



# **IRVINE UNIFIED SCHOOL DISTRICT**

**RFP No. 21/22-01NS  
Fresh Produce**

**Proposal Deadline: October 29, 2021 at 9:00 am**

Contact: Maria Ragas  
Irvine Unified School District  
5050 Barranca Parkway, Irvine, CA 92604  
949-936-5212  
Email: [MariaRagas@iusd.org](mailto:MariaRagas@iusd.org)

**Required Documents**

*\*Please return this sheet with your proposal documents\**

**Proposal Documents Due at the Submission of the Due Date**

- Proposal Form
- Proposal Form Pricing Sheet
- Noncollusion Declaration
- Certification of Primary Participation Regarding Debarment, Suspension, and other Responsibility Matters
- Certification of Restriction on Lobbying
- W9
- Product Recall Program
- Disaster Contingency Plan
- Food Security and Safety Program
- Recent Copy of a Health Department Inspection Report, if applicable
- Copies of any Other Licenses and/or Required Documents as Listed within the Entire RFP, including, General Conditions, and Special Provisions

**\*\* Fresh samples listed in the Information for Bidders, No. 17 Samples, must be submitted with proposal on due date and time \*\***

**Other Forms not required until after award**

- Agreement
- Tobacco Use Policy
- Worker's Compensation Certificate
- Drug-Free Workplace Certification
- Criminal Records Check Certification
- Certificate of Liability Insurance, including an Additional Insured Endorsement, this is a separate document (Irvine must be named as an Additional Insured)

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**\*IF THE FOLLOWING ITEMS ARE NOT RETURNED AT THE TIME OF THE PROPOSAL OPENING, THE BIDDER WILL BE DECLARED NONRESPONSIVE.**

**+ITEMS WHICH SUCCESSFUL BIDDER MUST SUBMIT AFTER THE AWARD.**

**NOTICE CALLING FOR PROPOSALS**

DISTRICT: **IRVINE UNIFIED SCHOOL DISTRICT**

PROPOSAL DEADLINE: October 29, 2021 at 9:00 am

PLACE OF RECEIPT: Irvine Unified School District  
Purchasing Department  
Attn: Maria Ragas  
5050 Barranca Parkway  
Irvine, California 92604-4652

NOTICE IS HEREBY GIVEN that the Irvine Unified School District of Orange County, California, acting by and through its Governing Board, hereinafter referred to as “District,” will receive up to, but not later than, the above-stated proposal deadline, sealed proposals and required samples at the place identified above for the award of a contract for **RFP No. 21/22-01NS, Fresh Produce**.

Proposal Documents will be made available on October 7, 2021 as a download at <https://iusd.org/about/departments/business-services/purchasing/current-bids-rfps>. **Bidders will be responsible for reproducing all documents related to this RFP.** All proposals shall be made and presented on the forms provided in the RFP documents.

Any questions regarding proposal documents must be received via e-mail to the attention of Maria Ragas at [MariaRagas@iusd.org](mailto:MariaRagas@iusd.org) by 11:00 am on October 19, 2021.

Time is of the essence. The District reserves the right to reject any or all proposals or to waive any irregularities or informalities in any proposals or in the bidding process. The award of the Contract, if made by the District, will be by action of the Governing Board. No bidder may withdraw any proposal for a period of sixty (60) calendar days after the date set for the opening of the proposals.

Irvine Unified School District  
Governing Board

By: Maria Ragas  
Specialist, Purchasing Contracts

Advertise: Irvine World News: October 7 & 14, 2021

**CALENDAR OF EVENTS**

Event	Details	Date
<b>RFP Advertised</b>	Irvine World News	October 7, 2021 October 14, 2021
<b>RFP Posted</b>	IUSD Website	October 7, 2021
<b>Last Day to Submit RFIs/Questions</b>	<a href="mailto:MariaRagas@iusd.org">MariaRagas@iusd.org</a>	October 19, 2021 at 11:00 am
<b>Response to Questions/RFIs Posted</b>	IUSD Website	On or before October 22, 2021
<b>Proposal Deadline (Fresh Samples also Due)</b>	<b>Irvine Unified School District Attn. Maria Ragas 5050 Barranca Parkway Irvine, CA 92604</b>	October 29, 2021 at 9:00 am
<b>*Board of Education Action</b>	Award of Contract	November 16, 2021

\*Date is subject to change at the discretion of the District.

## **INFORMATION FOR BIDDERS**

### WARNING:

READ THIS DOCUMENT CAREFULLY.

DO NOT ASSUME THAT IT IS THE SAME AS OTHER SIMILAR DOCUMENTS YOU  
MAY HAVE SEEN, EVEN IF FROM THE SAME DISTRICT.

1. Preparation of Proposal Form. Proposals shall be submitted on the prescribed Proposal Form and Proposal Form Pricing Sheet, and completed in full. All proposal items and statements shall be properly and legibly filled out. Numbers shall be stated both in words and in figures where so indicated, and where there is a conflict in the words and the figures, the words shall control over the numbers. The signatures of all persons shall be in longhand and in ink. Prices, wording and notations must be in ink or typewritten.

2. Form and Delivery of Proposals. The proposal must conform and be responsive to all proposal documents and shall be made on the Proposal Form and Proposal Form Pricing Sheet provided, and the complete proposal, together with any and all additional materials as required, shall be enclosed in a sealed envelope, addressed and hand delivered or mailed to **Irvine Unified School District, Purchasing Department, 5050 Barranca Parkway, Irvine, CA 92604-4652, Attn: Maria Ragas**, and must be received on or before the proposal deadline (Public Contract Code section 20112). The envelope shall be plainly marked in the upper left hand corner with the bidder's name, the proposal number and the date and time for the opening of proposals. **It is the bidder's sole responsibility to ensure that its proposal and samples are received prior to the proposal deadline.** In accordance with Government Code section 53068, any proposal received after the scheduled closing time for receipt of proposals shall be returned to the bidder unopened.

3. Proposal Pricing. Propose all items F.O.B., Irvine Unified School District site locations.

4. Signature. Any signature required on proposal documents must be signed in the name of the bidder and must bear the signature of the person or persons duly authorized to sign these documents. Where indicated, if bidder is a corporation, the legal name of the corporation shall first be set forth, together with two signatures: one from among the chairman of the board, president or vice president and one from among the secretary, chief financial officer, or treasurer. Alternatively, the signature of other authorized officers or agents may be affixed, if duly authorized by the corporation. Such documents shall include the title of such signatories below the signature and shall bear the corporate seal. Where indicated, in the event that the bidder is a joint venture or partnership, there shall be submitted with the proposal certifications signed by authorized officers of each of the parties to the joint venture or partnership, naming the individual who shall sign all necessary documents for the joint venture or partnership and, should the joint venture or partnership be the successful bidder, who shall act in all matters relative to the joint venture or partnership. If bidder is an individual, his/her signature shall be placed on such documents.

5. Modifications. Changes in or additions to any of the proposal documents, alternative proposals, or any other modifications which are not specifically called for in the proposal documents may result in the rejection of the proposal as being nonresponsive. No oral,

telephonic, facsimile or electronic modification of any of the proposal documents will be considered.

6. Erasures, Inconsistent or Illegible Proposals. The proposal submitted must not contain any erasures, interlineations, or other corrections unless each such correction is authenticated by affixing the initials of the person(s) signing the proposal in the margin immediately adjacent to the correction. In the event of inconsistency between words and numbers in the proposal, words shall control numbers. In the event that any proposal is unintelligible, illegible or ambiguous, the District may reject such proposal as being nonresponsive.

7. Examination of Proposal Documents. At its own expense and prior to submitting its proposal, each bidder shall examine all proposal documents; visit the sites and determine the local conditions which may in any way affect the performance of the work; familiarize itself with all federal, state and local laws, ordinances, rules, regulations and codes affecting the performance of the work, including the cost of permits and licenses required for the work; determine the character, quality, and quantities of the work to be performed and the materials and equipment to be provided; and correlate its observations, investigations, and determinations with all requirements of the proposal. The District shall not be liable for any loss sustained by the successful bidder resulting from any variance between the actual conditions and data given in the proposal documents. Bidder agrees that the submission of a proposal shall be incontrovertible evidence that the bidder has complied with all the requirements of this provision of the Information for Bidders.

8. Withdrawal of Proposals. Any proposal may be withdrawn, either personally or by written request signed by the bidder, at any time prior to the scheduled closing time for receipt of proposals. The proposal security for a proposal withdrawn prior to the scheduled closing time for receipt of proposals, in accordance with this paragraph, shall be returned. No bidder may withdraw any proposal for a period of sixty (60) calendar days after the date set for the opening of proposals.

9. Interpretation of Proposal Documents. If any bidder is in doubt as to the true meaning of any part of the proposal documents, or finds discrepancies in, or omissions from the proposal documents, or has any questions related to the proposal documents, a written request for an interpretation or correction thereof must be submitted to the DISTRICT via email to the attention of Maria Ragas at [MariaRagas@iusd.org](mailto:MariaRagas@iusd.org) by **11:00 am on October 19, 2021**. No requests shall be considered after this time. The bidder submitting the written request shall be responsible for its prompt delivery. Any interpretation or correction of the proposal documents and answers to questions will be made solely at District discretion and only by written addendum duly issued by the District, and a copy of such addendum will be uploaded to the District's website and/or hand delivered or e-mailed to each bidder known to have received a set of proposal documents. No person is authorized to make any oral interpretation of any provision in the proposal documents, nor shall any oral interpretation of proposal documents be binding on the District. If there are discrepancies of any kind in the proposal documents, the interpretation of the District shall prevail. **SUBMITTAL OF A PROPOSAL WITHOUT A REQUEST FOR CLARIFICATIONS SHALL BE INCONTROVERTIBLE EVIDENCE THAT THE BIDDER HAS DETERMINED THAT THE PROPOSAL DOCUMENTS ARE ACCEPTABLE AND SUFFICIENT FOR BIDDING AND COMPLETING THE WORK; THAT BIDDER IS CAPABLE OF READING, FOLLOWING AND COMPLETING THE WORK IN ACCORDANCE WITH THE PROPOSAL**

DOCUMENTS; AND THAT BIDDER AGREES THAT THE WORK CAN AND WILL BE COMPLETED ACCORDING TO THE DISTRICT’S TIMELINES.

10. Bidders Interested in More Than One Proposal. No person, firm or corporation shall be allowed to make, or file, or be interested in more than one proposal for the same work unless alternate proposals are specifically called for by the District. A person, firm, or corporation that has submitted a subproposal to a bidder, or that has quoted prices of materials to a bidder, is not thereby disqualified from submitting a proposal or quoting prices to other bidders or submitting a proposal.

11. Award of Contract. The award of the contract, if made by the District, will be by action of the Governing Board, to the lowest responsive and responsible bidder based on taste, appearance, quality, nutritional requirements, and any other requirements of the proposal. The District reserves the right to withdraw or cancel one or more items from this RFP before award and proceed with the remaining items. The District reserves the right to make multiple awards or to reject any or all proposals, or to waive any irregularities or informalities in any proposals or in the bidding process. If two identical low proposals are received from responsive and responsible bidders, the District will determine which proposal will be accepted pursuant to Public Contract Code section 20117. In the event an award of the contract is made to a bidder, and such bidder fails or refuses to execute the Agreement and provide the required documents within five (5) calendar days after the notice of award of the contract to bidder, the District may award the contract to the next lowest responsive and responsible bidder or reject all proposals.

12. Agreement. The form of agreement which the successful bidder, as Contractor, will be required to execute, is included in the proposal documents and should be carefully examined by the bidder. The agreement will be executed in two (2) original counterparts. The complete Agreement consists of the following but not limited to the Notice Calling for Proposals, Calendar of Events, Information for Bidders, Proposal Form, Proposal Form Pricing Sheet, Noncollusion Declaration, Certification of Primary Participant Regarding Debarment, Suspension, and Other Responsibility Matters, Certification of Restriction on Lobbying, Agreement, Tobacco Use Policy, Workers’ Compensation Certificate, Drug-Free Workplace Certification, Criminal Records Check Certification, W-9 Form, General Conditions, Special Provisions, all insurance requirements, specifications, and all modifications, addenda and amendments, if any, thereof duly incorporated therein. All of the above documents are intended to be complementary so that any instructions or requirements called for in one and not mentioned in the other, or vice versa, are to be executed the same as if mentioned in all said documents. The intention of the documents is to include all labor, materials, equipment, transportation and services necessary for the proper delivery and installation of all items called for in the Agreement.

13. Competency of Bidders. In selecting the lowest responsive and responsible bidder, consideration will be given not only to the financial standing but also to the general competency of the bidder for the performance of the proposal. By submitting a proposal, each bidder agrees that the District, in determining the successful bidder and its eligibility for the award, may consider the bidder’s experience and facilities, conduct and performance under other contracts, financial condition, reputation in the industry, and other factors which could affect the bidder’s performance of the contract. The District may also consider the qualifications and experience of persons and



organizations proposed for those portions of the work. Operating costs, maintenance considerations, performance data and guarantees of materials and equipment may also be considered by the District. In this regard, the District may conduct such investigations as the District deems necessary to assist in the evaluation of any proposal and to establish the responsibility, qualifications and financial ability of the bidder, proposed subcontractors, and other persons and organizations to do the work to the District's satisfaction within the prescribed time. The District reserves the right to reject the proposal of any bidder who does not pass any such evaluation to the satisfaction of the District.

14. Insurance and Workers' Compensation. The successful bidder shall be required to furnish certificates and endorsements evidencing that the required insurance is in effect as set forth in the Agreement. District may request that such certificates and endorsements are completed on District provided forms. In accordance with the provisions of Section 3700 of the Labor Code, the successful bidder shall secure the payment of compensation to all employees. The successful bidder who has been awarded the contract shall sign and file with District prior to performing the work, the Workers' Compensation Certificate included as a part of the proposal documents. Labor Code section 1861.

a. Successful bidder shall, at bidder's sole cost and expense, maintain in full force and effect the following insurance coverages from a California licensed insurer with an A, VIII, or better rating from A.M. Best or an approved self-insurance program, sufficient to cover any claims, damages, liabilities, costs and expenses (including attorney fees) arising out of or in connection with bidder's fulfillment of the obligations under this bid:

i. Comprehensive General Liability Insurance, including bodily injury, property damage and contractual liability with minimum limits set by the DISTRICT. The policy may not contain an exclusion for sexual molestation or abuse coverage, unless waived by the DISTRICT.

(a)	General Aggregate	\$2,000,000
(b)	Each Occurrence	\$1,000,000
(c)	Products/Completed Operations	\$1,000,000
(d)	Personal and Advertising Injury	\$1,000,000
(e)	Damage to Rented Premises	\$50,000
(f)	Medical Expense (any one person)	\$5,000

ii. Umbrella (excess) liability insurance coverage with a limit of \$3,000,000, unless waived by the DISTRICT. The policy may not contain an exclusion for sexual molestation or abuse coverage, unless waived by the DISTRICT.

iii. Business Automobile Liability Insurance for owned, scheduled, non-owned, or hired automobiles with a combined single limit not less than \$1,000,000 per occurrence. (Required only if the bidder drives on behalf of the DISTRICT in the course of performing Services.)

iv. Professional Liability Insurance with a limit of \$1,000,000 per occurrence, unless waived by the DISTRICT.

v. Workers' Compensation and Employers Liability Insurance in a form and amount covering bidder's full liability under the California Workers' Compensation Insurance and Safety Act and in accordance with applicable state and federal laws. The policy shall be endorsed with the insurer's waiver of rights of subrogation against the DISTRICT.

It should be expressly understood, however, that the coverage and limits referred to under i., ii., iii., and iv. above shall not in any way limit the liability of the bidder.

b. No later than five (5) days from execution of the Agreement by the DISTRICT and successful bidder, and prior to commencing the Services under this bid, bidder shall provide DISTRICT with certificates of insurance evidencing all coverages and endorsements required hereunder.

Successful bidder shall provide prior written notice to the DISTRICT thirty (30) days in advance of any non-renewal, cancellation, or modification of the required insurance. The certificates of insurance providing the coverages referred to in clauses i. and ii. above shall name DISTRICT, its Governing Board, officers, and employees, as additional insureds with appropriate endorsements. In addition, the certificates of insurance shall include a provision stating "Such insurance as is afforded by this policy shall be primary, and any insurance carried by DISTRICT shall be excess and noncontributory." Failure to maintain the above mentioned insurance coverages shall be cause for termination of the Agreement

15. Anti-Discrimination. In connection with all work performed under this proposal, there shall be no unlawful discrimination against any prospective or active employee engaged in the work because of race, color, ancestry, national origin, religious creed, sex, age, marital status, physical disability, mental disability, or medical condition. The successful bidder agrees to comply with applicable federal and state laws including, but not limited to, the California Fair Employment and Housing Act, beginning with Government Code section 12900 and Labor Code section 1735.

16. Hold Harmless/Indemnification. The successful bidder awarded the contract will be required to defend, indemnify and hold harmless the District, its Governing Board, officers, agents, and employees as set forth in the Agreement.

17. Samples. Samples of food products will be required for evaluation and taste testing. Samples will be required to be delivered to the District at the bidder's expense. **Bidders are hereby notified to have samples ready and submitted for prompt evaluation on the day and time of the proposal deadline/opening.** Requested samples which cannot be provided at that time may not be considered for award. All samples should be prepared and presented as they would be served to students.

**Sample Requirements:**

<b>Description</b>	<b>Quantity</b>	<b>Size Requested</b>
Grapes, cello	4	3 oz bag
Honeydew chunks, individual serving	4	2 oz cup
Pineapple, wedge	4	2.7 oz
Strawberries, organic	2	1 lb or 12 oz
Strawberries & blueberries mix, individual serving	4	2 oz cup
Tomatoes, grape, organic	4	pint
Tomatoes, grape	2	pint

18. Taste Testing. The evaluation committee will rate samples based on the following:

<b>Taste/Flavor</b>	Great taste and flavorful	Acceptable	Flavor was not appealing
<b>Appearance of Food Item</b>	Appetizing	Acceptable	Unappetizing
<b>Aroma/Smell</b>	Wonderful Aroma	Acceptable Aroma	Aroma not appealing/ Unappetizing
<b>Does vendor have the capability for B2B transactions?</b>	Yes	No	
<b>Overall Quality</b>	Extremely Acceptable	Acceptable	Unacceptable
<b>Do you think this product would be selected by students?</b>	<b>YES</b>	<b>MAYBE</b>	<b>NO</b>

19. Deviations from Proposal Terms and Conditions. Deviations from any proposal term or condition may cause a proposal to be rejected as nonresponsive. All deviations must be clearly noted at time of proposal submission. If not noted, the assumption is that bidder is bidding as specified.

20. Sales Tax. Do not include California Sales or Use Taxes in unit prices. This tax will be added and paid for by the District.

21. Delivery. All items are to be proposed in ready for use condition. Deliveries are to be F.O.B. (Free On Board) destination within the boundaries of the Irvine Unified School District. All deliveries shall require inside delivery and are to be placed in designated areas/coolers, as specified, by the Site Supervisor/designee. Actual delivery scheduling must be agreed to by the successful bidder(s) and individual Site Supervisor/designee. The criteria for delivery scheduling will be based on volume and equipment present at the site. In general, one (1)

day per week delivery is required, however, the District/Site Supervisor/designee reserves the right to have products delivered each serving day (Monday through Friday), if conditions require. Any requests to deviate from the Site Supervisor's delivery times or a request for building keys, if applicable, must be made directly to the Nutrition Services Department Director. The Bidder shall be responsible for securing and returning keys, if applicable, to the Nutrition Services Department Director. All deliveries shall be accompanied by a.) two (2) hard copies of an invoice, which must be signed by the Site Supervisor/designee, or b.) a digital invoice signed by Site Supervisor/designee and emailed to the Nutrition Services office and the Site Supervisor/designee. The successful bidder(s) shall keep sufficient stocks of product and service material to ensure prompt delivery and service schedules. There shall be no minimum quantities required in order for the District to place orders for needed items.

22. Drug-Free Workplace Certification. Pursuant to Government Code section 8350 et seq., the successful bidder will be required to execute a Drug-Free Workplace Certification upon execution of the Agreement. The bidder will be required to take positive measures outlined in the certification in order to ensure the presence of a drug-free workplace. Failure to abide with the conditions set forth in the Drug-Free Workplace Act could result in penalties including termination of the Agreement or suspension of payment thereunder.

23. Noncollusion Declaration. In accordance with the provisions of Section 7106 of the Public Contract Code, each proposal must be accompanied by a Noncollusion Declaration.

24. Tobacco Use Policy. Bidder has been advised and is aware that District has adopted a Board Policy which prohibits the use of tobacco products, including smokeless tobacco, anywhere on District property. Bidder shall be responsible for the enforcement of District's tobacco-free policy among all bidder's employees and subcontractors while on District property. Bidder understands and agrees that should any employee of bidder violate the District's Board Policy after having already been warned once for violating District's tobacco-free policy, bidder shall remove the individual for the duration of the Agreement. Bidder shall not be entitled to any additional compensation and/or time in completing the work for such removal.

25. Criminal Records Check. The successful bidder will be required to comply with the applicable requirements of Education Code section 45125.1 with respect to fingerprinting of employees and must complete the District's Criminal Records Check Certification.

26. Protest. Bidders may protest the recommended award, provided the protest is in writing, contains the proposal number, is delivered to the address listed for submission of proposal documents, and is submitted within five (5) calendar days of the posting of the Intent to Award. Grounds for a protest is that the District failed to follow the selection procedures and adhere to requirements specified in the RFP documents or any addenda or amendments; there has been a violation of conflict of interest as provided in California Government Code Section 87100 et. Seq. or violation of any State or Federal law. Protest will not be accepted on any other grounds. All protest will be handled by a panel comprised of District Staff. The District will consider only these specific issues addressed in the written protest. A written response will be directed to the protesting bidder within five (5) calendar days of the receipt of the protest, advising the decision with regard to the protest and the basis for the decision.

27. References. Bidders shall list a minimum of five (5) references where bidder has successfully provided the similar type(s) of good and services to another large school district or public agency at the similar size and scope as Irvine Unified School District. At least two (2) of the references should be for a school district. All references shall include full district/agency name, address, phone number, management contact, and description of work completed. District reserves the right to contact all references. Failure by bidder to provide references with its proposal submittal may result in rejection of proposal by District as nonresponsive. The District reserves the right to obtain from any or all sources, information concerning bidders which the District deems pertinent and to consider such information in evaluating the bidder's proposal.

28. Debarment, Suspension, and Other Responsibility Matter. As required by Executive Order 12549, Debarment & Suspension, and implemented at 34 CFR Part 85, Bidder must certify that its principals are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from transactions with any federal department or agency. Submission of a signed proposal in response to this solicitation is certification that Bidder is not currently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any state or federal department or agency. Submission is also agreement that Irvine Unified School District will be notified of any change in this status. Certification of Primary Participant regarding Debarment, Suspension, and other Responsibility Matters and Certification of Restriction on Lobbying must be completed and submitted at the time of the proposal due date or the bidder may be declared as nonresponsive.

29. Public Information. All materials received by the District in response to this Bid/RFP shall be made available to the public. If any part of a bidders material is proprietary or confidential, the bidder must identify and so state, and be submitted separate of the proposal documents. Any bidder information used to aid in proposal selection must not be restricted from the public.

30. District's Right to Choose. The District shall be the sole judge as to the requirements needed by their schools, students, and employees for the requested services being provided by the bidder.

31. Buy American - Domestic/Foreign Products. The USDA, Food and Nutrition Services encourages specifications using Federal funds to require 100% domestically grown and processed products. The exceptions to the Buy American requirements that State DOE may consider are:

- a. The product is not produced or manufactured in the U.S. in sufficient quantities and are reasonably available in quantities of a satisfactory quality.
- b. Competitive research and bids reveal the costs of the U.S. product are significantly higher than the non-domestic product

This requirement will be strictly adhered to. Any bidder intending to provide products produced or grown in a foreign country must include such information on their proposal submission. Bidders offering product and/or product ingredients manufactured or grown in the United States may be given priority for usage under this solicitation. Failure to include such information on the proposal submission can result in product rejection at the bidder's expense. If

bidder is quoting on a foreign product, it must be so noted on the proposal and the reason for bidding a foreign product must be disclosed.

If a domestic product is not available, the successful bidder must contact the District Nutrition Services Director.

32. Substitution/Inspection. All items delivered to the District shall be subject to inspection and rejection by the District. The District may return at the bidder's expense any item which fails to meet the conditions of the proposal. Such items shall be considered as rejected and promptly replaced by the bidder. No payment shall be required until replacement is complete. Any item or product damaged in shipment may be refused by the District and may be returned at the bidder's expense. The successful bidder understands that substitutions deviating from the Buy American provision will not be accepted unless approved by the District and/or are either of the two (2) exceptions approved by the State DOE.

33. Health Department Report. Bidder must submit a recent copy of a Health Department Report with the proposal documents, if applicable.

34. B2B Transaction Requirements. District's Nutrition Services has embarked on an organizational transformation program with a goal to improving controls, efficiency and saving costs. A critical component of this program is the implementation of technologies to support business-to-business (B2B) transactions between District's Nutrition Services and its trading partners for food distribution logistics and supply chain.

As a consequence of the organizational transformation program, District's Nutrition Services continually recruits, supports and builds relationships with suppliers that have ability and technology framework to support its B2B transactions initiative. District's Nutrition Services' major suppliers are required to have the ability to support B2B transactions consistent with the specifications given below. This current ability will be taken into consideration in the determination of award for this bid. Bidders must be able to go-live with the District's B2B system within sixty (60) days of the award of a contract.

**PROPOSAL FORM**

**Name of Bidder:** \_\_\_\_\_

**To: Irvine Unified School District, acting by and through the Governing Board, herein called the "DISTRICT."**

1. The undersigned bidder, having become familiarized with all the following documents including but not limited to the Notice Calling for Proposals, Calendar of Events, Information for Bidders, Proposal Form, Proposal Form Pricing Sheet, Noncollusion Declaration, Certification of Primary Participant Regarding Debarment, Suspension, and Other Responsibility Matters, Certification of Restriction on Lobbying, Tobacco Use Policy, Workers' Compensation Certificate, Drug-Free Workplace Certification, Criminal Records Check Certification, W-9, all insurance requirements, General Conditions, Special Provisions, specifications, and all modifications, addenda and amendments, if any (hereinafter Proposal Documents), the local conditions affecting the performance of the work at the place where the work is to be done, hereby proposes and agrees to be bound by all the terms and conditions of the Proposal Documents and agrees to perform, within the time stipulated, the work, including all of its component parts, and everything required to be performed, and to provide and furnish and pay for any and all of the labor, materials, supplies, tools, expendable equipment, and all applicable taxes, utility and transportation services necessary to perform the work and complete in a good workmanlike manner all of the work required in accordance with laws, codes, regulations, ordinances and any other legal requirements governing the work, in connection with the following:

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all in strict conformity with the Proposal Documents, including Addenda Nos. \_\_\_\_, \_\_\_\_, \_\_\_\_, on file at the office of the District pursuant to the sums as set forth in the Proposal Form Pricing Sheet.

2. It is understood that the District reserves the right to reject any or all proposals or to waive any irregularities or informalities in any proposals or in the bidding process. Bidder agrees that this proposal shall remain open and not be withdrawn for the period specified in the Information for Bidders.

3. The initial term of the Agreement is in full force and effect from November 17, 2021 through November 16, 2022. The term of the Agreement may be extended upon mutual consent of District and successful bidder(s) for an additional two (2) one (1) year periods in accordance with provisions contained in the Education Code section 17596 (K-12). The maximum term of the Agreement is three (3) years.

4. It is understood and agreed that if written notice of the award of a contract is mailed, faxed, or delivered to the bidder, the bidder will execute and deliver to DISTRICT the Agreement and will also furnish and deliver to the District certificates and endorsements of insurance, the Workers' Compensation Certificate, Tobacco Use Policy, Drug-Free Work Place Certification, the Criminal Records Check Certification, and W-9 within five (5) calendar days of the notice of award of the Agreement, or as otherwise requested in writing by DISTRICT.

5. Communications conveying notice of award of the contract, requests for additional information or other correspondence should be addressed to the bidder as stated in Section 6.

6. The name(s) of all persons interested in the proposal as principals are as follows:

Name	Address	Phone/ Email
_____	_____	_____
_____	_____	_____
_____	_____	_____

7. The bidder hereby warrants that the bidder has all appropriate licenses and/or permits to perform the work as specified in the proposal documents and that such licenses and permits will be in force and effect throughout the Agreement.

8. In submitting this proposal, the bidder offers and agrees that if the proposal is accepted, it will assign to the District all rights, title and interest in and to all causes of action it may have under Section 4 of the Clayton Act (15 U.S.C. Section 15) or under the Cartwright Act (Business & Professions Code section 16700 et seq.) arising from purchases of goods, materials, or services by the bidder for sale to the District pursuant to the proposal. Such assignment shall be made and become effective at the time the District tenders final payment under the contract. (Public Contract Code section 7103.5; Government Code sections 4450, 4451 and 4552).

9. The bidder hereby certifies that it is, and at all times during the performance of work hereunder shall be, in full compliance with the provisions of the Immigration Reform and Control Act of 1986 ("IRCA") in the hiring of its employees, and the bidder shall indemnify, hold harmless and defend the District against any and all actions, proceedings, penalties or claims arising out of the bidder's failure to comply strictly with the IRCA.

10. It is understood and agreed that if requested by DISTRICT, the bidder shall furnish a notarized financial statement, references, and other information required by DISTRICT sufficiently comprehensive to permit an appraisal of bidder's ability to perform the work.

11. **It is understood and agreed by the bidder that time is of the essence.**

12. The required noncollusion declaration is attached as required by Public Contract Code section 7106. Bidder understands and agrees that failure to submit a completed and signed declaration will render the bidder automatically nonresponsive.



13. Bidder shall certify compliance in providing the following by checking below:

- Product Recall Program
  - A copy of the bidders Product Recall Program **must** be submitted with proposal.
- Disaster Contingency Plan
  - A copy of the bidders Disaster Contingency Plan **must** be submitted with proposal.
- Food Security and Safety Program
  - A copy of the bidders Food Security and Safety Program **must** be submitted with proposal.

14. A recent copy of the bidder's health department report is attached hereto, if applicable.

15. All foods meet the USDA's "All Foods Sold in Schools" Nutrition Standards.

16. Buy American - Domestic/Foreign Products. The USDA, Food and Nutrition Services encourages specifications using Federal funds to require 100% domestically grown and processed products. The exceptions to the Buy American requirements that State DOE may consider are:

- a. The product is not produced or manufactured in the U.S. in sufficient quantities and are reasonably available in quantities of a satisfactory quality.
- b. Competitive research and bids reveal the costs of the U.S. product are significantly higher than the non-domestic product

This requirement will be strictly adhered to. Any bidder intending to provide products produced or grown in a foreign country must include such information on their proposal submission. Bidders offering product and/or product ingredients manufactured or grown in the United States may be given priority for usage under this solicitation. Failure to include such information on the proposal submission can result in product rejection at the bidder's expense. If bidder is quoting on a foreign product, it must be so noted on the proposal and the reason for bidding a foreign product must be disclosed.

The successful bidder understands that substitutions deviating from the Buy American provision will not be accepted unless approved by the District and/or are either of the two (2) exceptions approved by the State DOE.

**17. Failure to complete the Proposal Form and Proposal Form Pricing Sheet in its entirety will render a bidder nonresponsive.**

18. B2B Transaction Requirements. District's Nutrition Services has embarked on an organizational transformation program with a goal to improving controls, efficiency and saving costs. A critical component of this program is the implementation of technologies to support business-to-business (B2B) transactions between District's Nutrition Services and its trading partners for food distribution logistics and supply chain.

As a consequence of the organizational transformation program, District’s Nutrition Services continually recruits, supports and builds relationships with suppliers that have ability and technology framework to support its B2B transactions initiative. District’s Nutrition Services’ major suppliers are required to have the ability to support B2B transactions consistent with the specifications given below. This current ability will be taken into consideration in the determination of award for this bid. Bidders must be able to go-live with the District’s B2B system within sixty (60) days of the award of a contract.

19. List of References. Please provide references of school districts and/or any public agencies that bidder has contracted with to provide Fresh Produce.

1. Name: \_\_\_\_\_

Address and Telephone: \_\_\_\_\_

\_\_\_\_\_

Contact Person: \_\_\_\_\_

Description of Product: \_\_\_\_\_

2. Name: \_\_\_\_\_

Address and Telephone: \_\_\_\_\_

\_\_\_\_\_

Contact Person: \_\_\_\_\_

Description of Product: \_\_\_\_\_

3. Name: \_\_\_\_\_

Address and Telephone: \_\_\_\_\_

\_\_\_\_\_

Contact Person: \_\_\_\_\_

Description of Product: \_\_\_\_\_

4. Name: \_\_\_\_\_

Address and Telephone: \_\_\_\_\_

\_\_\_\_\_

Contact Person: \_\_\_\_\_

Description of Product: \_\_\_\_\_

5. Name: \_\_\_\_\_

Address and Telephone: \_\_\_\_\_

\_\_\_\_\_

Contact Person: \_\_\_\_\_

Description of Product: \_\_\_\_\_

## PROPOSAL FORM PRICING SHEET

Vendor should insert “**No Bid**” on line items that cannot be provided or will not be bid on.

Line #	Item Description	Package	Unit	Est Usage	Unit Price	TOTAL
1	APPLE-GRANNY SMITH	163 count	case	500		
2	APPLE-GRANNY SMITH SLICES	100/2 oz	case	500		
3	APPLE-RED (VARIETY)	163 count	case	1000		
4	APPLE-RED SLICED	100/2 oz	case	4000		
5	APPLE-ORGANIC RED (VARIETY)	163 count	case	400		
6	APPLE-ORGANIC RED SLICED	100/2 oz	case	500		
7	AVOCADO	6 count	bag	50		
8	BANANAS-PETITE GREEN	40 lb	case	100		
9	BANANA-PETITE GREEN	5 lb	5 lb	50		
10	BLACKBERRIES	12/6 oz	flat	800		
11	BLUEBERRIES	12/6oz	flat	275		
12	BROCCOLI-BUDS/FLORETTS	5 lb	bag	50		
13	CABBAGE-RED SHREDDED 1/8"	5 lb	bag	150		
14	CANTALOUPE CHUNKS INDIVIDUAL SERVING	50/2 oz	case	500		
15	CARROT-BABY PEELED	100/3 oz	case	3500		
16	CARROT-MATCHSTICK	5#	bag	300		
17	CUCUMBER	6 count	bag	200		
18	CUCUMBER	36 count	lug	100		
19	CUCUMER-ORGANIC	36 count	lug	50		
20	CUCUMBER-PERSIAN	22#	case	600		
21	FAJITA-MIX SLICED 1/4"	5 lb tray	tray	75		
22	GRAPES-RED CELLO WRAP	150/2.25oz	case	4000		
23	HONEYDEW CHUNKS INDIVIDUAL SERVINGS	50/2 oz	case	500		
24	NECTARINE (VARIETY)	25 lb	case	150		
25	NECTARINE-ORGANIC (VARIETY)	25 lb	case	100		
26	ONION-YELLOW DICED 1/4"	5 lb	bag	25		
27	ONION-YELLOW POUND	5 LB	bag	50		
28	ORANGE-CHOICE	138 count	case	100		
29	ORANGE WEDGES INDIVIDUAL SERVING	50/3 oz	case	500		
30	PEAS-SUGAR SNAP STRINGLESS	10 lb	case	800		
31	PEPPER-BELL GREEN CHOICE	5 lb	bag	200		
32	PEPPER-BELL RED CHOICE	5 lb	bag	200		
33	PINEAPPLE WEDGE INDIVIDUAL SERVING	50/2.7 oz	case	500		
34	POTATOES-RUSSET	80 count	case	50		
35	ROMAINE LETTUCE	3 count	pack	150		
36	ROMAINE-CHOPPED 1x1	6-2#	case	2200		
37	SPINACH-ORGANIC CLEANED	2.5 lb	bag	100		
38	SPINACH-CLEANED	2.5 lb	bag	200		
39	STRAWBERRIES	8/1 lb	flat	800		
40	STRAWBERRIES-ORGANIC	8/1 lb	flat	200		
41	STRAWBERRIES	12/12 oz	flat	800		
42	STRAWBERRIES-ORGANIC	12/12 oz	flat	200		

**PROPOSAL FORM PRICING SHEET Continued**

Line #	Item Description	Package	Unit	Est Usage	Unit Price	TOTAL
43	STRAWBERRY & BLUEBERRY MIX INDIVIDUAL SERVING	48/2 oz	case	500		
44	TANGERINE-VARIETY	90/100 count	case	2000		
45	TOMATOES	25 lb	lug	50		
46	TOMATOES-GRAPE	clam 12/1 pints	flat	2000		
47	TOMATOES-ORGANIC GRAPE	clam 12/1 pints	flat	300		
48	TOMATOES-LOOSE	5 lb	case	250		
49	TORTILLA-WHEAT 12"	10/1 dz	case	150		

50	Percentage (%) Mark-Up from manufacturer's invoice for items not listed in the Proposal Form Pricing Sheet: _____%
----	--

51	Does vendor have the capability for B2B Transactions?    Yes: _____    No: _____
----	--

The undersigned hereby declares that all of the representations of this proposal are made under penalty of perjury under the laws of the State of California.

Individual Name: \_\_\_\_\_  
Signed by: \_\_\_\_\_  
Print Name: \_\_\_\_\_  
Date: \_\_\_\_\_  
Business Address: \_\_\_\_\_  
\_\_\_\_\_  
Telephone: \_\_\_\_\_

\*\*\*\*\*

Partnership Name: \_\_\_\_\_  
Signed by: \_\_\_\_\_  
Print Name: \_\_\_\_\_  
Date: \_\_\_\_\_  
Business Address: \_\_\_\_\_  
\_\_\_\_\_  
Telephone: \_\_\_\_\_  
Other Partner(s): \_\_\_\_\_

\*\*\*\*\*

Corporation Name: \_\_\_\_\_  
(a \_\_\_\_\_ Corporation<sup>1</sup>)  
Business Address: \_\_\_\_\_  
\_\_\_\_\_  
Telephone: \_\_\_\_\_, President Date: \_\_\_\_\_  
Signed by: \_\_\_\_\_, President Date: \_\_\_\_\_  
Print Name: \_\_\_\_\_, President Date: \_\_\_\_\_  
Signed by: \_\_\_\_\_, Secretary Date: \_\_\_\_\_  
Print Name: \_\_\_\_\_, Secretary

[Seal]

\*\*\*\*\*

<sup>1</sup> A corporation awarded the contract shall furnish evidence of its corporate existence and evidence that the officer signing the Agreement and bonds is duly authorized to do so.

Joint Venturer

Name: \_\_\_\_\_  
Signed by: \_\_\_\_\_, Joint Venturer  
Print Name: \_\_\_\_\_  
Date: \_\_\_\_\_  
Business Address: \_\_\_\_\_  
\_\_\_\_\_  
Telephone: \_\_\_\_\_

Other Parties to  
Joint Venture:

***If an individual:*** \_\_\_\_\_  
(Name)  
Signed by: \_\_\_\_\_  
Print Name: \_\_\_\_\_  
Date: \_\_\_\_\_  
Doing Business as: \_\_\_\_\_  
Business Address: \_\_\_\_\_  
\_\_\_\_\_  
Telephone: \_\_\_\_\_

***If a Partnership:*** \_\_\_\_\_  
(Name)  
Signed by: \_\_\_\_\_, Partner  
Print Name: \_\_\_\_\_  
Date: \_\_\_\_\_  
Business Address: \_\_\_\_\_  
\_\_\_\_\_  
Telephone: \_\_\_\_\_

***If a Corporation:*** \_\_\_\_\_  
(a \_\_\_\_\_ Corporation)  
Signed by: \_\_\_\_\_  
Print Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_  
Business Address: \_\_\_\_\_  
\_\_\_\_\_  
Telephone: \_\_\_\_\_

**NONCOLLUSION DECLARATION TO BE EXECUTED BY**  
**BIDDER AND SUBMITTED WITH PROPOSAL**  
(Public Contract Code section 7106)

The undersigned declares:

I am the \_\_\_\_\_ of \_\_\_\_\_, the party making the foregoing proposal.

The proposal is not made in the interest of, or on behalf of, any undisclosed person, partnership, company, association, organization, or corporation. The proposal is genuine and not collusive or sham. The bidder has not directly or indirectly induced or solicited any other bidder to put in a false or sham proposal. The bidder has not directly or indirectly colluded, conspired, connived, or agreed with any bidder or anyone else to put in a sham proposal, or to refrain from bidding. The bidder has not in any manner, directly or indirectly, sought by agreement, communication, or conference with anyone to fix the proposal price of the bidder or any other bidder, or to fix any overhead, profit, or cost element of the proposal price, or of that of any other bidder. All statements contained in the proposal are true. The bidder has not, directly or indirectly, submitted his or her proposal price or any breakdown thereof, or the contents thereof, or divulged information or data relative thereto, to any corporation, partnership, company, association, organization, proposal depository, or to any member or agent thereof, to effectuate a collusive or sham proposal, and has not paid, and will not pay, any person or entity for such purpose.

Any person executing this declaration on behalf of a bidder that is a corporation, partnership, joint venture, limited liability company, limited liability partnership, or any other entity, hereby represents that he or she has full power to execute, and does execute, this declaration on behalf of the bidder.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that this declaration is executed on \_\_\_\_\_ [date], at \_\_\_\_\_ [city], \_\_\_\_\_ [state].

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Print Name



**CERTIFICATION OF PRIMARY PARTICIPANT  
REGARDING DEBARMENT, SUSPENSION, AND OTHER  
RESPONSIBILITY MATTERS**

The \_\_\_\_\_  
Firm name/principal  
certified to the best of its knowledge and belief, that it and its principals:

1. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any federal department agency;
2. Have not within a three-year period preceding this proposal been convicted of a or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, state or local) transaction or contract under a public transaction; violation of federal or state antitrust or destruction of records, making false statements, or receiving stolen property;
3. Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (federal, state, or local), with commission of any of the offenses enumerated in paragraph (2) of this certification; and
4. Have not within a three-year period preceding this proposal had one or more public transactions (federal, state or local) terminated for cause of default.

If unable to certify to any of the statements in this certification, the participant shall attach an explanation to this certification.

THE PRIMARY PARTICIPANT \_\_\_\_\_  
Firm name/principal

**CERTIFIED OR AFFIRMS THE TRUTHFULNESS AND ACCURACY OF THE CONTENTS OF THE STATEMENTS SUBMITTED ON OR WITH THIS CERTIFICATION AND UNDERSTANDS THAT THE PROVISIONS OF 31 U.S.C. SECTION 3801 ET SEQ. ARE APPLICABLE THERETO.**

\_\_\_\_\_  
**Signature and Title of Authorized Official**

**CERTIFICATION OF  
RESTRICTIONS ON LOBBYING**

I, \_\_\_\_\_, hereby certify on behalf (name of offeror) of  
\_\_\_\_\_ that:

(Firm name)

1. No Federal appropriated funds have been paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
2. If any funds, other than Federal appropriated funds, have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit the attached, Standard Form-LLL, "Disclosure of Lobbying Activities", in accordance with its instructions.
3. The undersigned shall require that the language of this certification be included in all subcontracts, and that all subcontracts shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance is placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

Executed this \_\_\_\_\_ day of \_\_\_\_\_, 2021

By \_\_\_\_\_  
(Signature of authorized official)

\_\_\_\_\_  
(Title of authorized official)

**SAMPLE AGREEMENT**

THIS AGREEMENT, dated the \_\_\_ day of \_\_\_\_\_, 2021, in the County of Orange, State of California, is by and between **Irvine Unified School District** (hereinafter referred to as “DISTRICT”, and \_\_\_\_\_ (hereinafter referred to as “CONTRACTOR”).

The DISTRICT and the CONTRACTOR, for the consideration stated herein, agree as follows:

1. CONTRACTOR agrees to comply with all the terms and conditions set forth in the proposal documents for **RFP No. 21/22-01NS, Fresh Produce**, including but not limited to the Notice Calling for Proposals, Calendar of Events, Information for Bidders, Proposal Form, Proposal Form Pricing Sheet, Noncollusion Declaration, Certification of Primary Participant Regarding Debarment, Suspension, and Other Responsibility Matters, Certification of Restrictions on Lobbying, Tobacco Use Policy, Worker’s Compensation Certificate, Drug-Free Workplace Certification, Criminal Records Check Certification, W-9, Insurance Certificates and Endorsements, General Conditions, Special Provisions, specifications, and all modifications, addenda and amendments thereto by this reference incorporated herein. The proposal documents are complementary, and what is called for by any one shall be as binding as if called for by all.

2. CONTRACTOR shall timely perform within the time required by the DISTRICT everything required to be performed, and shall provide, furnish and pay for all the labor, materials, supplies, tools, equipment, and all applicable taxes, utility and transportation services required pursuant to this Agreement. All of said work shall be performed and completed in a good workmanlike manner in strict accordance with all provisions of this Agreement as hereinabove defined and in accordance with applicable laws, codes, regulations, ordinances and any other legal requirements. The CONTRACTOR shall be liable to the DISTRICT for any damages arising as a result of a failure to fully comply with this obligation.

3. DISTRICT shall pay to the CONTRACTOR, as full consideration for the faithful performance of this Agreement, subject to any additions or deductions as agreed to in writing, according to the unit prices identified on the Proposal Form Pricing Sheet.

4. The initial term of the Agreement is in full force and effect from November 17, 2021 through November 16, 2022. The term of the Agreement may be extended upon mutual consent of District and successful bidder(s) for an additional two (2) one (1) year periods in accordance with provisions contained in the Education Code section 17596 (K-12). The maximum term of the Agreement is three (3) years.

5. Time is of the essence.

6. The DISTRICT shall have discretion to terminate this Agreement at any time and require CONTRACTOR to cease all work under this Agreement by providing CONTRACTOR thirty (30) days prior written notice of termination specifying the desired date of termination. Upon receipt of written notice of such termination, CONTRACTOR shall:

- (i) Cease operations as directed by DISTRICT in the notice;

- (ii) Take any actions necessary, or that DISTRICT may direct, for the protection and preservation of the work; and
- (iii) Not terminate any insurance provisions required by the proposal documents.

In case of such termination for the DISTRICT's convenience, CONTRACTOR shall be entitled to receive payment from the DISTRICT for Fresh Produce satisfactorily received and accepted prior to the effective date of the termination. The foregoing provisions are in addition to and not in limitation of any other rights or remedies available to the DISTRICT.

In case of default by CONTRACTOR, DISTRICT will authorize CONTRACTOR to acquire substitute items not available due to the default from CONTRACTOR's sources. However, CONTRACTOR will be responsible for excess cost to the DISTRICT by said default. Any substitute items shall be approved by DISTRICT, equal in quantity and quality as determined by DISTRICT. DISTRICT will allow CONTRACTOR the opportunity to rectify any significant problems before terminating the Agreement.

7. The CONTRACTOR agrees to and does hereby indemnify and hold harmless the DISTRICT, its Governing Board, officers, agents, and employees from every claim or demand made, and every liability, loss, damage, or expense, of any nature whatsoever, which may be incurred by reason of:

(a) Any injury to or death of any person(s) or damage to, loss or theft of any property sustained by the CONTRACTOR or any person, firm or corporation employed by the CONTRACTOR, either directly or by independent contract, upon or in connection with the work called for in this AGREEMENT, except for liability resulting from the sole active negligence, or willful misconduct of the DISTRICT.

(b) Any injury to or death of any person(s), or damage, loss or theft of any property caused by any act, neglect, default or omission of the CONTRACTOR, or any person, firm, or corporation employed by the CONTRACTOR, either directly or by independent contract, arising out of, or in any way connected with the work covered by this Agreement, whether said injury or damage occurs either on or off DISTRICT property, if the liability arose due to the negligence or willful misconduct of anyone employed by the CONTRACTOR, either directly or by independent contract.

The CONTRACTOR, at CONTRACTOR's own expense, cost, and risk shall defend any and all actions, suits, or other proceedings that may be brought or instituted against the DISTRICT, its Governing Board, officers, agents or employees, on any such claim, demand or liability, and shall pay or satisfy any judgment that may be rendered against the DISTRICT, its Governing Board, officers, agents or employees in any action, suit or other proceedings as a result thereof.

8. All items shall be subject to the inspection of the DISTRICT. Inspection of the items shall not relieve the CONTRACTOR from any obligation to fulfill this Agreement. Defective items shall be made good by the CONTRACTOR, and unsuitable items may be rejected, notwithstanding that such defective items have been previously overlooked by the DISTRICT and

accepted. If any items shall be found defective at any time before final acceptance of the complete delivery, the CONTRACTOR shall forthwith remedy such defect in a manner satisfactory to the DISTRICT. All items rejected by the DISTRICT at any time prior to final inspection and acceptance shall at once be removed from the place of delivery by the CONTRACTOR who shall assume and pay the cost thereof without expense to the DISTRICT, and shall be replaced by items satisfactory to the DISTRICT.

9. While engaged in carrying out and complying with the terms and conditions of this Agreement the CONTRACTOR is an independent contractor, and is not an officer, employee or agent of the DISTRICT.

10. CONTRACTOR shall, at CONTRACTOR's sole cost and expense, provide for and maintain in full force and effect, from the commencement of services until the expiration of this Agreement, a policy or policies of insurance, in connection with the furnishing of materials, articles, or services covered under this Agreement. CONTRACTOR agrees to provide an endorsement to this policy(s) stating, "Such insurance as is afforded by this policy shall be primary, and any insurance carried by the DISTRICT shall be excess and noncontributory." In addition, CONTRACTOR agrees to name DISTRICT, its Governing Board, officers, agents and employees as additional insured under said policy. No later than five (5) calendar days after the execution of this Agreement, CONTRACTOR shall provide DISTRICT with copies of the policy or policies of insurance evidencing all coverage's and endorsements required hereunder including a provision for a thirty (30) day written notice of cancellation or reduction in coverage.

a. CONTRACTOR shall, at CONTRACTOR's sole cost and expense, maintain in full force and effect the following insurance coverages from a California licensed insurer with an A, VIII, or better rating from A.M. Best or an approved self-insurance program, sufficient to cover any claims, damages, liabilities, costs and expenses (including attorney fees) arising out of or in connection with CONTRACTOR's fulfillment of the obligations under this AGREEMENT:

i. Comprehensive General Liability Insurance, including bodily injury, property damage and contractual liability with minimum limits set by the DISTRICT. The policy may not contain an exclusion for sexual molestation or abuse coverage, unless waived by the DISTRICT.

(1) General Aggregate	\$2,000,000
(2) Each Occurrence	\$1,000,000
(3) Products/Completed Operations	\$1,000,000
(4) Personal and Advertising Injury	\$1,000,000
(5) Damage to Rented Premises	\$50,000
(6) Medical Expense (any one person)	\$5,000

ii. Umbrella (excess) liability insurance coverage with a limit of \$3,000,000, unless waived by the DISTRICT. The policy may not contain an exclusion for sexual molestation or abuse coverage, unless waived by the DISTRICT.

iii. Business Automobile Liability Insurance for owned, scheduled, non-owned, or hired automobiles with a combined single limit not less than \$1,000,000 per occurrence. (Required only if the CONTRACTOR drives on behalf of the DISTRICT in the course of performing Services.)

iv. Professional Liability Insurance with a limit of \$1,000,000 per occurrence, unless waived by the DISTRICT.

v. Workers' Compensation and Employers Liability Insurance in a form and amount covering CONTRACTOR's full liability under the California Workers' Compensation Insurance and Safety Act and in accordance with applicable state and federal laws. The policy shall be endorsed with the insurer's waiver of rights of subrogation against the DISTRICT.

It should be expressly understood, however, that the coverage and limits referred to under i., ii., iii., and iv. above shall not in any way limit the liability of the bidder.

b. No later than five (5) days from execution of the Agreement by the DISTRICT and successful bidder, and prior to commencing the Services under this bid, bidder shall provide DISTRICT with certificates of insurance evidencing all coverages and endorsements required hereunder.

CONTRACTOR shall provide prior written notice to the DISTRICT thirty (30) days in advance of any non-renewal, cancellation, or modification of the required insurance. The certificates of insurance providing the coverages referred to in clauses (i) and (ii) above shall name DISTRICT, its Governing Board, officers, and employees, as additional insureds with appropriate endorsements. In addition, the certificates of insurance shall include a provision stating "Such insurance as is afforded by this policy shall be primary, and any insurance carried by DISTRICT shall be excess and noncontributory." Failure to maintain the above mentioned insurance coverages shall be cause for termination of this AGREEMENT

Insurance Covering Special Hazards: The following special hazards shall be covered by rider or riders to above-mentioned public liability insurance or property damage insurance policy or policies of insurance, or by special policies of insurance in amounts as follows:

Automotive and truck where operated in amounts as above.

Material hoist where used in amounts as above.

11. If CONTRACTOR is a corporation, the undersigned hereby represents and warrants that the corporation is duly incorporated and in good standing in the State of \_\_\_\_\_, and that \_\_\_\_\_, whose title is \_\_\_\_\_, is authorized to act for and bind the corporation.

12. The failure of the DISTRICT in any one or more instances to insist upon strict performance of any of the terms of this Agreement or to exercise any option herein conferred shall not be construed as a waiver or relinquishment to any extent of the right to assert or rely upon any such terms or option in the future.

13. The CONTRACTOR shall not assign, transfer, convey, sublet or otherwise dispose of this Agreement or of its rights, title or interest in or to the same or any part thereof. If the CONTRACTOR shall assign, transfer, convey, sublet or otherwise dispose of the Agreement or its right, title or interest therein, or any part thereof, such attempted or purported assignment, transfer, conveyance, sublease or other disposition shall be null, void and of no legal effect whatsoever; and the Agreement may, at the option of the DISTRICT, be terminated, revoked and annulled, and the DISTRICT shall thereupon be relieved and discharged from any and all liability and obligations growing out of the same to the CONTRACTOR, and to its purported assignee or transferee.

14. The CONTRACTOR shall maintain books, records, documents, and other evidence and accounting procedures and practices, sufficient to reflect properly all costs of whatever nature claimed to have been incurred and anticipated to be incurred for the performance of this Agreement. The CONTRACTOR shall preserve and make available its records to the DISTRICT and/or other representative agencies having a pecuniary or other bona fide interest in this Agreement including designees of the interested parties for a period of five (5) years from the date of expiration of this Agreement or until released in writing from this obligation by the DISTRICT. The CONTRACTOR is responsible for any audit discrepancies involving any deviation from the terms of this Agreement, and for any commitments or expenditures in excess of amounts allotted by the DISTRICT.

15. Any notice from one party to the other or otherwise under the Agreement shall be in writing and shall be dated and signed by the party giving such notice or by a duly authorized representative of such party. Any such notice shall not be effective for any purpose whatsoever unless served in one of the following manners:

- (1) If notice is given to DISTRICT, by personal delivery thereof to DISTRICT, or by depositing same in United States mail, enclosed in a sealed envelope addressed to DISTRICT, and sent by registered or certified mail with postage prepaid;
- (2) If notice is given to CONTRACTOR, by personal delivery thereof to said CONTRACTOR, or by depositing same in United States mail, enclosed in a sealed envelope addressed to said CONTRACTOR at its regular place of business or at such address as may have been established for the conduct of work under this Agreement, and sent by registered or certified mail with postage prepaid.

16. Each and every provision of law and clause required by law to be inserted in this Agreement shall be deemed to be inserted herein and the Agreement shall be read and enforced as though it were included herein, and if through mistake or otherwise any such provision is not

inserted, or is not currently inserted, then upon application of either party, the Agreement shall forthwith be physically amended to make such insertion or correction. The Agreement and proposal documents are complementary. CONTRACTOR warrants and certifies that in the performance of this Agreement, it will comply with all applicable statutes, laws, rules, regulations and orders of the United States, and of any state or political subdivision thereof, including laws and regulations pertaining to labor, wages, hours, and other conditions of employment, and applicable price ceilings if any. The CONTRACTOR shall indemnify, hold harmless and defend the DISTRICT against any and all actions, proceedings, penalties or claims arising out of the failure to comply strictly with the IRCA. Failure of the DISTRICT to insist on the strict performance of the terms and conditions of this Agreement shall not constitute or be construed as a waiver or relinquishment of the DISTRICT rights thereafter to enforce strict compliance with any such terms or conditions but the same shall continue in full force and effect.

17. The parties to the Agreement shall be excused from performance during the time and to the extent that they are prevented from obtaining, delivering or performing by act of God, fire, or commandeering of materials, products, plants or facilities by the government, when satisfactory evidence thereof is presented, provided that it is satisfactorily established that the non-performance is not due to the fault or neglect of the party not performing.

18. This Agreement constitutes the entire agreement of the parties. No other agreements, oral or written, pertaining to the work to be performed, exists between the parties. This Agreement can be modified only by an amendment in writing, signed by both parties and pursuant to action of the Governing Board of the DISTRICT.

19. The laws of the State of California shall govern the terms and conditions of this Agreement with venue in the County of Orange.

20. Each of the parties signing this Agreement warrants to the other that he or she has the full authority of the entity on behalf of which his or her signature is made.



IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed.

DISTRICT  
Irvine Unified School District

CONTRACTOR

By: \_\_\_\_\_  
Signature

By: \_\_\_\_\_  
Signature

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Title

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

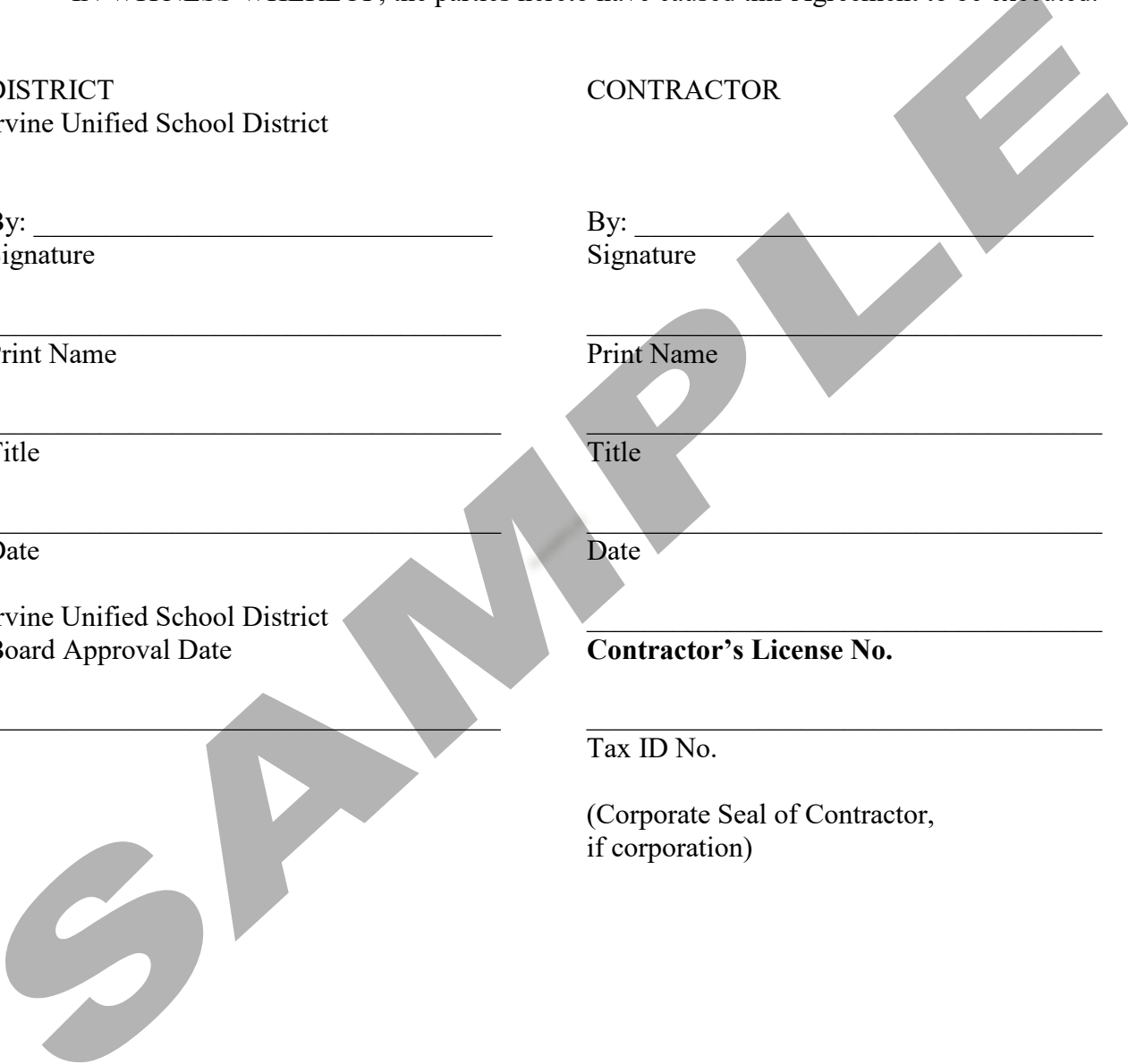
\_\_\_\_\_  
Date

Irvine Unified School District  
Board Approval Date

\_\_\_\_\_  
**Contractor's License No.**

\_\_\_\_\_  
Tax ID No.

(Corporate Seal of Contractor,  
if corporation)



**TOBACCO USE POLICY**

**IRVINE UNIFIED SCHOOL DISTRICT**  
Irvine, California

In the interest of public health, the Irvine Unified School District provides a tobacco-free environment. Smoking or the use of any tobacco products are prohibited in buildings and vehicles, and on any property owned, leased or contracted for, by the District. Failure to abide with this requirement could result in the termination of this contract.

I acknowledge that I am aware of Tobacco Use Policy and hereby certify that I and my employees will adhere to the requirements of the policy.

\_\_\_\_\_  
Name of Bidder

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

**WORKERS' COMPENSATION CERTIFICATE**

Labor Code section 3700.

"Every employer except the state shall secure the payment of compensation in one or more of the following ways:

(a) By being insured against liability to pay compensation in one or more insurers duly authorized to write compensation insurance in this state.

(b) By securing from the Director of Industrial Relations a certificate of consent to self-insure either as an individual employer or as one employer in a group of employers, which may be given upon furnishing proof satisfactory to the Director of Industrial Relations of ability to self-insure and to pay any compensation that may become due to his or her employees.

(c) For any county, city, city and county, municipal corporation, public district, public agency or any political subdivision of the state, including each member of a pooling arrangement under a joint exercise of powers agreement (but not the state itself), by securing from the Director of Industrial Relations a certificate of consent to self-insure against workers' compensation claims, which certificate may be given upon furnishing proof satisfactory to the director of ability to administer workers' compensation claims properly, and to pay workers' compensation claims that may become due to its employees. On or before March 31, 1979, a political subdivision of the state which, on December 31, 1978, was uninsured for its liability to pay compensation, shall file a properly completed and executed application for a certificate of consent to self-insure against workers' compensation claims. The certificate shall be issued and be subject to the provisions of Section 3702."

I am aware of the provisions of Labor Code section 3700 which require every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of that code, and I will comply with such provisions before commencing the performance of the work of this contract.

\_\_\_\_\_  
Name of Contractor

By: \_\_\_\_\_  
Signature

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

(In accordance with Article 5 [commencing at Section 1860], Chapter 1, Part 7, Division 2 of the Labor Code, the above certificate must be signed and filed with the awarding body prior to performing any work under the Agreement.)

## DRUG-FREE WORKPLACE CERTIFICATION

This Drug-Free Workplace Certification is required pursuant to Government Code section 8350 et seq., the Drug-Free Workplace Act of 1990. The Drug-Free Workplace Act of 1990 requires that every person or organization awarded a contract for the procurement of any property or services from any State agency must certify that it will provide a drug-free workplace by doing certain specified acts. In addition, the Act provides that each contract awarded by a State agency may be subject to suspension of payments or termination of the contract and the contractor may be subject to debarment from future contracting, if the state agency determines that specified acts have occurred.

Pursuant to Government Code section 8355, every person or organization awarded a contract from a State agency shall certify that it will provide a drug-free workplace by doing all of the following:

- a) Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensation, possession or use of a controlled substance is prohibited in the person's or organization's workplace and specifying actions which will be taken against employees for violations of the prohibition;
- b) Establishing a drug-free awareness program to inform employees about all of the following:
  - 1) The dangers of drug abuse in the workplace;
  - 2) The person's or organization's policy of maintaining a drug-free workplace;
  - 3) The availability of drug counseling, rehabilitation and employee-assistance programs;
  - 4) The penalties that may be imposed upon employees for drug abuse violations;
- c) Requiring that each employee engaged in the performance of the contract be given a copy of the statement required by subdivision (a) and that, as a condition of employment on the contract, the employee agrees to abide by the terms of the statement.

I, the undersigned, agree to fulfill the terms and requirements of Government Code section 8355 listed above and will publish a statement notifying employees concerning (a) the prohibition of controlled substance at the workplace, (b) establishing a drug-free awareness program, and (c) requiring that each employee engaged in the performance of the contract be given a copy of the statement required by Section 8355(a) and requiring that the employee agree to abide by the terms of that statement.

I also understand that if the District determines that I have either (a) made a false certification herein, or (b) violated this certification by failing to carry out the requirements of Section 8355, that the contract awarded herein is subject to suspension of payments, termination, or both. I

further understand that, should I violate the terms of the Drug-Free Workplace Act of 1990, I may be subject to debarment in accordance with the requirements of Section 8350 et seq.

I acknowledge that I am aware of the provisions of Government Code section 8350 et seq. and hereby certify that I will adhere to the requirements of the Drug-Free Workplace Act of 1990.

\_\_\_\_\_  
Name of Contractor

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

SAMPLE

**NOTICE REGARDING CRIMINAL RECORDS CHECK**  
**EDUCATION CODE SECTION 45125.1**

Education Code section 45125.1 provides that if the employees of any entity that has a contract with a school district may have any contact with pupils, those employees shall submit or have submitted their fingerprints in a manner authorized by the Department of Justice together with a fee determined by the Department of Justice to be sufficient to reimburse the Department for its costs incurred in processing the application.

The Department of Justice shall ascertain whether the individual whose fingerprints were submitted to it has been arrested or convicted of any crime insofar as that fact can be ascertained from information available to the Department. When the Department of Justice ascertains that an individual whose fingerprints were submitted to it has a pending criminal proceeding for a violent felony listed in Penal Code section 1192.7(c), or has been convicted of such a felony, the Department shall notify the employer designated by the individual of the criminal information pertaining to the individual. The notification shall be delivered by telephone and shall be confirmed in writing and delivered to the employer by first-class mail.

**The contractor shall not permit an employee to come in contact with pupils until the Department of Justice has ascertained that the employee has not been convicted of a violent or serious felony. The contractor shall certify in writing to the governing board of the school district that none of its employees who may come in contact with pupils have been convicted of a violent or serious felony.**

Penal Code section 667.5(c) lists the following “violent” felonies: murder; voluntary manslaughter; mayhem; rape; sodomy by force; oral copulation by force; lewd acts on a child under the age of 14 years; any felony punishable by death or imprisonment in the state prison for life; any felony in which the defendant inflicts great bodily injury on another; any robbery perpetrated in an inhabited dwelling; arson; penetration of a person’s genital or anal openings by foreign or unknown objects against the victim’s will; attempted murder; explosion or attempt to explode or ignite a destructive device or explosive with the intent to commit murder; kidnapping; continuous sexual abuse of a child; and carjacking.

Penal Code section 1192.7 lists the following “serious” felonies: murder; voluntary manslaughter; mayhem; rape; sodomy by force; oral copulation by force; a lewd or lascivious act on a child under the age of 14 years; any felony punishable by death or imprisonment in the state prison for life; any felony in which the defendant personally inflicts great bodily injury on another, or in which the defendant personally uses a firearm; attempted murder; assault with intent to commit rape or robbery; assault with a deadly weapon on a peace officer; assault by a life prisoner on a noninmate; assault with a deadly weapon by an inmate; arson; exploding a destructive device with intent to injure or to murder, or explosion causing great bodily injury or mayhem; burglary of an inhabited dwelling; robbery or bank robbery; kidnapping; holding of a hostage by a person confined in a state prison; attempt to commit a felony punishable by death or imprisonment in the state prison for life; any felony in which the defendant personally uses a dangerous or deadly weapon; selling or furnishing specified controlled substances to a minor; penetration of genital or anal openings by foreign objects against the victim’s will; grand theft involving a firearm; carjacking; and a conspiracy to commit specified controlled substances offenses.

**CERTIFICATION BY CONTRACTOR**

**CRIMINAL RECORDS CHECK**

**AB 1610, 1612 and 2102**

To the Governing Board of Irvine Unified School District:

I, \_\_\_\_\_ certify that:  
Name of Contractor

1. I have carefully read and understand the Notice Regarding Criminal Records Check (Education Code section 45125.1) required by the passage of AB 1610, 1612 and 2102.
2. Due to the nature of the work I will be performing for the Districts, my employees may have contact with students of the Districts.
3. None of the employees who will be performing the work have been convicted of a violent or serious felony as defined in the Notice and in Penal Code section 1192.7 and this determination was made by a fingerprint check through the Department of Justice.

I declare under penalty of perjury that the foregoing is true and correct.

Executed at \_\_\_\_\_, California on \_\_\_\_\_.  
Date

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Typed or printed name

\_\_\_\_\_  
Title

\_\_\_\_\_  
Address

\_\_\_\_\_  
Telephone

**W-9**

Current Version Available at: <http://www.irs.gov/pub/irs-pdf/fw9.pdf>



**GENERAL CONDITIONS**

**SCOPE OF WORK:**

Irvine Unified School District (“District”) is seeking vendors interested in supplying fresh produce directly to our Schools to have a variety of healthy food choices in the meal and the ala carte program at their school. It is the vendor’s responsibility to review the wellness policy and be familiar with its contents. **Any product that does not meet District Nutrition Standards will not be considered and may not be delivered at any time.**

Site name and address provided herein.

IUSD Central Kitchen	3387 Barranca Parkway
Irvine	4321 Walnut Avenue, 92604
Northwood	4515 Portola Pkwy, 92620
Portola	1001 Cadence, 92618
University	4771 Campus Drive, 92612
Woodbridge	2 Meadowbrook, 92604

1. **COVID-19 GUIDELINES:** The successful bidder(s) shall follow current California Department of Public Health (CDPH) and Orange County Health Care Agency (OCHCA) COVID-19 guidelines as it pertains to public grounds and buildings and K-12 public school settings.

2. **ADD/DELETE LOCATIONS:** Irvine Unified School District is a growing district; therefore, the District reserves the right to add or delete locations at its discretion at any time throughout the term of this proposal.

3. **NO MAXIMUM OR MINIMUM QUANTITIES:** The District does not guarantee that a minimum or maximum amount will be purchased. Any quantities specified in this proposal are estimates only. Quantities are subject to change in order to meet the needs of the Nutrition Service Department as well as individual school needs. **No minimum order requirements may be imposed or will be allowed.**

4. **PRICING:** Quoted prices must stay in effect for one (1) year after award of proposal. The District may grant, upon written request, a price adjustment to compensate for inflation. This adjustment must be requested prior to August 31<sup>st</sup> of each year for the upcoming renewal year. The adjustment will be effective upon renewal of the contract and shall not exceed the percentage of change in the Consumer Price Index (CPI) for the Los Angeles-Long Beach-Anaheim areas for the period ending July 31<sup>st</sup> of the given contract renewal.

5. PRICE ADJUSTMENTS: The District must be notified of any change in pricing over the contract period within ten (10) days of any change. In the event of a price decline, such lower prices are to be immediately extended to Irvine Unified school District. In addition, within 24 hours of any price decrease, the District shall be notified in writing of such changes and pending orders shall reflect the newer price.

6. PENALTIES: Federal and State meal reimbursement lost to the District due to late and/or missed deliveries will be deducted from the payment made to the successful bidder.

7. PRODUCT RECALL: Successful bidder shall bear the cost incurred by the District resulting from product recall, including but not limited to, any cost initially incurred for storage and transportation; pickup, transportation and storage of recalled product(s); and price differential for replacement product, if necessary and approved by the District. Payment or credit for all cost directly related to product recall shall be made with 30 days.

8. POSTPONEMENTS/DELAYS: The successful Bidder must have a contingency plan in place for immediate recovery should a truck breakdown or other delay(s) occur during any delivery day. If a delay occurs, the successful bidder will be responsible for contacting the Nutrition Services Department and each individual Site Supervisor affected by the delay. It is requested that the successful bidder meet with the Nutrition Services Department Director to outline the proposed delivery routing prior to implementation or upon a change in routes or delivery days.

9. DELIVERIES: All items are to be proposed in ready for use condition. Deliveries are to be F.O.B. (Free On Board) destination within the boundaries of the Irvine Unified School District. All deliveries shall require inside delivery and are to be placed in designated areas/coolers, as specified, by the Site Supervisor/designee. Actual delivery scheduling must be agreed to by the successful bidder(s) and individual Site Supervisor/designee. The criteria for delivery scheduling will be based on volume and equipment present at the site. In general, one (1) day per week delivery is required, however, the District/Site Supervisor/designee reserves the right to have products delivered each serving day (Monday through Friday), if conditions require. Any requests to deviate from the Site Supervisor's delivery times or a request for building keys, if applicable, must be made directly to the Nutrition Services Department Director. The Bidder shall be responsible for securing and returning keys, if applicable, to the Nutrition Services Department Director. All deliveries shall be accompanied by a.) two (2) hard copies of an invoice, which must be signed by the Site Supervisor/designee, or b.) a digital invoice signed by Site Supervisor/designee and emailed to the Nutrition Services office and the Site Supervisor/designee. The successful bidder(s) shall keep sufficient stocks of product and service material to ensure prompt delivery and service schedules. There shall be no minimum quantities required in order for the District to place orders for needed items.

10. WARRANTY OF SUPPLIES/GOODS:

a. Notwithstanding inspection and acceptance by the District of supplies/goods furnished under the contract or any provision of this contract concerning the conclusiveness thereof, the Successful bidder warrants that:

i. All materials, equipment, supplies/items/goods or services furnished under this contract shall be in accordance with the District specifications as called out in this proposal. The successful bidder shall furnish and deliver the quantity designated in the award of the proposal. Any materials or supplies/items/goods determined by the District's Nutrition Services Department Director to be not in accordance with or conforming to the specifications of the proposal, shall be rejected and promptly removed from the District's premises at the successful bidder's expense. When a sample is taken from a shipment and sent to a laboratory for testing and the test shows that the sample does not comply with the specifications or contract sample, the cost of such test shall be paid for by the successful bidder.

ii. The preservation, packaging, packing and marking, and the preparation for, and method of shipment of such supplies/items/goods will conform to the requirements of this contract.

b. Within a reasonable time, the District may either by written notice, require the prompt correction or replacement of any supplies/items/goods or part thereof (including preservation, packaging, packing and marking) that do not conform with the requirements of this contract or retain such supplies/items/goods, whereupon the contract price thereof shall be reduced by an amount equitable under the circumstances and the Successful bidder shall promptly make appropriate repayment.

c. When return, correction or replacement is required, the District shall return the supplies/items/goods and transportation charges and responsibility for such supplies/items/goods while in transit shall be borne by the Successful bidder. However, the successful bidder's liability for such transportation charges shall not exceed an amount equal to the cost of transportation by the usual commercial method of shipment between the designated destination point under this contract and the Successful bidder's facility and return.

d. If the Successful bidder fails or refuses to correct or replace the nonconforming supplies/items/goods within a period of ten (10) days, the District may, by contract or otherwise, correct or replace them with similar supplies/items/goods and charge to the Successful bidder the cost occasioned to the District thereby. In addition, if the Successful bidder fails to furnish timely disposition instructions, the District may dispose of the nonconforming supplies/items/goods for the Successful bidder's account in a reasonable manner, in which case, the District is entitled to reimbursement from the Successful bidder or from the proceeds for the reasonable expenses of the care and disposition of the nonconforming supplies/items/goods, as well as for excess costs incurred or to be incurred.

e. Any supplies/items/goods or parts thereof corrected or furnished in replacement pursuant to this clause shall also be subject to all the provisions of this clause to the same extent as supplies/items/goods initially delivered.

f. The word “supplies/items/goods” as used herein includes related services.

g. The rights and remedies of the District provided in this clause are in addition to and do not limit any rights afforded to the District by any other clause of the contract.

11. DISTRICT’S RIGHT TO TERMINATE AGREEMENT:

a. If the successful bidder refuses or fails to perform the required services with such diligence as will insure its completion within the time specified or any extension thereof, or if the successful bidder should file a petition for relief as a debtor, or should relief be ordered against successful bidder as a debtor, under Title 11 of the United States Code, or if successful bidder should make a general assignment for the benefit of its creditors, or if a receiver should be appointed on account of its insolvency, or if it should persistently or repeatedly refuse or should fail to perform, except in cases for which extension of time is provided or if successful bidder should otherwise be guilty of a substantial violation of any provision of the Agreement, then District may, without prejudice to any other right or remedy, serve written notice upon successful bidder, of District’s intention to terminate the Agreement, such notice to contain the reasons for such intention to terminate, and unless within ten (10) days after the service of such condition shall cease or such violation shall cease and arrangements satisfactory to District for the correction thereof be made, the Agreement shall upon the expiration of said ten (10) days, cease and terminate. In such case, successful bidder shall not be entitled to receive any further payment.

b. In the event of termination under this section and when successful bidder the cost to the District to secure other similar services specified in this proposal exceeds the cost of providing the service pursuant to this Agreement, the excess cost shall be charged to and collected from said successful bidder.

c. The successful bidder hereby agrees and acknowledges that monies utilized by the District to purchase the items proposed is public money appropriated by the State of California or acquired by the District from similar public sources and is subject to variation. The District fully reserves the right to cancel the contract at any time and/or to limit services due to non-availability or non-appropriation of sufficient funds.

In case of default by successful bidder, District will authorize successful bidder to acquire substitute items not available due to the default from successful bidder’s sources. However, successful bidder will be responsible for excess cost to the District by said default. Any substitute items shall be approved by District, equal in quantity and quality as determined by District. District will allow successful bidder the opportunity to rectify any significant problems before terminating the Agreement. District reserves the right to restrict and/or disqualify a bidder from future RFPs originating from the District.

The successful bidder will be expected to provide products in the amounts awarded as per the Agreement. Failure to deliver the necessary quantities without notification to the District shall allow the District to obtain products from an alternate supplier. Any and all cost of the replacement products above the awarded price in the Agreement shall be paid by the successful bidder.

12. DEFAULT: If successful bidder fails or neglects to furnish and/or deliver the supplies or services at the prices quoted or at the times and places agreed upon or otherwise fails to comply with the terms, conditions, or specifications of this proposal document in its entirety, the District reserves the right to cancel existing services affected by such default, and procure services from other sources and deduct from any unpaid balance due to the successful bidder. The price paid shall be considered the prevailing market price at the time such purchase is made.

13. FORCE MAJEURE: The parties to the Agreement shall be excused from performance during the time and to the extent that they are prevented from obtaining, delivering or performing services by act of God, fire, pandemic, loss or shortage of facilities, lockout, or commandeering of materials, products, plants or facilities by the government, when satisfactory evidence thereof is presented to the party, provided that it is satisfactorily established that the non-performance is not due to the fault or neglect of the party not performing.

14. GOVERNING LAW: The laws of the State of California and the County of Orange shall govern all aspects of the proposal.

15. NO WAIVER: No waiver of a breach of any provision of the agreement by the District shall constitute a waiver of any other breach of such provision. Failure of the District and Successful bidder to enforce at any time, or from time to time, any provision of this agreement shall not be construed as a waiver thereof.

16. PROVISIONS REQUIRED BY LAW DEEMED INSERTED: Each and every provision of law and clause required by law to be inserted in this agreement shall be deemed to be inserted herein and the agreement shall be read and enforced as though it were included herein. If through mistake or otherwise any such provision is not inserted, or not correctly inserted, then upon application of either party the agreement shall forthwith be physically amended to make such insertion or correction.

17. SEVERABILITY: If any provisions of the agreement shall be unlawful, void, or for any reason, unenforceable, it shall be deemed severable from, and shall in no way effect the validity or enforceability of the remaining provisions of this contract, which shall remain valid and enforceable according to its term.

18. INDEPENDENT CONTRACTOR: While engaged in carrying out and complying with the terms and conditions of the Agreement, the successful bidder shall be deemed an independent contractor and not an officer, agent, or employee of the District.

19. NO ASSIGNMENT: The successful bidder shall not assign, transfer, or convey the contract which may be awarded, or any right accruing there-under, title or interest therein, funds to be received hereunder, or any power to execute the same.

20. DAMAGE TO DISTRICT PROPERTY: The successful bidder shall be fully responsible for any damage to District property caused by its employees. Repairs or replacement, at the option of the District, shall be made by the successful bidder or by the District and charged to the bidder.

21. CRIMINAL RECORDS CHECK: Education Code Section 45125.1 provides that if the employees of any entity that has a contract with a school District may have any contact with pupils, those employees shall submit or have submitted their fingerprints in a manner authorized by the Department of Justice together with a fee determined by the Department of Justice to be sufficient to reimburse the Department for its costs incurred in processing the application. The successful bidder shall not permit an employee to come in contact with the District's pupils until the Department of Justice has ascertained that the employee has not been convicted of a violent or serious felony. The successful bidder shall certify in writing to each Governing Board of the District that none of its employees who may come in contact with pupils have been convicted of a violent or serious felony. Criminal Records Check Certification by successful bidder is included in the proposal documents.

22. DRUG AND ALCOHOL TESTING: The successful bidder shall require that all drivers and other individuals who may come in contact with students be subject to drug and alcohol testing in accordance with the requirements of any federal, state, and local laws. The successful bidder shall keep a record of said information and shall provide such information to the District upon request.

The successful bidder shall notify the District immediately and in writing whenever any driver has tested positive for drugs or alcohol and shall immediately dismiss the driver from transporting District students.

23. COMPLIANCE WITH OSHA: Successful bidder agrees that all item(s) offered comply with all applicable Federal and State Occupational Safety and Health Act, laws, standards and regulations, and that successful bidder will indemnify and hold the District harmless for any failure to so conform.

24. DRIVING ON PREMISES: The successful bidder's representative driving motor vehicles on the District's school grounds will use extreme caution, especially when school is in session. Drivers will lock any gate or door to which they may have access, both when entering and/or leaving school grounds. Any unusual conditions noted by drivers such as gates or doors found unlocked and/or opened, evidence of vandalism, etc., should be reported to the Irvine Unified School District at (949) 936-5000.

25. RECORDS AND AUDIT:

a. The Successful bidder shall maintain books, records, documents, and other evidence and accounting procedures and practices, sufficient to reflect properly all costs of whatever nature claimed to have been incurred and anticipated to be incurred for the performance of this Agreement.

b. The Successful bidder shall preserve and make available its records to the District and/or other representative agencies having a pecuniary or other bona fide interest in this Agreement including designees of the interested parties for a period of five (5) years from the date of expiration of this Agreement or until released in writing from this obligation by the District.

c. The Successful bidder is responsible for any audit discrepancies involving any deviation from the terms of this Agreement, and for any commitments or expenditures in excess of amounts allotted by the District.

26. CLAIMS: If the successful bidder shall claim compensation for any damage sustained by reason of the acts of the District or its agents, the successful bidder shall, within five (5) days after sustaining of such damage, make to the District a written statement of the damage sustained. On or before the 15th day of the month succeeding that in which such damage shall have been sustained, the successful bidder shall file with the District an itemized statement of the details and amount of such damage, and unless such statement shall be made as thus required, the successful bidder's claims for compensation shall be forfeited and invalidated and it shall not be entitled to consideration for payment on account of any such damage.

### SPECIAL PROVISIONS

1. Nutrition Guidelines are based on current Federal and State guidelines and are subject to change during the term of the Agreement.
2. Whenever possible, the district would like to use Environmentally Preferable Products (EPP): Related terms include “environmentally appropriate”, “environmentally sensitive” and “environmentally sound.”
3. Deliveries shall be made in a refrigerated truck and delivered with an internal temperature at 41 degrees or below.
4. The set-up of orders and delivery times may vary per school. Successful bidder(s) must work with the Nutrition Services Department and/or school sites on both set-up and delivery.
5. All products must be produced, processed, handled and distributed in accordance with the laws and regulations of the Orange County Health Department. The District reserves the right to inspect the plant and facilities of the Bidder prior to or after award of contract. The Bidder must display a valid Orange County Health Department permit, if applicable. **A recent health department report will be required to be submitted at the time of the proposal opening, if applicable.**
6. The storage, preparation, handling, and delivery of the food products shall comply with all applicable health and safety laws and regulations. The successful Bidder shall immediately notify the District in writing of any potential disease, illness, or recalls associated with the food product which stem from improper procedures or defective food product.
7. Products and packaging stated herein shall be produced under sanitary conditions; the plant shall meet sanitary requirements of Federal, State and City agencies.
8. No fuel surcharges will be levied during the term of this contract.