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Board Cover Memorandum

To Board of Education

From Kyla Johnson-Trammell, Superintendent
Preston Thomas, Chief Systems and Services Officer
Roland Broach, Interim Executive Director, Nutrition Services

Meeting Date June 5, 2024

Subject Food Donation Program Partnership Agreement - FoodRecovery.org and Food Connect - Nutrition Services Department

Ask of the Board Approval by the Board of Education of a Food Donation Program Partnership Agreement by and between the District and the nonprofits, FoodRecovery.org, Washington, DC, and Food Connect, Philadelphia, PA, for the latter to collectively pick up and distribute surplus edible food from Nutrition Services' school cafeterias, kitchens, and the Central Kitchen and Warehouse and distribute to school communities or retrieve excess food from school sites and deliver it to local nonprofits, for the period, June 3, 2024 through June 3, 2029, at no cost to the District.

Background Every day, edible surplus food is tossed from district schools. Nutrition Services is partnering with two food recovery organizations to help the district donate these surplus foods to school communities and/or nearby nonprofits. In addition to feeding food-insecure individuals, this will allow Nutrition Services to divert organics from the landfill, where they would otherwise create methane, a greenhouse gas 30 times more potent than CO₂.

Discussion As of January 1, 2024, SB 1383 requires Tier 2 food generators, which includes schools that have a cafeteria, to donate all edible food to a food recovery organization that they would otherwise throw away. The National School Lunch Act does not allow schools that are a part of their program to donate food directly to individuals; rather it must be donated to a nonprofit organization. This is where the partnership with the two food recovery organizations will come into play. They will serve as the nonprofit partner, allowing the district to distribute food to the school community, or they will pick up the food from the school sites and deliver it to local nonprofits, who will then distribute the food to their communities.

Fiscal Impact N/A. The food recovery organizations are seeking outside grant funding to help cover the transportation costs.

Attachment(s)

- Oakland Unified School District Food Donation Program Partnership Agreement with FoodRecovery.org, Washington, DC, and Food Connect, Philadelphia, PA



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OUSD FOOD DONATION PROGRAM PARTNERSHIP AGREEMENT

In partnership with Oakland Unified School District (“OUSD”), *FoodRecovery.org* and *Food Connect* (“Food Connect”) (*both are charitable organizations*) will collaboratively pick up and distribute surplus edible food from school cafeterias, kitchens and the central warehouse/kitchen pursuant to the terms of this Food Donation Program Partnership Agreement (“Agreement”). FoodRecovery.org and Food Connect may each be referred to individually as a “Contractor” and shall be referred to collectively as the “Contractors.” OUSD, FoodRecovery, and Food Connect may be referred to individually as a “Party” or collectively as the “Parties.”

The goal of the program is to reduce the environmental, financial, and social costs of wasted surplus food by instead feeding community members who may not have adequate access to food, specifically for our local community.

PARTNER INFORMATION

Name of Organization: FoodRecovery.org
Address: 4410 Massachusetts Ave NW, #397, Washington, DC 20016
Contact: Samantha Paul
Phone: 202-449-1507 Email: sammie@foodrecovery.org

Name of Organization: Food Connect
Address: 1515 Market Street, Suite 1200 Philadelphia, PA 19102
Contact: Alex Jackson
Phone: 304-962-6879 Email: alexj@foodconnectgroup.com

PARTNER CHECKLIST

In order to participate in the program, your organization must have the following:

- The Contractors are required to follow all OUSD food donation guidelines and procedures.
- The Contractors are required to submit a copy of their W-9.
- The Contractors must have current liability insurance (as described in the Agreement).
- Contractors entering the school and coming into potential contact with students need to have a completed fingerprinting and criminal background investigation.
- Refrigerator(s)/freezer(s) to properly store the volume of perishable items.
- Commitment to pick-up food a minimum of 2-3 days a week (except for federal and school holidays).
- The amount and types of food will depend on the site and other variables
- Exact times will vary by site, but on average, pickups occur typically at approximately 1:30 pm daily

Review this checklist and attached agreement, complete both forms, and have the agreement signed by your organization’s designated person. Please note the Agreement does not become effective until it is signed by an authorized OUSD official and is approved by the OUSD Board.



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Please email, fax or deliver the completed Checklist and Agreement to:

OUSD Nutrition Services/Department Sustainability Manager- Nancy Deming

2850 West Street, Oakland, CA 94608

nutrition@ousd.org

You will be contacted within a week for confirmation on receiving your signed document and any follow up questions if needed. The Nutrition Services Dept will then submit the signed Agreement to the OUSD Board for approval. The Nutrition Services team will contact you once this process is complete. Please contact us if there are any questions or concerns that arise. Thank you for your interest and capacity on our food recovery program.



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This Agreement, executed in duplicate, and entered into on (June 3, 2024) is between Oakland Unified School District (OUSD), acting by and through OUSD Nutrition Services, hereinafter referred to as OUSD Nutrition Services and FoodRecovery.org and Food Connect (“Contractors”), under the authority of the 2011 Richard B. Russell National School Lunch Act and the Bill Emerson Good Samaritan Food Donation Act of 1996, Public Law 104-210, California Good Samaritan Food Donation Act, AB-1219, and California State Mandate on food recovery, SB1383, for the purpose of providing surplus food and meals to non-profit, community based organizations.

SB1383 and Health and Safety Code section 39730.5 et seq. Edible Food Recovery Requirement

This Agreement is sufficient to meet the conditions and requirements of Section 18991.3 of SB1383 regulations. As of January 1st, 2024, it is required for OUSD Nutrition Services to maintain a copy of this Agreement to be in compliance with the contract/written agreement from the recordkeeping requirements outlined in Section 18991.4 (2) of the regulations.

To be eligible to receive food donations from the District, the charitable organizations (also known as “Contractors”) must sign a "Food Donation Agreement" and complete the "Partner Checklist" and forward it to the Nutrition Services Department. This will involve food donations to be picked up by the Contractors. In some cases, school site volunteers may deliver to Contractors. To further assist in the capturing of surplus food the District may use available resources where possible to collect from selected schools for a consolidated food donation picked up by Contractors.

It is hereby agreed that:

- 1) “Contractors” includes all staff, drivers, volunteers and/or representatives of said organizations.
- 2) OUSD, acting through OUSD Nutrition Services, will allow contractors to pick up and distribute pre- packaged food, prepared food, produce and milk that are deemed surplus to be served to contractors’ program participants in need of food at no charge. The amount of food, time of pick-up and other program details will be determined on a site-by-site basis by both parties.
- 3) The Contractors are required to follow all OUSD food donation guidelines and procedures.
- 4) OUSD staff and OUSD volunteers will be responsible for maintaining a food donation log, which will track the types of food donated, respective weights, and dates when food was donated. Food Connect will be responsible for making this data available digitally.
- 5) This Agreement has a term of five (5) years and must be approved by the Oakland Unified School District Board of Education. Any party may terminate this Agreement for cause upon ten (10) days prior written notice. Any party may terminate this Agreement without cause by giving thirty (30) days prior written notice. Should a Contractor exercise this right to terminate, the Agreement shall remain in full force and effect as to OUSD and the remaining Contractor.

Notice of termination will be provided in writing as provided in Section 10 below. During the



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term of the Agreement, the Parties may modify the list of schools that participate in this program. The Food Donation Program is open to any charitable organization.

6) SCOPE OF WORK

This Agreement outlines the collaboration between FoodRecovery.org and Food Connect in their efforts to recover and distribute surplus food. Food Connect will focus on logistics and transportation, ensuring efficient food pickups and deliveries. FoodRecovery.org will handle coordination with food donors and manage recovery operations, focusing on compliance with health and safety standards.

For schools that can commit to having dedicated volunteers to assist in distribution of surplus food donated to their students, families and school community, FoodRecovery.org will support and serve as the nonprofit partner for at school site distributions.

Food Connect and FoodRecovery.org will collaborate to schedule food pickups and share information to enhance the program. Contractors shall jointly engage with community partners and donors, share resources such as transportation and storage facilities to support the program's goals, and promote the partnership to increase community participation and awareness are key components of this collaboration.

- 7) OUSD Nutrition Services will provide the deemed surplus meals/snacks, produce & milk from the school kitchen and cafeteria. These preparation sites will maintain the appropriate state and local health certifications for the facility.
- 8) OUSD Nutrition Services will not be obligated to provide any meals on days when it is not open for business.
- 9) Contractors will pay for all transportation costs and for the equipment necessary to transport food. OUSD is responsible for purchasing and/or maintaining refrigeration or freezers at the school site.
- 10) Depending on school site pick up details, as a general rule, whenever Contractors (including their employees/volunteers) will be in the presence of students unsupervised, they are required to submit to fingerprinting for a background check pursuant to Education Code section 45125.1. While the Contractors do not provide OUSD with the actual copies of the employee/volunteer fingerprint results or criminal records, they must provide a letter asserting that its employees/volunteers have passed fingerprint review by the DOJ and FBI, as well as the required TB testing.



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11) Insurance:

Commercial General Liability Insurance:

Unless specifically waived by OUSD, the following insurance is required:

- If a Contractor employs any person to perform work in connection with this Agreement, then that Contractor shall procure and maintain at all times during the performance of such work, Workers' Compensation Insurance as it applies to their employees in conformance with the laws of the State of California and Federal laws when applicable. Employers' Liability Insurance shall not be less than One Million Dollars (\$1,000,000) per accident or disease.

FoodRecovery.org shall mark one of the boxes below:

FoodRecovery.org is aware of the provisions of Section 3700 of the Labor Code 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 will comply with such provisions before commencing the performance of the work of this Agreement.

FoodRecovery.org does not employ anyone in the manner subject to the workers' compensation laws of California.

Food Connect shall mark one of the boxes below:

Food Connect is aware of the provisions of Section 3700 of the Labor Code 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 will comply with such provisions before commencing the performance of the work of this Agreement.

Food Connect does not employ anyone in the manner subject to the workers' compensation laws of California.

- Each Contractor shall maintain Commercial General Liability insurance, including automobile coverage with limits of One Million Dollars (\$1,000,000) per occurrence for bodily injury and property damage. The coverage shall be primary as to OUSD and shall name OUSD as an additional insured. Evidence of insurance must be attached. Endorsement of OUSD as an additional insured shall not affect OUSD's rights to any claim, demand, suit or judgment made, brought or recovered against contractors. Each policy shall protect the Contractor and OUSD in the same manner as though each were separately issued. Nothing in said policy shall operate to increase the Insurer's liability as set forth in the policy beyond the amount or amounts shown or to which the Insurer would have been liable if only one interest were named as an insured.

12) As provided in the Bill Emerson Good Samaritan Food Donation Act of 1996, the Parties agree that the liability of Oakland Unified School District, OUSD Nutrition Services, FoodRecovery.org, and Food Connect under this Agreement is limited to instances of an injury to or death of an ultimate user or recipient of the food or grocery product that results from an act or omission from any party that constitutes gross negligence or intentional misconduct. OUSD shall have no liability in civil or criminal



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law arising from the nature, the age, packaging, or condition of apparently wholesome food or apparently fit grocery products donated in good faith under this Agreement. FoodRecovery.org agrees to hold harmless, indemnify, and defend OUSD and its officers, agents, and employees from any and all claims or losses accruing or resulting from injury, damage, or death of any person, firm, or corporation in connection with FoodRecovery.org's performance of this Agreement. Food Connect agrees to hold harmless, indemnify, and defend OUSD and its officers, agents, and employees from any and all claims or losses accruing or resulting from injury, damage, or death of any person, firm, or corporation in connection with Food Connect's performance of this Agreement. FoodRecovery.org also agrees to hold harmless, indemnify, and defend OUSD and its elective board, officers, agents, and employees from any and all claims or losses incurred by any supplier, contractors, or subcontractors furnishing work, services, or materials to FoodRecovery.org in connection with the performance of this Agreement. Food Connect also agrees to hold harmless, indemnify, and defend OUSD and its elective board, officers, agents, and employees from any and all claims or losses incurred by any supplier, contractors, or subcontractors furnishing work, services, or materials to Food Connect in connection with the performance of this Agreement. OUSD agrees to hold harmless, indemnify, and defend each Contractor and its officers, agents, and employees from any and all claims or losses accruing or resulting from injury, damage, or death of any person, firm, or corporation in connection with the performance of this Agreement that arise from OUSD's gross negligence or intentional misconduct. This provision survives termination of this Agreement.

- 13) The Parties will comply with all applicable federal, state, and local statutes and regulations with regard to the preparation and service of food. The Parties will follow safe food handling and storage practices as dictated by appropriate state and county requirements. All business and information requests relating to the execution of this Agreement and the services thereof, including kitchen visitations, will be directed to the Interim Executive Director of Nutrition Services.



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14) All notices required by this Agreement will be in writing and either personally delivered or mailed by regular mail, postage prepaid, to the following address

To OUSD:

Roland Broach, Interim Executive Director of Nutrition Services

Address: 2850 West Street, Oakland, CA 94608

Office Phone: (510) 879-1700

Email: roland.broach@ousd.org

To FoodRecovery.org:

Samantha Paul Executive Director

4410 Massachusetts Ave NW, #397, Washington, DC 20016

202-449-1507


To Food Connect:

Alex Jackson National Director of Programs and Logistics

1515 Market Street, Suit 1200 Philadelphia, PA 19102

304-962-6879


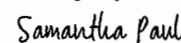
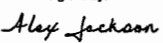
- 15) This Agreement will be interpreted and construed under and governed and enforced by the laws of the State of California without reference to choice of law rules.
- 16) This Agreement constitutes the entire Agreement between the Parties and supersedes all prior negotiations, understandings, representations and Agreements, if any.
- 17) If any term, condition or provision of this Agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remaining provisions will nevertheless continue in full force and effect, and shall not be affected, impaired or invalidated in any way.

Name and Title of OUSD Nutrition Services: Roland Broach, Interim Executive Director of Nutrition Services	Telephone Number: (510) 879-1700
Signature of OUSD Nutrition Services 	Date: 5-8-24




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<p>District</p> <p>By: </p> <hr/> <p>Name: Preston Thomas</p> <hr/> <p>Title: Chief Systems and Services Officer</p> <hr/> <p>Date: 5/8/2024</p> <hr/>	<p>Contractor: FoodRecovery.org</p> <hr/> <p>Name: Samantha Paul</p> <hr/> <p>Title: Executive Director</p> <hr/> <p>Date: 4/22/2024</p> <hr/> <p>DocuSigned by: </p> <p>By signing <small>3FOAD2842E74ED</small>, I certify under penalty of perjury that our organization is entitled to participate in the OUSD Food Donation program because we are a non-profit corporation under Internal Revenue Code section 501(c)(3). (If your agency qualifies under some other basis, please specify that criterion here:</p> <hr/> <hr/> <hr/>	<p>Contractor: Food Connect</p> <hr/> <p>Name: Alex Jackson</p> <hr/> <p>Title: National Director of Programs and</p> <hr/> <p>Date: 4/22/2024</p> <hr/> <p>DocuSigned by: </p> <p>By signing <small>F8F356E83A9C433</small>, I certify under penalty of perjury that our organization is entitled to participate in the OUSD Food Donation program because we are a non-profit corporation under Internal Revenue Code section 501(c)(3). (If your agency qualifies under some other basis, please specify that criterion here:</p> <hr/> <hr/> <hr/>
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IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the day first as mentioned above.



 President, Board of Education Oakland Unified School District

6/6/2024

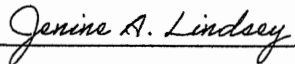
 Date



 Superintendent, Kyla Johnson-Tramell, Oakland Unified School District

6/6/2024

 Date



 Approved as to Form

5/1/24

Jenine Lindsey

 General Counsel, Oakland Unified School District

 Date