12:45	SAME
Bryant	7:40-8:30	N/A	11:40-12:30	SAME
Central	8:10-8:39	N/A	11:10-12:30	SAME
4 G's	7:45-8:30	9:55-10:15	11:55-1:00	SAME
Hawthorne	7:45-8:30	N/A	11:50-12:35	SAME
Jefferson	7:45-8:30	9:50-10:10	11:25-12:10	SAME
Jim Darcy	7:55-8:30	N/A	11:10-12:30	SAME
Kessler	8:28-8:38	N/A	11:35-12:15	11:40-12:20
Rossiter	8:30-8:45	N/A	11:30-12:35	SAME
Smith	8:00-8:33	N/A	11:40-12:40	SAME
Warren	7:50-8:30	9:30-9:50	12:15-1:00	SAME
CR Anderson	7:30-8:15	8:15-9:05	10:33-12:33	10:48-12:54
Helena MS	7:45-8:10	8:53-9:05	10:40-12:12	10:49-12:24
Capital HS	7:00-8:10	8:10-10:00	11:30-12:05	12:00-12:35
Helena HS	6:55-8:24	8:24-9:45	11:20-12:00	12:00-12:35
PAL	7:50-9:05	N/A	11:24-11:59	10:53-11:28

9.3 SFSP Serving Locations/Time/Program

SFSP Location	ADP	Breakfast	Lunch	Snack	Method*
4 G's	53	No	Yes	No	Satellite
Barney Park	37	No	Yes	No	Satellite
Helena MS	31	No	Yes	No	Satellite
Library	67	No	Yes	No	Satellite
Lincoln	39	No	Yes	No	Satellite
Memorial Park	218	No	Yes	No	Satellite
Ray Bjork	23	Yes	Yes	No	Satellite
Skelton Park	21	No	Yes	No	Satellite
YMCA	14/33	Yes	No	Yes	Satellite

ADP = Average Daily Participation

NSLP = National School Lunch Program

SBP = National School Breakfast Program

SFSP = Summer Food Service Program

Method of service:

- Base Kitchen - preparing food for self and other schools
- Satellite - receiving food prepared from a base kitchen

*Students are served at this location but included in their home school count.

9.4 Allocation of Costs

ALLOCATION OF COSTS

COSTS	CONTRACTOR	DISTRICT
Food Cost (food, condiments, beverages)	X	
Labor Cost		
Hourly Wages:	X	
Contractor Employed Bookkeeper/Secretarial	X	
Food Service Workers	X	
Driver	X	
Base kitchen custodian	X	
Other	X	
Hourly Benefits and Taxes	X	
FICA	X	
Retirement for Contractor's employees	X	
Unemployment insurance for Contractor's employees	X	
Workers' Compensation for Contractor's employees	X	
Health Insurance for Contractor's employees	X	
Life Insurance and Disability for Contractor's employees	X	
Holidays for Contractor's employees	X	

ALLOCATION OF COSTS (Continued)

COSTS	CONTRACTOR	DISTRICT
Management Salaries	X	
Management Benefits and Taxes	X	
Other Purchased Services		
Landline Telephone, local service		X
Landline Telephone, long distance		X
Contractor's employee cell phones	X	
Utilities (heat, power, water)		X
Extermination	X	
Laundry	X	
Supplies		
Disposable Service ware	X	
Cleaning Supplies	X	
Paper Supplies	X	
Uniforms	X	
Menu Paper	X	
Menu Printing		X
Promotional Materials	X	
Office Supplies	X	
Equipment and Repair		
Replacement of Capital/Major Equipment		X
Replacement of Expendable/Minor Equipment	X	X
Repair of Equipment (Normal wear and tear)		X
Repair of Equipment Resulting from Negligence of Contractor's Employees	X	
Repair of Equipment Resulting from Negligence of Sponsor's Employees		X
Capital Improvement		
Building Structural Changes		X
Painting		X
Other		
Vehicle Lease or Purchase		X
Vehicle Maintenance		X
Vehicle Major Repairs		X
Vehicle Fuel and Oil		X
Vehicle Taxes		X
Vehicle Insurance		X
Vehicle Licenses		X
Vehicle Registration		X
Depreciation		X
Audit Fees		X

ALLOCATION OF COSTS (Continued)

COSTS	CONTRACTOR	DISTRICT
Licenses/Permits	X	
Promotions	X	
Mileage	X	
Employee Physicals	X	
Performance Bond (if applicable)	X	
Liability Insurance	X	
FSMC Training Workshops	X	
Travel Expenses for FSMC Training Workshops	X	
Custodians		X
School Secretaries		X
Trash Pickup		X

SECTOION E
PROPOSAL SUBMITTALS

PART I

The following minimum information must be supplied by the FSMC (Contractor) as a part of the Proposal. It may be submitted in any written format, but each section must be properly labeled with the section headings given here. The FSMC (Contractor) should be aware of all the significant factors to be used in the evaluation process and FSMC (Contractor) qualification requirements and information relative to these factors should be included in the Proposal.

General Information

Name, address, telephone number, fax number, and business type of FSMC (Contractor). If a Corporation:

- When incorporated.
- What state incorporated in.
- Date licensed to do business in the state of Montana.
- Names of principal officers (President, Vice President, Secretary, Treasurer).

If a partnership, include names of all partners and whether general or limited partners.

The last two annual reports or financial statements are to be included with the Proposal. If not accompanied by the report of a certified public accountant, the reports must be signed by an officer of the FSMC (Contractor).

Experience and References

Explain in detail FSMC's (Contractor's) duration and extent of experience in the management of food service programs in an educational institution environment and with nutrition measurement using the USDA compliance system of Food Service Contract that will be utilized during this contract.

Include a list of school district food service programs comparable in size and scope to the Helena Public School District, presently operated, together with the address of each school district, the beginning year of operation, and name and title of district administrator who has been designated liaison officer with food service.

List any school district account in the state of Montana where FSMC's (Contractor's) services have not been renewed or have been discontinued or

terminated during the last three years; the reason why they were discontinued or terminated; and whether you are now serving them again.

Explain the circumstances, if in the last five (5) years, the FSMC (Contractor) has: (a) settled or has a pending claim against a performance bond; (b) been assessed damages (including liquidated damages) for non-performance; (c) taken legal action or engaged in dispute resolution proceedings against any entity with whom there has been a contractual relationship other than for that entity's failure to pay.

Accounting and Financial

Describe complete accounting procedures for Internal accounting programs:

- Inventory controls.
- Accounting controls.
- Method of recording, checking, and reporting sales and meals.
- Internal audit.
- Internal control of cash management.
- Identify proposed accounting periods.
- All regular accounting forms used with detailed explanations of their significance.

Proposal bond must be submitted per General Requirements.

Employee Experience, Training

List name and brief resume of food service director that would be assigned to the District. Provide, as part of the Proposal, a description and names of the levels and roles of supervision maintained at district, regional, and/or national headquarters.

Include in the Proposal a suggested plan and schedule describing employee training and development programs, with as much detail as possible, that FSMC (Contractor) would perform during the term of the contract.

FSMC (Contractor) shall provide, as part of the Proposal, a description and names of other support personnel available to the District at no additional cost.

Contract Offered

The successful FSMC (Contractor) shall enter into a contract with the District that embodies these specifications. The contract will be drafted by the successful FSMC (Contractor), a sample of which shall be included in the Proposal. FSMC (Contractor) also understands that the contents of the successful Proposal will become part of the subsequent Contract between the District and FSMC (Contractor). Failure of FSMC (Contractor) to accept this obligation may result in the cancellation of any award. Any damages accruing to the District as a result of cancellation may be recovered from the FSMC (Contractor).

Safety and Risk Management

The FSMC (Contractor) shall provide a detailed plan of food service program risk management.

The FSMC (Contractor) shall provide a detailed plan of Hazard Analysis Critical Control Point (HACCP) practices.

Food Service Program and Offerings

The FSMC (Contractor) shall provide information regarding nutrition marketing plans, general marketing plans, and communication plans.

A 21-day cycle menu for breakfast and lunch which complies with state and federal regulations shall be a part of the Proposal. Changes thereafter to the menu require District approval. The FSMC (Contractor) agrees to implement menu changes proposed by the District Wellness Committee.

FSMC (Contractor) shall include in the Proposal a schedule of suggested prices for ala carte foods. Schedule shall include a representative list of ala carte food items. The District shall have final authority in the setting of the price of meals and ala carte food items.

The FSMC (Contractor) shall include with the Proposal a sample catering menu with price list.

Bid Security

Bid Security shall be made payable to the District in the amount of 10% of the proposed contract sum for the first year. Security shall be either by certified check or bid bond issued by a surety licensed to conduct business in the State of Montana. The successful FSMC's (Contractor) security will be retained until it has signed the resulting contract and furnished any other required bonds. The District reserves the right to retain the security of the following two highest scoring proposals until the successful FSMC (Contractor) enters into a contract or until sixty (60) days after the opening of the proposals, whichever is the shorter. All other bid security will be returned as soon as practical. If any FSMC (Contractor) refuses to enter into a contract, the District will retain its bid security as liquidated damages, but not as a penalty. The bid security is to be submitted at the same time as the Proposal.

PART 2

The following required information must be submitted on the forms appended to this section. The description of each form is detailed here.

General Information

This information consists of general descriptive information and serves as the signature page for the Proposal. Also included is the acknowledgment of receipt of addenda. This form is required only if addenda are issued.

Financial Pro Forma

FSMC (Contractor) must operate Program which does not cause the District to incur additional expenses other than those outlined in this Request for Proposal. FSMC (Contractor) may provide guaranteed payment, for the first year as part of proposal. Additional annual guaranteed payments may be negotiated if contract is extended.

FSMC (Contractor) will provide as part of this Proposal a projected operating budget plan for the first year of operation. Only revenues from meal fees (lunch fees, etc.), state and federal funds, and commodities shall be available to support costs. FSMC (Contractor) must use information provided in the specifications to prepare the Pro Forma. The FSMC (Contractor) must detail in its Proposal the proposed fee structure for all meal and meal equivalents. The fee structure shall detail the per meal charge for all meal and meal equivalents. Details describing the basis for computing meal equivalents should be attached to this form.

Food and Non-Food Prices

FSMC (Contractor) must describe ability to obtain favorable food costs on behalf of the District.

FSMC's (Contractor's) Administrative and Management Fees

If the FSMC (Contractor) is proposing an administrative charge, either on a per meal or period cost reimbursement basis, the structure and basis for this per meal or period charge must be detailed on this form. The following FSMC (Contractor) Proposals are not allowable per federal regulation (7 CFR 210.16(c)): cost plus a percentage of cost and cost plus a percentage of income.

U.S. Department of Agriculture - Certification (contracts exceeding \$100,000)

It shall be the FSMC's (Contractor's) policy to maintain the highest ethical relationships with its customers, employees, suppliers, and competitors. In order for the District to evaluate past performance in this area, please complete and submit with your Proposal the USDA "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion".

Certification of Independent Price Determination

The FSMC (Contractor) certifies that the prices in this offer have been arrived at independently, without consultation, communication, or agreement, for the purpose of restricting competition, as to any matter relating to such

prices with any other FSMC (contractor) or with any competitor. Please complete the attached certification regarding certification of independent price determination and submit it with your Proposal.

Certification Regarding Lobbying (contracts exceeding \$100,000)

The FSMC (Contractor) may not influence or attempt to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with any of the following covered federal actions: the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement. Please complete the attached certification regarding lobbying and submit it with your Proposal.

SECTION F
GENERAL INFORMATION

BUSINESS STYLE OF FSMC (CONTRACTOR)

The party who submits this Proposal and to whom the contract may be awarded is,
and notice of acceptance should be mailed or delivered to:

NAME _____
Legal name of person, firm or corporation submitting Proposal
Corporation () Individual () Partnership ()

ADDRESS
Street Address _____
City/State/Zip _____

Telephone Number _____ Fax Number _____
SIGNATURE _____
Authorized Signature _____
Name Printed or Typed _____
Title _____ Date _____

PROPOSED SECURITY

Enclosed is Proposal Bond No. _____ Amount\$ _____
Certified Check No. _____ Amount\$ _____

(Personal and FSMC (Contractor) checks are not accepted)

ADDENDA (TO BE COMPLETED ONLY IF ADDENDA ARE RECEIVED)

Receipt of addenda number(s) _____ is hereby acknowledged.

Name _____

Address _____

City/State/Zip _____

Phone _____

By (Authorized Signature) _____

Title _____ Date _____

FINANCIAL PRO FORMA

Resources	Dollars	
CPM*		
Local Sales	_____	_____
Reimbursements	State	_____
	Federal	_____
Commodities	USDA Commodity Value	_____
Total Resources	_____	_____
Requirements		
Food Costs		
Food Costs (include value of worker meals)	_____	_____
USDA Commodity Value	_____	_____
Commodity Freight/Storage Costs	_____	_____
Total Food Costs	_____	_____
Labor Costs		
Hourly Wages	_____	_____
Hourly Taxes and Benefits	_____	_____
Hourly Other (explain)	_____	_____
Total Labor Cost	_____	_____
Non-Food Expenses		
Office	_____	_____
Mileage (<i>in-district</i>)	_____	_____
Insurance/Bonding Expenses	_____	_____
Non-Food Supplies (<i>paper/janitorial, etc.</i>)	_____	_____
Equipment Repairs/Replacement	_____	_____
Satellite Transportation Cost	_____	_____
Other _____	_____	_____
Other _____	_____	_____
Other _____	_____	_____
Total Non-Food Costs	_____	_____
Contract Services		
FSMC's (Contractor's) Supervisory Cost	_____	_____
FSMC's (Contractor's) Management Fee	_____	_____
FSMC's (Contractor's) General & Admin	_____	_____
Total Contract Services	_____	_____
Total Requirements	_____	_____

Net Gain/(Loss) to District

*CPM = Cost Per Meal, include: Program Lunches, Breakfasts, Snacks, and Equivalent Meals in calculations.

Describe basis for computing meal equivalents.

FSMC'S (CONTRACTOR'S) ADMINISTRATIVE AND MANAGEMENT FEES

GENERAL and ADMINISTRATIVE CHARGES:

Please detail the amount and basis for any general and administrative fees and/or costs which will be charged to the District during the (contract period) _____ contract:

Year 1 _____
Basis _____

Please detail the amount of general and administrative costs which are projected if the contract is renewed in:

Year 2 _____
Year 3 _____
Year 4 _____
Year 5 _____

MANAGEMENT FEE:

Please detail the amount of the management fee which will be charged on the Pro Forma meals. Please also explain the amount and basis for any incentive fees, and the extent to which they will change if the contract is renewed.

	Meals/Sales	Fee Meals
Lunch	_____	_____
Breakfast	_____	_____
Equivalent	_____	_____

Management per Meal Fee on _____ Fee Meals _____

Please detail the management per meal fee that will be charged if the contract is renewed In:

Year 2 _____
Year 3 _____
Year 4 _____
Year 5 _____

SECTION G
**MONTANA OFFICE OF PUBLIC
INSTRUCTION
PROTOTYPE
CONTRACT
FOR
MANAGEMENT OF A
SCHOOL FOOD SERVICE PROGRAM**

Prototype Food Service Management Contract

Please note that this Contract contains template terms and conditions, and the District reserves the right to negotiate with the selected Vendor a new contract which may incorporate some or all of the terms and conditions specified herein. This is incorporated only to permit vendors the opportunity to submit objections or alternate language for consideration of the District.

This Food Service Management Contract ("Contract") is made and entered into as of _____ to _____ by and between HELENA SCHOOL DISTRICT NO. 1 ("District"), the School Food Authority and _____ FSMC ("Contractor"), a Food Service Management Company.

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Section B	District Responsibilities
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Section I	District-FSMC Contract with a Fresh Fruit and Vegetable Program (FFVP)
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Section A: Purpose of Contract and Definitions

1. Purpose of Contract

- a. Purpose of Contract: The Contract sets forth the terms and conditions upon which District retains the FSMC to manage and operate food service for District's students, employees, visitors and guests at the Premises. The FSMC will manage the District's food service operation to include the programs checked below:
- National School Lunch Program (NSLP)
 - School Breakfast Program (SBP)
 - After School Care Snack Program (ASCP)
 - Special Milk Program (SMP)
 - Fresh Fruit and Vegetable Program (FFVP) as described in Section I and Exhibit.
 - Summer Food Service Program (SFSP) as described in Section J and Exhibit
 - Child and Adult Care Food Program (CACFP) as described Exhibit
 - Catering services as described in Exhibit
 - Concessions as described in Exhibit
 - A La Carte items/meals
 - Other:
- b. Agency Relationship: While District retains control of the quality, extent, and general nature of its food service, and the results of the FSMC's service hereunder, the relationship between the FSMC and District shall at all times be that of independent contractor. The FSMC is an agent for District with limited authority as expressed hereunder and as necessary to fulfill the terms of this Contract.
- c. Regulations and Access: District may, at its discretion, monitor the FSMC's daily operation of the Food Service with respect to all matters (including working conditions for the Food Service employees and safety, sanitation and maintenance of the food service facilities). District may make reasonable requirements with regard to all such matters and shall give the FSMC written notice thereof. The District's authorized representatives shall have access to the premises at all times.

2. Definitions

- a. Accounting Period: A calendar month, twelve of which constitute an accounting year.
- b. A La Carte: Sales of extra meals, and other foods, snacks, beverages, and services that are not Reimbursable Meals.
- c. Claims for Reimbursement: Monthly report submitted by the District to claim Federal and State Reimbursement for reimbursable meals.
- d. Credit: A payment to the District for USDA Foods received by the District or other payments.
- e. Rebate: A return of part of an amount paid, as for goods or services, serving as a reduction or discount.
- f. Default: A material breach, which is defined as a violation of the Contract which is substantial and significant, and which excuses the aggrieved party from further performance under the contract.
- g. Deficit: The excess of the total of Operating Expenses, over Gross Sales before major equipment purchases, equipment repair, or equipment depreciation as detailed in Exhibit A.
- h. District: School Food Authority.
- i. District Labor: Gross hourly wages, plus taxes, benefits, and retirement plans paid by District and invoiced to the FSMC.
- j. Fee Structure: How the District will pay the FSMC for services.
1. Food Service: The preparation, food-related service and sale of food beverages, edible goods and food merchandise, and other food items at the premises.
- j. FSMC: Food Service Management Company
- k. Gross Sales: All sales of food, beverages, goods, merchandise, and services in the Food Service operation.
1. Management Employee: An exempt salaried person, a non-exempt person or a person employed by the FSMC and paid a gross hourly wage, taxes, benefits, and retirement.
- m. Operating Expenses: All costs, charges, fees and expenses incurred in connection with the Food Service.

- n. Premises: District's Food Service facilities as detailed in Exhibit B, attached hereto.
- o. Purchased Food and Supplies: Food, supplies and chemicals purchased by the FSMC for use in the District's food service program.
- p. Reimbursable Meal: A meal eligible for government reimbursement.
- q. SA: State Agency, Montana Office of Public Instruction (OPI).
- r. Small wares: Dishware, glassware, flatware, utensils, trays and similar items.
- s. Surplus: The excess of Gross Sales over the total of Operating Expenses before major equipment purchases, equipment repair, or equipment depreciation as detailed in Exhibit A.
- t. USDA: The United States Department of Agriculture
- u. USDA-Donated Foods or USDA Foods: Foods received from the USDA by the District for use by the FSMC in the District's food service program.

Section B: District Responsibilities

It is the District's responsibility to ensure that the food service operation is in compliance with USDA Child Nutrition Program Laws, Regulations, Guidance, and Agreements. The FSMC shall operate the food service program in a way that meets all requirements under the National School Lunch Act and Child Nutrition Act, the Healthy, Hunger-Free Kids Act of 2010, and shall comply with the terms of the District's Child Nutrition Program agreement with the SA. The FSMC shall conduct program operations in accordance with 7 CFR Parts 210, 215, 220, 225, 245, and 250 (as applicable) and USDA Food and Nutrition Service instructions and policies to include 77 FR 4088, all USDA Food and Nutrition Service instructions and policies, and all District policies.

1. Signature Authority: The District retains the signature authority for the SA-District agreement, free and reduced price policy statement and the Claims for Reimbursement. The District will be responsible for approval of all free and reduced price meal applications, verification of free and reduced price applications and hearings related to such determinations.
2. Control of the School Food Service Account and Overall Financial Responsibility

- a. The District shall retain control of the non-profit school food service account and the overall financial responsibility for the non-profit food service operation.
- b. The District shall retain control for the establishment of all prices, including price adjustments, for meals served under the non-profit school food service account, e.g., pricing for all reimbursable meals, A La Carte service (including vending machines), and adult meals.
- c. The District shall maintain responsibility for the implementation of the free and reduced price policy in accordance with 7 CFR Part 245.

3. USDA Foods:

- a. The District retains title to all USDA Foods.
- b. The FSMC must ensure that all donated USDA Foods received for use by the District are used in the District's food service for a period specified within the school year or fiscal year. All federally donated USDA Foods and all USDA Foods contained in processed end products received by the District and made available to the FSMC will accrue only to the District's food service operation and be utilized therein.
- c. The FSMC may store and inventory donated foods together with foods it has purchased commercially for the District's use. It may store and inventory such foods together with other commercially purchased foods only to the extent that such a system ensures that the FSMC will use all USDA Foods, all end products, or will use commercially purchased foods of the same generic identity, of U.S. origin, and of equal or better quality than the USDA Foods in the District's food service.
- d. The FSMC must ensure that USDA donated ground beef and ground pork are used without substitution. The FSMC

must also ensure that all processed end products are also used without substitution.

4. Quality, Extent and General Nature of Food Service:

- a. The District will provide detailed specifications for each food component or menu item as specified in 7 CFR Part 210, 215, 220, 225, 245, and 250 (as applicable) and USDA Food and Nutrition Service instructions and policies to include 77 FR 4088 Nutrition Standards in the National School Lunch and School Breakfast Programs.

These specifications must cover grade, purchase units, style, condition, weight, ingredients, formulations, and delivery time.

- b. Menu standards, as presented in the RFP's twenty-one (21) day cycle menu, must be maintained as to type and quality of meal service.

All menus must be developed using the agreed upon menu planning system(s). The FSMC shall serve reimbursable meals that comply with the latest USDA dietary guidelines as established by USDA in Federal regulations for the National School Lunch Program, the School Breakfast Program, and all other USDA contracted meal programs.

- c. The District will retain control of the quality, extent and general nature of its food service. Monitoring will occur through the business manager and/or designee(s).
- d. The District requires that no payment is to be made to the FSMC for meals that are spoiled or unwholesome at time of delivery; or do not meet detailed specifications, or do not otherwise meet the requirements of the contract.

5. Health Regulations: It is the District's responsibility to maintain all applicable health certifications for its facilities. The District shall take reasonable and proper measures to hold FSMC accountable for compliance with all state and local regulations in the preparation and service of meals at the District's facilities.

6. Monitoring Responsibilities: The District's designee will be responsible for monitoring the food service operation through periodic on-site visits to ensure the food service is in conformance with program regulations.

7. District Wellness Committee: The District has established and will continue to maintain a District Wellness Committee. The FSMC on-site supervisor must serve as a member of the

District Wellness Committee.

8. Approval of Contract: To the extent required by law, the District will submit the completed Contract with the FSMC to OPI for approval.

Section C: FSMC Responsibilities

1. Health Certification: The FSMC must maintain all state or local health certification(s) for the duration of the contract for any facility outside the school in which it proposes to prepare meals. The FSMC must meet all applicable state and local health regulations in preparing and serving meals at the District's facility.
2. Kitchen Maintenance, Food Safety, and Sanitation: The FSMC will be responsible for maintaining the kitchen area and meeting all safety and sanitation laws and regulations. The FSMC will develop and follow the **Hazard Analysis Critical Control Point (HACCP)** standards.
3. 21-Day Cycle Menu: The FSMC must adhere to the 21-day cycle menu which was included in the request for proposal for the first 21 days of meal service. Changes made thereafter may only be made with the approval of the District.
4. Provision of Free and Reduced Priced Meals: In order to offer ala carte food service, the FSMC must offer free, reduced, and full-price reimbursable meals to all eligible children. The District is responsible for administering the free and reduced meal program and making determinations as to eligibility and procedures for implementation of all requirements.
5. USDA Foods: The FSMC will fully utilize USDA Foods made available by the District solely for the purpose of providing benefits for the District's non-profit food service operation. The FSMC shall not subcontract processing of any USDA Foods. The FSMC shall maintain adequate storage practices, inventory and control of such donated foods to ensure that its use and responsibility for the USDA Foods is in compliance with the District's agreement with the State distributing agency. The FSMC shall give the District, USDA, and appropriate State representative's access to the storage areas for donated USDA Foods.
6. Recordkeeping: The FSMC will maintain records to support the District's Claim for Reimbursement, make all records available to the District upon request, and retain all records for a period of five (5) years after the District submits the final Claim for Reimbursement. The FSMC will maintain records and make them available for the fiscal year for inspection and audit by

representatives of the District, SA, USDA, and Controller General, at any reasonable time and place. In instances where audit findings have not been resolved, the records must be retained beyond the five (5) year period until resolution of the issues raised by the audit.

The FSMC must maintain records and source documents in support of all costs, discounts, rebates, and credits.

7. Reporting: The FSMC will report the claim information to the District promptly at the end of each month or more frequently as specified by the District.
8. Special Diets: The FSMC shall supply special diets for students in accordance to "Accommodating Children with Special Dietary Needs in the School Nutrition Programs" when a licensed physician specifies that such a diet is a result of a disability as defined by the Rehabilitation Act of 1973 and the Americans with Disabilities Act.

Section D: General Terms

1. Contract Duration:
 - a. The term of the Contract is twelve (12) months, commencing on _____, and continuing until _____.
 - b. The Contract is eligible for renewal of additional one (1) year terms, not to exceed four (4) additional one (1) year extensions, upon mutual agreement of the parties, unless terminated earlier as hereinafter provided.
2. Energy: The District and FSMC shall recognize mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (7 CFR, Section 3016.36 (i) (13)).
3. Termination Clause: Either party may cancel for cause with sixty (60) days notification.
4. Nonperformance Sanctions: Non-compliance with the terms of the Contract is subject to the following administrative procedures and sanctions.

Example clause: The complaining party will notify the other party, either verbally or in writing of the details of the non-compliance. The other party will have seven (7) days to respond in writing to the notification and to either correct the non-compliance or to protest the non-compliance complaint, and reach a mutually agreeable

resolution. If the complaint is not resolved, to the satisfaction of the complaining party, within fourteen (14) days from the original complaint, then the complaining party may charge the non-responsive party a penalty of One Hundred Dollars (\$100.00) which shall be deducted from or added to the monthly invoice from the FSMC.

Section E: Personnel

1. Work Hours: The District and the FSMC shall comply with the Fair Labor Standards Act, as amended, to include Sections 103 and 107 of the Contract Work Hours and Safety Standards Act (40 USC 327-330) as supplemented by Department of Labor regulations (29 CFR, Part 5) pursuant to 7CFR, Section 3016.36(i)(6).
2. Nondiscrimination: The District and FSMC shall not discriminate on the basis of disability, race, color, sex, national origin, age, religion, creed, political ideas, marital status, or use of lawful products while not at work as defined by applicable federal and/or Montana law, in the recruitment, selection, training, utilization, promotion, termination, or other employment-related activities concerning food service personnel pursuant, but not limited to Titles VI and VII of the Civil Rights Act of 1964 and the Montana Human Rights Act. This fundamental rule of conduct will be clearly communicated to all employees, prospective employees and the community at large. In addition, each party affirms that it is an equal opportunity and affirmative action employer.

The District and FSMC shall comply with Executive Order 11246, Entitled "Equal Employment Opportunity," as amended by Executive Order 11375, and as Supplemented in Department of Labor regulations (41 CFP Part 60) pursuant to 7CFR, Section 3016.36(i)(3).

3. Drug Free Workplace: The FSMC shall comply with the requirements for Drug-Free Workplace (DFW). The DFW requirements include making a good faith effort, on a continuing basis, to maintain a drug-free workplace. Those measures are to: (1) Publish a drug-free workplace statement and establish a drug-free awareness program for employees as identified in 7 CFR 3021.205 through 3021.220; and (2) Take actions concerning employees who are convicted of violating drug statutes in the workplace identified in 7 CFR 3021.225. The statement must be given to each employee who will be engaged in the performance of the contract and that statement must: (a) Tell employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the workplace; (b) Specify the actions that will be taken against employees for violating that prohibition; and (c) Inform each employee that, as a condition of employment under any award, he or she: (1) Will abide by the terms of the statement;

and (2) Must notify in writing if he or she is convicted for a violation of a criminal drug statute occurring in the workplace and must do so no more than five calendar days after the conviction.

Section F: Termination of the Contract

1. Termination Clause:

a. Termination with Cause. The District or FSMC may terminate this Contract with cause, upon sixty (60) days prior written notice to the other of the intention to terminate the Contract, or as by mutual agreement of the parties.

1. District may terminate this Contract as determined by the District when considering such things as failure to maintain and enforce required standards of sanitation, failure to maintain proper insurance coverage, failure to provide required periodic information or failure to maintain quality of service at a level satisfactory to the District.

Matters concerning violations of the law will be referred to the local, state, or federal authority that has proper jurisdiction, or other breach of contract.

2. The FSMC may terminate this Contract as determined by the FSMC when considering such things as failure to make timely payments to the FSMC, failure to maintain and enforce required standards of sanitation with regard to the physical plant, or other breach of contract.

b. Termination Without Cause. **The District** may terminate the Contract at any time upon sixty (60) days prior written notice to the other of the intention to terminate the Contract, or as by mutual agreement of the parties. Failure by the District to renew the Contract prior to _____ of any year, shall be considered to be Termination Without Cause, and the sixty (60) days prior written notice is not required in this instance.

c. Termination Without Cause. **The FSMC** may terminate the Contract at any time upon one hundred twenty (120) days prior written notice to the District of the intention to terminate the Contract, or by mutual agreement of the parties.

Section G: Debarment/Suspension

1. Debarment, Suspension, Ineligibility and voluntary Exclusion.

Suspension and Debarment, Voluntary Exclusion. By signing this Contract, FSMC certifies that it is not suspended, debarred, or voluntarily excluded from federal financial or non-financial assistance, nor are any of the participants involved in the execution of this Contract suspended, debarred, or voluntarily excluded.

Further, FSMC agrees to notify the District by certified mail should FSMC or any of its agents become debarred, suspended, or voluntarily excluded during the term of this Contract.

Section H: Federal Law Requirements

1. Certification Regarding Lobbying and Disclosure of Lobbying Activities: The FSMC must provide the certification required pursuant to 7 CFR Part 3018. Lobbying activities in connection with school nutrition programs must be disclosed. If there are material changes after the initial filing, updated reports must be submitted on a quarterly basis. A new certification is required for each renewal period.
2. Environmental: As specified in 7CFR, Section 3016.36 (i)(12), the FSMC and the District shall comply with all applicable standards, orders, or requirements issued under section 306 of the Clean Air Act (42 USC 1857 (h)), section 508 of the Clean Water Act (33 USC 1368), Executive Order 11738, and Environmental Protection Agency regulations (40 CFR Part 15), which prohibit the use under non-exempt federal contracts, grants, or loans of facilities included on the EPA list of Violating Facilities. Violations shall be reported to the USDA and to the USEPA Assistant Administrator for Enforcement (EN-329).

Section I: FFVP

1. All FFVP costs must be allowable, actual costs and fully documented. Labor costs must be reported by and to the District in a manner that clearly identifies the actual time allocated to the FFVP. All Labor costs either operating or administrative must be minimal.
2. The FSMC will document and track FFVP expenses separately and make this documentation easily accessible to the District, OPI or USDA for review. All non-food costs must be carefully reviewed and deemed reasonable, given the extent of the FFVP operations.
3. The FFMC will provide the District with documentation that clearly outlines the allocation of costs charged to the FFVP as a basis for the District's claim for reimbursement. (i.e., amounts charged for labor, administrative fees, and actual costs of fresh

fruits and vegetables, etc.)

Section J: Contract with a SFSP

1. All meals prepared shall be unitized with or without milk or juice, unless OPI has approved, pursuant to §225.6(h)(3).
2. A FSMC shall not subcontract for the total meal, with or without milk, or for the assembly of the meals.
3. The District shall provide to the FSMC a list of OPI-approved food service sites, along with the approved level for the number of meals which may be claimed for reimbursement for each site, established under §225.6(d)(2).
4. All meals served under the SFSP shall meet the requirements of §225.16.
5. In cases of nonperformance or noncompliance on the part of the FSMC, the FSMC shall pay the District for any excess costs which the District may incur by obtaining meals from another source.
6. The FSMC shall comply with the appropriate bonding requirements, as set forth in §225.15(h) (5)-(7) for FSMC contracts with bids and contracts over \$100,000 for Summer Food service.
 - a. If required by law, the FSMCs shall have obtained a performance bond in an amount not less than ten (10) percent nor more than twenty-five (25) percent of the value of the contract. **The FSMC shall furnish a copy of the performance bond to the District within ten (10) days of the awarding of the contract.**
 - b. The FSMC shall obtain performance bonds only from surety companies listed in the current Department of the Treasury Circular 570.

Section K: Required Provisions

1. Compliance with Program Regulations: The FSMC shall conduct program operations in accordance with the National School Lunch Act and Child Nutrition Act, as well as, the Healthy, Hunger-Free Kids Act of 2010 7CFR Parts 210, 215, 220, 225, 245, and 250 and all USDA Food and Nutrition Service instructions and policies. The FSMC shall serve reimbursable meals that comply with the latest USDA dietary guidelines, standard meal patterns, and nutrient standards established by USDA in Federal regulations. FSMC personnel responsible for the preparation of menus will maintain a

copy of these regulations to ensure proper menu planning is utilized in accordance with the District's agreements and menu planning options.

2. USDA Foods:

- a. The FSMC shall credit the District for the values of donated USDA Foods, received by the District during the school year or fiscal year (including both entitlement and bonus foods) and crediting for the value of USDA Foods contained in processed end products. Crediting for the value of donated foods is permitted through invoice reductions, refunds, discounts, or previously included in the established fixed price. However, all forms of crediting must provide clear documentation of the value received from the donated foods and must be performed not less frequently than annually. The Statement of Commodities Shipped from OPI which details the value of the USDA commodities received will be used as the value for all credits. The FSMC must provide credit whether or not the donated foods are used in the year of receipt.
- b. It is the District's responsibility to ensure that all USDA Foods received are made available to the FSMC, including end processed foods and all USDA Foods accrue only to the District's non-profit school food service and are fully utilized therein.
- c. The use of USDA Foods is prohibited for special functions conducted outside of the nonprofit school food service. It is prohibited for a FSMC to enter into a processing agreement to subcontract USDA Foods for further processing.
- d. The FSMC shall give the District, USDA, and appropriate OPI representative's access to the storage areas for USDA Foods at all times.
- e. When a contract terminates and is not extended or renewed the FSMC must return all unused donated USDA Foods to the District. The District must ensure that all credits for the value of USDA Foods have been received and no refund will be made to the FSMC.

3. Special Functions: Labor costs double billed for nutrition program meals and special function meals. The FSMC shall demonstrate to the District that no double-billing has occurred.

4. Fee Structure:

- a. A per meal charge of \$ _____ for all Reimbursable breakfasts, \$ _____ for standard Reimbursable lunches, \$ _____ for premium-priced Reimbursable lunches, \$ _____ for all Reimbursable snacks, and a per-meal charge of \$ _____ less than the per meal equivalent factor for all A La Carte sales or catering sales.

A fixed-price contract may permit a FSMC to pre-credit for USDA Foods. In pre-crediting, a deduction for the value of donated USDA Foods is included in the established fixed price per meal. However, the District must ensure that the FSMC provides an additional credit for any donated foods not accounted for in the fixed price. The FSMC shall outline how the District shall receive this credit. Additionally, all forms of crediting must provide clear documentation of the value received from the donated food and must be performed not less frequently than annually. The Statement of Commodities Shipped from OPI which details the value of the USDA Foods received will be used as the value for all credits.

- b. Must explain the basis for fee adjustments. **Example clause:** The per-meal charge and other charges by the FSMC shall be reviewed annually, or at other times by mutual agreement of the parties and adjusted through negotiation.

5. Purchasing:

- a. All claims and demands submitted by the FSMC must be accompanied by documentation which supports all costs and fees claimed and must identify discounts, rebates, and other applicable credits allocable to the contract.
- b. The FSMC shall utilize the best commercial practices, and only materials (food, supplies, etc.) and workmanship of a quality that are specified by the District are to be used.

6. Certification of Independent Price Determination: The prices in this Contract have been arrived at independently, without consultation, communication, or agreement, for the purpose of restricting competition, as to any matter relating to such prices with any other offeror or with any competitor.

7. Civil Rights Compliance: In accordance with federal law and USDA policy, the FSMC and District are prohibited from discriminating on the basis of race, color, national origin, sex, age or disability. In addition, the District affirms that it is an equal opportunity and affirmative action employer and shall comply with all applicable federal, state and local laws and regulations including, but not limited

to, Executive Order 11246 as amended by 11375 and 12086; 12138; 11625; 11758; 12073; the Rehabilitation Act of 1973, as amended; the Vietnam Era Veterans Readjustment Assistance Act of 1975; Civil Rights Act of 1964; Equal Pay Act of 1963; Age Discrimination in Employment Act of 1967; Immigration Reform and Control Act of 1986; Public Law 95-507; the Americans With Disabilities Act; Department of Labor Regulation (41/CFR, Part 60), and any additions or amendments thereto.

8. Buy American Provision: The FSMC shall comply with the "Buy American" provision in 7 CFR Part 250, 7 CFR 210.21(d).
9. Claim Liability: The FSMC's obligation to indemnify, release, and defend the District for its own negligence includes, but is not limited to, liability resulting from the FSMC's negligence for claims assessed as a result of federal and state reviews/audits and liability resulting from the FSMC's negligence for any loss, improper use of, or damage to USDA Foods.
10. Location of Records: For five (5) years, all production records and USDA donated food receipts will be kept on site at the District, as will any records necessary to support the District's Claims for Reimbursement for the daily number of meals served by type. If the Contract is terminated for any reason, the FSMC will turn over all records to the District.
11. Nutrition Education: As requested by the District, the FSMC will provide assistance with nutrition education.

Section L: Miscellaneous Provisions

1. Please describe any changes to the following:
 - Services Sites, Service Locations and Specific Meal Types.
 - The type of Meal Program the FSMC shall provide.
 - Catering and/ or Concessions: Provisions need to be outlined if this will be allowed and part of the Contract.
2. The FSMC on behalf of the District shall manage and operate the school food service program. The District shall be responsible for establishing and notifying parents and guardians of program criteria for providing free and reduced priced meals for eligible students. It shall be the joint responsibility of District and the FSMC to protect the anonymity of children receiving free or reduced price meals and to establish methods for ensuring such anonymity.

3. FSMC Employees: The manager assigned by the FSMC shall be responsible for the overall management of the District's Food Service operation. Each party hereto shall be solely responsible for employees on its respective payroll, including responsibility for recruitment, employment, promotion, transfer, layoff, and termination. However, the District reserves the right to request reassignment of any FSMC employee off District property when it determines, in its sole discretion, the employee poses a threat to the safety or welfare of any District student or staff member.
4. Describe any Agreements Not to Hire: *(if applicable)*
5. Describe how Inventories of Donated USDA Foods, Food, Beverages, and Supplies will be maintained:
6. Describe how Inventories of Equipment and Small Wares will be maintained:
7. Office Facilities: The District, at District's expense, shall provide to the FSMC office facilities for the Food Service Director. The FSMC shall take care of the office facilities and return them to District upon termination of the Contract in good condition, ordinary wear and tear excepted.
8. Sanitation: The FSMC shall be responsible for cleaning and sanitation of the premises as set forth below:
 - a. The FSMC shall be responsible for housekeeping and sanitation in food preparation areas, storage areas, serving areas, and shall clean and sanitize dishes, pots, pans, utensils, equipment and similar items.
 - b. The District shall be responsible for cleaning and sanitation of dining area tables between serving periods, floors and walls, ceilings, ceiling fixtures, air ducts, hood vent systems (as per local ordinance) all windows and restrooms; shall provide and maintain adequate fire extinguishing equipment for the premises; shall provide necessary pest control; and shall be responsible for removal of refuse from refuse collection areas.
 - c. The FSMC shall develop and follow the Hazard Analysis Critical Control Point (HACCP) standards.
9. Maintenance: The District shall, at District's expense, provide maintenance personnel and outside maintenance services, parts and supplies required to properly maintain the Premises and equipment,

except to the extent the FSMC is required to provide maintenance hereunder.

10. Condition of Premise and Equipment: The Premises and equipment provided by the District for use in Food Service operations shall be in good condition and maintained by District to ensure compliance with applicable laws concerning building, sanitation, safety and health, including the Federal Occupational Safety and Health Act of 1970 and applicable state laws and standards promulgated thereunder. The District agrees that any modifications or alterations to the workplace or the Premises (whether structural or non-structural) necessary to comply with any statute or governmental regulation shall be the responsibility of District and shall be a District's expense.
11. Transportation Equipment and Vehicle: The District shall provide vehicles and equipment required for the safe and sanitary transportation of food, supplies, lunches, and breakfasts.
12. Payments to the FSMC: To be Negotiated Mutually.
13. Payments to the District: To be Negotiated Mutually.
14. Guarantees: The District and FSMC shall work together to ensure a financially sound operation.
15. Assumptions: Financial terms of the Contract are based upon the following assumptions.
16. District's Obligations. The District, at its expense, shall provide at its premises electricity, gas, water and other utilities, ventilation, security service, telephone service, internet access service, janitorial supplies, office equipment, fire and extended coverage insurance and real and personal property taxes on all of District's property. District *to adjust obligations as appropriate to Contract.*
17. Taxes: District shall be responsible for reporting all sales resulting from the operation of the food service program. The District is exempt from any and all sales and other taxes that might be assessed on the Food Service Operations. The FSMC is considered a subcontractor and will not be held accountable for any sales tax resulting from the direct sales of the food service operations. The FSMC will be responsible for all employee-related taxes and the FSMC's city, state or federal income taxes
18. Worker's Compensation Insurance: The FSMC shall maintain worker's compensation as required by state law covering all of its employees employed in connection with the Food Service operations.

19. Comprehensive or Commercial Insurance: The FSMC shall maintain during the term of the Contract, for protection of District and the FSMC, commercial general liability insurance in the combined single limit of not less than Five Million Dollars (\$5,000,000) for each occurrence, including, but not limited to, personal injury liability, broad form property damage liability, blanket contractual liability and products liability, covering only the operations and activities of the FSMC under the Contract and shall provide District with a certificate evidencing such policies. The insurance policies shall contain covenants by the issuing company that the policies shall not be cancelled without forty-five (45) days prior written notice of cancellation. The District shall be named as an additional insured under the FSMC's policies of insurance.
20. Property Insurance: The District shall keep District's buildings, including the Premises, and all property contained therein insured against loss or damage by fire, explosion or other cause normally covered by standard broad form property insurance policies.
21. Indemnity: The FSMC and District shall defend, indemnify and hold each other harmless from and against all claims, liability, loss and expense, including reasonable collection expenses, attorney's fees and court costs which may arise because of the negligence, misconduct, or other fault of the indemnifying party, its agents or employees in the performance of its obligations under the Contract. Notwithstanding any other provision of this Contract, neither party waives its ability to recover from the other party for damages caused by intentional, tortuous conduct of the employees or agents of the other party not covered by any insurance policy of the aggrieved party. This clause shall survive the termination of the Contract.
22. Trade Secrets and Proprietary Information: During the term of the Contract, the FSMC may grant to District a nonexclusive right to access certain proprietary materials of the FSMC, including menus, recipes, signage, food service surveys and studies, financial statements, management guidelines and procedures, operating manuals, software (both owned by and licensed to FSMC), computerized data bases and similar compilations ("Trade Secrets"). To claim a Trade Secret, the FSMC must submit the Affidavit of Trade Secrets attached herein. To the extent that the District has determined that the matters are Trade Secrets, the District shall not disclose any of the FSMC's trade secrets or other proprietary information, directly or indirectly, during or after the term of the Contract. The District shall not photocopy or otherwise duplicate any such material without the prior written consent of the FSMC. All trade secrets and other proprietary information shall remain the exclusive property of the FSMC and shall be returned to the FSMC immediately upon termination of the Contract. All data records shall be

turned over to the District upon termination of the Contract.

23. Assignment: The Contract may not be assigned by either party without the prior written consent of the other party.
24. Catastrophe: Neither the FSMC nor District shall be liable for the failure to perform its respective obligations hereunder when such failure is caused by fire, explosion, water, acts of God, civil disorder or disturbances, strikes, vandalism, war, riot, sabotage, weather and energy-related closings, governmental rules or regulations, or like causes beyond the reasonable control of such party, or for real or personal property destroyed or damaged due to such causes.
25. Amendments to Contract: All provisions of the Contract shall remain in effect throughout the term thereof unless the parties agree, in a written document signed by both parties, to amend, add or delete any provision. The Contract may not be changed other than by an agreement in writing signed by the parties hereto.

The Montana Office of Public Instruction must evaluate all proposed amendments to the contract and will approve only those amendments that are consistent with regulations and policy and are not considered "significant".

26. Entirety of Contract: This Contract, its attachments, exhibits, and other documents specifically incorporated by reference herein, contains the entire understanding and agreement of the parties concerning the matters contained herein, and supersedes and replaces any prior or contemporaneous oral or written contracts or communications concerning the matters contained herein.

IN WITNESS WHEREOF, the parties hereto have entered into this Contract as of the date signed by all parties or the first day of the term, whichever is later.

School Food Authority

BY: _____
Name: District Representative
Title:

Signature Date: _____

Food Service Management Company

BY: _____
Name: FSMC representative
Title:

Signature Date: _____

AFFIDAVIT FOR TRADE SECRET CONFIDENTIALITY

STATE OF _____)
)ss.
County of _____)

_____ (Affiant), being first duly sworn under oath, and representing
_____ (hereafter "Vendor"), hereby deposes and says that:

1. I am an attorney licensed to practice in the State of _____, representing the Vendor referenced in this matter, and have full authority from the Vendor to submit this affidavit and accept the responsibilities stated herein.

2. I am aware that the Vendor is submitting a proposal to Helena Public Schools in response to a request for proposals for _____. Public agencies in Montana are required by Montana law to permit the public to examine documents that are kept or maintained by the public agencies, other than those legitimately meeting the provisions of Montana's Uniform Trade Secrets Act, Mont. Code Ann. §§ 30-14-401, *et seq.*, and that the State is required to review claims of trade secret confidentiality.

3. I have read and am familiar with the provisions of Montana's Uniform Trade Secrets Act, am familiar with the case law interpreting it, and understand that all information received in response to this RFP will be available for public examination except for:
 - (a) trade secrets meeting the requirements of the Act; and
 - (b) matters involving individual safety as determined by the State.

4. I am aware that in order for the Vendor to claim confidential material, this affidavit must be fully completed and submitted to the State, and the following conditions must be met by the Vendor:
 - (a) information to be withheld under a claim of confidentiality must be clearly marked and separated from the rest of the proposal;
 - (b) the proposal may not contain trade secret matter in the cost or price; and
 - (c) the Vendor's explanation of the validity of this trade secret claim is attached to this affidavit.

5. I and the Vendor accept that, should the State determine that the explanation is incomplete, inadequate or invalid, the submitted materials will be treated as any other document in the agency's possession, insofar as its examination as a public record is concerned. I and the Vendor are solely responsible for the adequacy and sufficiency of the explanation. Once a proposal is opened, its contents cannot be returned to the Vendor if the Vendor disagrees with the State's determination of the issue of trade secret confidentiality.

6. I, on behalf of the Vendor, warrant that the Vendor will be solely responsible for all legal costs and fees associated with any defense by the State of the Vendor's claim for trade secret protection in the event of an open records request from another party which the Vendor chooses to oppose. The Vendor will either totally assume all responsibility for the opposition of the request, and all liability and costs of any such defense, thereby defending, protecting, indemnifying and saving harmless the State, or the Vendor will immediately withdraw its opposition to the open records request and permit the State to release the documents for examination. The State will inform the Vendor in writing of any open records

request that is made, and the Vendor will have three working days from receipt of the notice to notify the State in writing whether the Vendor opposes the request or not. Failure to provide that notice in writing will waive the claim of trade secret confidentiality, and allow the State to treat the documents as a public record.

Documents that, in the opinion of the State, do not meet all the requirements of the above will be available for public inspection, including any copyrighted materials.

Affiant's Signature

Signed and sworn to before me on _____ (date) by

_____ (Affiant's name).

Notary Public for the State of _____

My Commission Expires: _____