

OFFICE OF THE CITY ATTORNEY
DAVIN MCINTOSH, City Attorney
411 West Ocean Boulevard, 9th Floor
Long Beach, CA 90802-4511

1 AGREEMENT

2 36558

3 THIS AGREEMENT is made and entered as of March 15, 2023 for reference
4 purposes only, pursuant to a minute order of the City Council of the City of Long Beach
5 adopted at its meeting held on March 14, 2023, and in a minute order of the Board of
6 Education of the Long Beach Unified School District of Los Angeles County adopted at its
7 meeting held on May 3, 2023, by and between the CITY OF LONG BEACH, a
8 municipal corporation ("Sponsor"), and the LONG BEACH UNIFIED SCHOOL
9 DISTRICT OF LOS ANGELES COUNTY, a public school system created and
10 authorized by the California Constitution and City Charter ("Vendor").

11 WHEREAS, the California Department of Education ("CDE") has made
12 available funds for a 2023 Summer Food Service Program for Children ("Program") to
13 provide meals at no cost to eligible children; and

14 WHEREAS, Sponsor anticipates entering an agreement with the CDE to
15 provide for the administration of the Program; and

16 WHEREAS, it has been determined that the Program will be conducted at
17 various locations throughout the City of Long Beach and Signal Hill; and

18 WHEREAS, Sponsor desires to enter an agreement with Vendor for the
19 preparation of meals pursuant to and in implementation of the Program; and

20 WHEREAS, Vendor has a food service facility possessing the skills,
21 personnel and equipment necessary for the preparation of such meals.

22 NOW, THEREFORE, in consideration of the mutual terms and conditions
23 herein, the parties agree as follows:

24 1. VENDOR PREPARATION. Vendor shall prepare and place in
25 containers provided by Sponsor such meals described hereinafter as Sponsor may order
26 from Vendor in the manner hereinafter specified for the 2023 Summer Food Service
27 Program for Children. Vendor warrants that all meals prepared by it will be wholesome,
28 suitable for human consumption, and that Vendor shall meet all specifications and

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1 obligations under the existing regulations of the CDE, or as amended, as are pertinent or
2 applicable to the 2023 Summer Food Service Program for Children of the National School
3 Lunch Act (hereinafter "Regulations").

4 2. FEE. In consideration of the satisfactory performance of Vendor's
5 obligations pursuant to this Agreement, Sponsor shall pay to Vendor the sum of Four
6 Dollars and Forty Cents (\$4.40) for each lunch actually prepared for service at locations
7 within the City of Long Beach, in an amount not to exceed Three Hundred Sixteen
8 Thousand Five Hundred Fifty Dollars (\$316,550.00). The quantity shall not exceed ten
9 thousand (10,000) such meals daily, except as may be mutually agreed by Sponsor and
10 Vendor. The quantity shall be no less than fifty (50) lunches daily, except as may be
11 mutually agreed by Sponsor and Vendor. Sponsor's ordering of a quantity in excess of
12 these amounts and Vendor's delivery of such quantity shall constitute mutual agreement.
13 In no event shall Sponsor be held liable or be required to pay for any meals which fail to
14 meet the requirements of the Regulations, including those pertaining to CDE nutritional
15 requirements, such as, meals of poor quality, unwholesome or spoiled meals or portions
16 thereof, or damaged meals, or meals which otherwise fail to meet the requirements set
17 forth in this Agreement.

18 3. PAYMENT. Sponsor shall pay Vendor for meals provided under this
19 Agreement within thirty (30) days after receipt of an invoice from Sponsor. It is understood
20 that the CDE assumes no liability for payment of differences between the number of meals
21 delivered and prepared by Vendor and the number of meals served by the Sponsor that
22 are eligible for reimbursement.

23 4. SITES. Sponsor shall provide to Vendor a list of State agency
24 approved food service sites, along with the approved level for the number of meals which
25 may be claimed for reimbursement for each site. Sponsor shall inform Vendor of all sites
26 which have been approved, cancelled, or terminated subsequent to the submission of the
27 initial approved site list and of any changes to the approved level of meal service for a site,
28 within twenty-four (24) hours after these site changes.

1 5. ORDERING. Sponsor shall order from Vendor, on a daily basis, the
2 number of meals needed, three (3) days in advance of service at locations within the City
3 of Long Beach. Each daily order may be increased or decreased by Sponsor, but only if
4 Sponsor informs Vendor no later than one o'clock (1:00) p.m. on the day prior to the day
5 on which a decrease or an increase is to take effect.

6 6. DELIVERY. Vendor shall deliver meals to the locations identified on
7 Attachment "A" to this Agreement, which is incorporated by reference, on the day of the
8 actual service of such meals or, at the option of the participating organization whose site
9 offers these meals, the organization may pick up the meals from Vendor if the organization
10 makes its own arrangements with Vendor to do so. Sponsor shall not be liable in any way
11 to any organization with respect to such arrangements. Sponsor shall provide a minimum
12 of one food handler to receive meals at designated locations. Sponsor will provide
13 additional food handlers, if needed, as determined by Sponsor. Vendor shall deliver
14 lunches no earlier than one (1) hour before the meal service and time designated by the
15 Sponsor and no later than the scheduled beginning of the meal service. Any requests by
16 Sponsor for delivery of lunches outside these times must be made a minimum of one (1)
17 day in advance and the meals must be picked up by Sponsor or the participating
18 organization at Vendor's dock.

19 7. PREPARATION OF MEALS. All meals prepared by Vendor pursuant
20 to this Agreement shall conform to the Regulations. Vendor shall provide different daily
21 menus to prevent monotony in the meals.

22 A. Lunches. All lunches shall meet the requirements of the CDE
23 reimbursable lunch, described generally as follows:

- 24 i. Eight (8) ounces of fluid milk.
- 25 ii. Two (2) ounces (edible portion as served) of meat or
26 meat alternate (fish, cheese, one (1) egg, one-half (½) cup cooked dry beans
27 or peas, four (4) tablespoons of peanut butter), or an equivalent combination
28 of these foods.

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iii. Three-fourths (3/4) cup of two (2) or more fruits and/or vegetables. A serving of full strength fruit juice may be used to meet not more than three-eighths (3/8) cup of this requirement.

iv. One (1) slice of bread or equivalent made of whole grain or enriched flour or meal.

B. Packaging.

i. Meals shall be packaged in such a way as to maintain proper temperatures as required by Health Department regulations. Sponsor shall insure that all components are served.

ii. Each unit shall be capable of holding meals at a temperature of 32°F minimum, not to exceed 41°F maximum, for a period of three (3) hours.

iii. All sandwiches shall be individually wrapped and sealed.

iv. An eight (8) ounce carton of fluid milk shall be supplied with each meal.

8. MENU CYCLE. Vendor shall provide lunches in accordance with the menu cycle mutually agreed upon in writing which may be repeated for the duration of the Program.

9. FOOD ANALYSIS. At the discretion of Vendor, and at its own expense, Vendor shall send a random sampling of meals to a recognized laboratory for analysis of portions, bacteria, coliform and plate counts.

10. HEALTH REGULATIONS. Vendor shall adhere to all applicable health regulations at all times. Sponsor, State, and Federal program authorities shall have the right to inspect Vendor's premises and request formal inspection by health officials, if deemed necessary. Failure to comply with applicable health requirements shall result in the immediate termination of this Agreement.

11. PERMITS. Vendor shall obtain and maintain food handler's permits in accordance with applicable requirements. Vendor shall ensure that its employees

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1 observe sanitary food handling practices. Sponsor shall ensure that its employees and
2 volunteers observe sanitary food handling practices at serving sites. A letter notifying the
3 City's Department of Health and Human Services of this operation is on file.

4 12. FOOD STORAGE AND PACKAGING MATERIAL. Sponsor shall
5 provide satisfactory food storage and serving containers sufficient in strength to prevent
6 crushing of food.

7 13. QUALITY STANDARD. Quality standards shall adhere to State and
8 local specifications. All meat and meat by-products shall come from plants inspected under
9 a federally-approved inspection plant.

10 14. TRANSPORTING AND FOOD SERVICE EQUIPMENT. All
11 equipment used to transport the food and all other food service equipment shall be cleaned
12 and sanitized on a daily basis.

13 15. PACKAGING OF MEALS. Meals shall be packaged in bulk. Sponsor
14 shall see that all components are served.

15 16. PREPARATION AND ASSEMBLY OF MEALS. Vendor shall prepare
16 meals under properly controlled temperatures. Assembly of meals shall include necessary
17 eating utensils, napkins, condiments, etc. Vendor shall hold assembled meals in properly
18 refrigerated or heated areas, as appropriate, that meet sanitation standards. Sponsor shall
19 approve samples of finished meal packages, in accordance with menus provided, and
20 there shall be no deviation from the packaging presented and approved.

21 17. PRODUCTS. All products shall be manufactured and assembled in a
22 plant approved and inspected by the CDE, County of Los Angeles, or City of Long Beach
23 Department of Health and Human Services not more than forty-eight (48) hours prior to
24 delivery. Vendor shall furnish at its cost, upon request, a microbial analysis, a chemical
25 analysis, and a flavor analysis.

26 18. DONATED FOODS. Foods donated by the CDE shall be utilized as
27 practicable in the Program and in accordance with availability from the State.

28 19. ASSIGNMENT OF DONATED FOOD. Donated food received from

1 the CDE will be directed to Vendor and freight and handling costs will be billed to and paid
2 by Vendor.

3 20. COMPLETE MEALS.

4 A. Vendor shall deliver complete meals only. If any portion of a
5 meal is undeliverable, unacceptable or missing, Sponsor shall disallow payment for
6 total meal unless needed items are delivered five (5) minutes prior to end of serving
7 time.

8 B. Sponsor will instruct sites to make every effort to contact the
9 sponsor when meal components are not complete or unacceptable. Sponsor will
10 contact Vendor for replacement. In addition, Sponsor understands that the Vendor
11 can provide additional meals when there is an unexpected increase in participation.

12 21. VERIFICATION. Sponsor shall verify the number of boxes as well as
13 the number of meals in each box, prior to meal services.

14 22. RECORDS.

15 A. In addition to any other records, books, statements or invoices
16 required to be kept by Vendor pursuant to this Agreement, Vendor shall maintain
17 such records (supported by invoices, receipts, or other documenting evidence) as
18 Sponsor needs to meet its responsibilities for the Program. Vendor shall report such
19 information to Sponsor within ten (10) days after the end of each month.

20 B. Vendor shall keep full and accurate records in connection with
21 the meals covered by this Agreement. All such records shall be kept on file for three
22 (3) years and three (3) months after the end of the federal fiscal year to which they
23 pertain, or any other period which the U.S. Secretary of Agriculture may from time
24 to time designate. Sponsor or the auditors of the CDE, upon request, shall have
25 access to all such records for audit and review at a reasonable time and place.
26 Sponsor's authorized representatives and the representatives of the CDE shall have
27 the right to conduct on-site review of the food service operation.

28 23. TERM. The term of this Agreement shall commence on June 20,

1 2023, and shall terminate on August 25, 2023 provided, however, that either Sponsor or
2 Vendor may terminate this Agreement by giving to the other party at least seventy-two (72)
3 hours prior notice. Meals shall be served Monday through Friday.

4 24. CONTINGENT ON STATE/FEDERAL AGREEMENTS. Sponsor and
5 Vendor understand and agree that this Agreement is contingent upon the execution of
6 underlying agreements with the United States, or agencies thereof. Consequently, neither
7 Sponsor nor Vendor shall have any obligation to perform, and this Agreement shall be of
8 no force and effect, until such time as such underlying agreements have been duly
9 executed. Upon demand, Sponsor shall supply Vendor with copies thereof.

10 25. HOLD HARMLESS. Vendor shall defend, indemnify and hold
11 harmless Sponsor, its agents, employees and officials against any and all claims,
12 demands, damages, losses, causes of action, liabilities, costs, suits, or expenses (including
13 reasonable attorney's fees) arising out of any act or omission of any officer, agent or
14 employee of Vendor, or resulting from the condition of any property owned or controlled by
15 Vendor. Sponsor shall defend, indemnify and hold harmless Vendor, its agents,
16 employees and officers against any and all claims, demands, damages, liabilities, costs,
17 suits or expenses (including reasonable attorney's fees) arising out of any act or omission
18 of any officer or employee of Sponsor or resulting from the condition of any property owned
19 or controlled by Sponsor.

20 26. STATUS OF VENDOR. Neither Vendor nor any of its officers,
21 employees or agents are, nor shall they be deemed for any purpose, employees of Sponsor
22 nor shall they be entitled to any rights, benefits or privileges of Sponsor's employees.

23 27. ASSIGNMENT. This Agreement shall not be assigned without the
24 prior written consent of Sponsor's City Council. Any attempt by Vendor to assign any of its
25 duties, obligations and responsibilities shall be void, and shall render this Agreement void.

26 28. TIME OF ESSENCE. Time is of the essence hereunder.

27 29. NON-PERFORMANCE.

28 A. If Vendor fails to perform any or all of the tasks required by this

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Agreement, Sponsor reserves the right to perform such tasks in part or in total. Sponsor may perform such tasks itself or by contracting with another Vendor.

B. If Sponsor performs a part of or the total of the tasks not performed by Vendor in either of the aforementioned manners, Vendor shall be liable to and shall pay Sponsor for all costs incurred in such performance. Sponsor shall not exercise any remedy available upon the occurrence of Vendor's failure to perform until:

C. Sponsor gives notice to Vendor specifying any and all items of non-performance to Vendor; and

D. Vendor shall have failed to correct the specified items of non-performance within forty-eight (48) hours after receipt of such notice.

30. ADMINISTRATION. The City Manager, the Director of Parks, Recreation and Marine, or any other designee of the City Manager is authorized and directed, for and on behalf of the City, to administer this Agreement and all related matters. Any decision of the City Manager or his designee in connection herewith shall be final.

31. NOTICES. Unless otherwise required by the context or specific provision of this Agreement, all notices hereunder shall be in writing and personally delivered or deposited in the U.S. Postal Service, first-class, postage prepaid, to Sponsor at 2760 N. Studebaker Road, Long Beach, California 90815-1697 and to Vendor at 3333 East Airport Way, Long Beach, California 90806. Notice shall be deemed given on the date deposited in the mail or on the date personal delivery is made, whichever first occurs.

32. INSURANCE.

A. As a condition precedent to the effectiveness of this Agreement, Vendor shall procure and maintain at Vendor's expense for the duration of this Agreement from insurance companies that are admitted to write insurance in California or that have a rating of or equivalent to A:VIII by A.M. Best Company the following insurance:

i. Commercial general liability insurance (equivalent in

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scope to ISO form CG 00 01 11 85 or CG 00 01 10 93) in an amount not less than One Million Dollars (\$1,000,000.00) per occurrence and One Million Dollars (\$1,000,000.00) general aggregate. Such coverage shall include but not be limited to broad form contractual liability, cross liability, independent contractors liability, and products and completed operations liability. The City, its officials, employees and agents shall be named as additional insureds by endorsement (on the City's endorsement form or on an endorsement equivalent in scope to ISO form CG 20 26 11 85), and this insurance shall contain no special limitations on the scope of protection given to the City, its officials, employees and agents.

ii. Workers' compensation insurance as required by the California Labor Code and employer's liability insurance in an amount not less than One Million Dollars (\$1,000,000.00) per accident.

iii. If use of vehicles is necessary in the performance of this agreement, commercial automobile liability insurance (equivalent in scope to ISO form CA 00 01 06 92), covering Auto Symbol 1 (Any Auto), in an amount not less than Five Hundred Thousand Dollars (\$500,000.00) combined single limit per accident.

B. Any self-insurance program, self-insured retention, or deductible must be separately approved in writing by City's Risk Manager or designee and shall protect the City, its officials, employees and agents in the same manner and to the same extent as they would have been protected had the policy or policies not contained retention or deductible provisions. Each insurance policy shall be endorsed to state that coverage shall not be reduced, non-renewed, or canceled by either party except after thirty (30) days prior written notice to City, and shall be primary and not contributing to any other insurance or self-insurance maintained by City, its officials, employees and agents. Vendor shall notify the City in writing within five (5) days after any insurance required herein has been voided

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1 by the insurer or canceled by the insured.

2 C. Vendor shall require that all contractors and subcontractors
3 which Vendor uses in the performance of services under this Agreement maintain
4 insurance in compliance with this Section unless otherwise agreed in writing by
5 City's Risk Manager or designee.

6 D. Prior to the start of performance under this Agreement, Vendor
7 shall deliver to City certificates of insurance and required endorsements, including
8 any insurance required of Vendor's contractors and subcontractors, for approval as
9 to sufficiency and form. The certificates and endorsements shall contain the original
10 signature of a person authorized by that insurer to bind coverage on its behalf. In
11 addition, Vendor shall, within thirty (30) days prior to expiration of the insurance
12 required hereunder, furnish to the City certificates of insurance and endorsements
13 evidencing renewal of such insurance. City reserves the right to require complete
14 certified copies of all policies of Vendor or Vendor's contractors or subcontractors,
15 at any time. Vendor shall make available to the City all books, records and other
16 information relating to the insurance coverage required herein during normal
17 business hours.

18 E. Any modification or waiver of the insurance requirements
19 herein shall only be made with the written approval of the City's Risk Manager or
20 designee. Not more frequently than once a year, the City's Risk Manager or
21 designee may require that Vendor, Vendor's contractors and subcontractors change
22 the amount, scope or types of coverages required herein if, in his or her sole opinion,
23 the amount, scope, or types of coverages herein are not adequate.

24 F. The procuring or existence of insurance shall not be construed
25 or deemed as a limitation on liability relating to Vendor's performance of services or
26 as full performance of or compliance with the indemnification provisions herein.

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IN WITNESS WHEREOF, the parties have caused this document to be executed with all formalities required by law as of the date first stated above.

LONG BEACH UNIFIED SCHOOL DISTRICT OF LOS ANGELES COUNTY, a public school system created and authorized by the California Constitution and City Charter

April 11, 2023

By *John M. Tamura*
Name John Tamura
Title Purchasing & Contracts Director

_____, 2023

By _____
Name _____
Title _____

"Vendor"

CITY OF LONG BEACH, a municipal corporation

April 21, 2023

By *Sinda F. Jakob*
City Manager

"Sponsor"

This Agreement is approved as to form on April 12th, 2023.

EXECUTED PURSUANT TO SECTION 301 OF THE CITY CHARTER.

DAWN MCINTOSH, City Attorney
By *Dawn McIntosh*
Deputy

ATTACHMENT "A"

ATTACHMENT

2023 CITY OF LONG BEACH SUMMER FOOD SERVICE PROGRAM – MEAL SERVICE SITES

CITY SITES	MEAL SERVICE LOCATIONS
1. Admiral Kidd Park	2125 Santa Fe Avenue Long Beach, CA 90810
2. Bixby Park	130 Cherry Avenue Long Beach, CA 90802
3. California Recreation Center/Ernest S. McBride, Sr. Park	1550 Martin Luther King, Jr. Avenue Long Beach, CA 90813
4. Cesar E. Chavez Park	401 Golden Avenue Long Beach, CA 90802
5. College Estates Park	808 Stevely Ave, Long Beach, CA 90815
6. Coolidge Park	352 E. Neece Street Long Beach, CA 90805
7. Davenport Park	2910 E 55th Way, Long Beach, CA 90805
8. Drake Park	951 Maine Avenue Long Beach, CA 90813
9. Grace Park	Elm Avenue/Plymouth Street Long Beach, CA 90805
10. Houghton Park	6301 Myrtle Avenue Long Beach, CA 90805
11. Lincoln Park	Pacific, W Ocean Blvd &, Pacific Ave, Long Beach, CA 90802
12. MacArthur Park	1321 Anaheim Street Long Beach, CA 90813
13. Martin Luther King, Jr. Park	1950 Lemon Avenue Long Beach, CA 90806
14. Orizaba Park	1435 Orizaba Avenue Long Beach, CA 90804
15. Pan American Park	5157 E. Centralia Street Long Beach, CA 90808
16. Ramona Park	3301 E. 65th Street Long Beach, CA 90805
17. Scherer Park	4600 Long Beach Boulevard Long Beach, CA 90805
18. Seaside Park/14th Street	Chestnut Avenue/14th Street Long Beach, CA 90813
19. Silverado Park	1545 W. 31st Street Long Beach, CA 90810
20. Somerset Park	1500 E. Carson Street Long Beach, CA 90807
21. Stearns Champions Park	4520 E. 23rd Street Long Beach, CA 90815
22. Veterans Park	101 E. 28th Street Long Beach, CA 90806

ATTACHMENT

23. Whaley Park	5620 E Atherton St, Long Beach, CA 90815
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SITES LOCATED OUTSIDE THE CITY OF LONG BEACH

AGENCY	MEAL SERVICE LOCATIONS
City of Signal Hill 2175 Cherry Avenue Signal Hill, CA 90755	Signal Hill Park 1780 E. Hill Street Signal Hill, CA 90755