

OFFICE OF THE CITY ATTORNEY
ROBERT E. SHANNON, City Attorney
333 West Ocean Boulevard, 11th Floor
Long Beach, CA 90802-4664

LBUSD No. <u>FS 2010/07</u>
AUTHORIZED
BY
BOARD ACTION
Date <u>APR 20 2010</u> By <u>[Signature]</u>

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AGREEMENT
31653

APR 20 2010

THIS AGREEMENT is made and entered as of _____ for reference purposes only, pursuant to a minute order of the City Council of the City of Long Beach adopted in its meeting held on March 23, 2010, and in a minute order of the Board of Education of the Long Beach Unified School District of Los Angeles County adopted in its meeting held on APRIL 20, 2010, by and between the CITY OF LONG BEACH, a municipal corporation ("Sponsor"), and the LONG BEACH UNIFIED SCHOOL DISTRICT OF LOS ANGELES COUNTY, a public school system created and authorized by the California Constitution and City Charter ("Vendor").

WHEREAS, the California Department of Education ("CDE") has made available funds for a 2010 Summer Food Service Program for Children ("Program") to provide meals at no cost to eligible children; and

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

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

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

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

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

1. VENDOR PREPARATION. Vendor shall prepare and place in containers provided by Sponsor such meals described hereinafter as Sponsor may order from Vendor in the manner hereinafter specified for the 2010 Summer Food Service Program for Children. Vendor warrants that all meals prepared by it will be wholesome, suitable for human consumption, and that Vendor shall meet all specifications and

1 obligations under the existing regulations of the CDE, or as amended, as are pertinent or
2 applicable to the 2010 Summer Food Service Program for Children of the National
3 School 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 Two
6 Dollars and Fifty Cents (\$2.50) for each lunch actually prepared for service at locations
7 within the City of Long Beach. The quantity shall not exceed ten thousand (10,000) such
8 meals daily, except as may be mutually agreed by Sponsor and Vendor. The quantity
9 shall be no less than seventy (70) lunches daily, except as may be mutually agreed by
10 Sponsor and Vendor. Sponsor's ordering of a quantity in excess of these amounts and
11 Vendor's delivery of such quantity shall constitute such mutual agreement. In no event
12 shall Sponsor be held liable or be required to pay for any meals which fail to meet the
13 requirements of the Regulations, including those pertaining to CDE nutritional
14 requirements, such as meals of poor quality, unwholesome or spoiled meals or portions
15 thereof, or damaged meals, or meals which otherwise fail to meet the requirements set
16 forth in this Agreement.

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

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

28 5. ORDERING. Sponsor shall order from Vendor, on a daily basis, the

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

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

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

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

- 23 i. Eight (8) ounces of fluid milk.
- 24 ii. Two (2) ounces (edible portion as served) of meat or
25 meat alternate (fish, cheese, one (1) egg, one-half (½) cup cooked dry
26 beans or peas, four (4) tablespoons of peanut butter), or an equivalent
27 combination of these foods.
- 28 iii. Three-fourths (3/4) cup of two (2) or more fruits and/or

1 vegetables. A serving of full strength fruit juice may be counted to meet not
2 more than three-eighths (3/8) cup of this requirement.

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

5 B. Packaging.

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

9 ii. Each unit shall be capable of holding meals at a
10 temperature of 32°F minimum, not to exceed 45°F maximum, for a period of
11 three (3) hours.

12 iii. All sandwiches shall be individually wrapped and
13 sealed.

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

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

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

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

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

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. HOLDING FACILITIES AND PACKAGING MATERIAL. Sponsor
5 shall provide satisfactory holding facilities, i.e., heavy styrofoam containers, etc.
6 Packaging material shall be of strength sufficient to prevent crushing of food.

7 13. QUALITY STANDARD. Quality standards shall adhere to State and
8 local specifications, and all meat and meat by-products shall come from plants inspected
9 under 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
12 cleaned and sanitized on a daily basis.

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

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

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

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

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

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

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

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

26 23. TERM. The term of this Agreement shall commence at 12:01 a.m.
27 on June 21, 2010, and shall terminate at midnight on August 20, 2010 provided, however,
28 that either Sponsor or Vendor may terminate this Agreement by giving to the other party

1 at least seventy-two (72) hours prior notice. Meals shall be served Monday through
2 Friday.

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

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

19 26. STATUS OF VENDOR. Neither Vendor nor any of its officers,
20 employees or agents are, nor shall they be deemed for any purpose, employees of
21 Sponsor nor shall they be entitled to any rights, benefits or privileges of Sponsor's
22 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
25 its duties, obligations and responsibilities shall be void, and shall render this Agreement
26 void.

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

28 29. NON-PERFORMANCE. If Vendor fails to perform any or all of the

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

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

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

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

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

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

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

1 (a) Commercial general liability insurance (equivalent in scope to ISO form
2 CG 00 01 11 85 or CG 00 01 10 93) in an amount not less than One Million Dollars
3 (\$1,000,000.00) per occurrence and One Million Dollars (\$1,000,000.00) general
4 aggregate. Such coverage shall include but not be limited to broad form
5 contractual liability, cross liability, independent contractors liability, and products
6 and completed operations liability. The City, its officials, employees and agents
7 shall be named as additional insureds by endorsement (on the City's endorsement
8 form or on an endorsement equivalent in scope to ISO form CG 20 26 11 85), and
9 this insurance shall contain no special limitations on the scope of protection given
10 to the City, its officials, employees and agents.

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

14 c) If use of vehicles is necessary in the performance of this agreement,
15 commercial automobile liability insurance (equivalent in scope to ISO form CA 00
16 01 06 92), covering Auto Symbol 1 (Any Auto), in an amount not less than Five
17 Hundred Thousand Dollars (\$500,000.00) combined single limit per accident.

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

28 Vendor shall require that all contractors and subcontractors which Vendor

1 uses in the performance of services under this Agreement maintain insurance in
2 compliance with this Section unless otherwise agreed in writing by City's Risk Manager or
3 designee.

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

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

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

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

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


7 April 21, 2010

8 By 
9 **Barrick L. Bartlett**
10 Title: **Purchasing & Contracts Director**

11 "Vendor"

12 CITY OF LONG BEACH, a municipal
13 Corporation **Assistant City Manager**

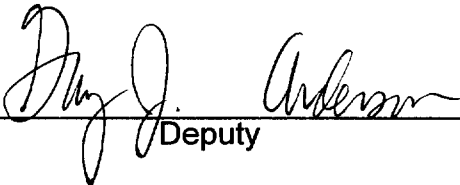
14 S. 28., 2010

15 By 
16 **City Manager** **EXCLUDED PURSUANT**
17 **TO SECTION 301 OF**
18 **THE CITY CHARTER.**

19 "Sponsor"

20 This Agreement is approved as to form on May 11, 2010.

21 ROBERT E. SHANNON, City Attorney

22 By 
23 **Deputy**

24 OFFICE OF THE CITY ATTORNEY
25 ROBERT E. SHANNON, City Attorney
26 333 West Ocean Boulevard, 11th Floor
27 Long Beach, CA 90802-4664
28

2010 SUMMER FOOD SERVICE PROGRAM NONPROFIT PARTICIPANTS

Antioch Missionary Baptist Church of Long Beach
1535 Gundry Ave., Long Beach, CA 90813

Boys & Girls Clubs of Long Beach
Eastman/Fairfield Boys & Girls Club
700 E. Del Amo Blvd., Long Beach, CA 90807

Washington Branch Boys & Girls Club
1450 Cedar Ave., Long Beach, CA 90813

CA Aqua Therapy and Wellness Center
6801 Long Beach Blvd., Long Beach, CA 90805

City of Signal Hill
Discovery Well Park
2200 Temple Ave., Signal Hill, CA 90755

Signal Hill Park
1780 E. Hill St., Signal Hill, CA 90755

First Congregational Church of Long Beach
241 Cedar Ave., Long Beach, CA 90802

**Housing Authority, County of Los Angeles, Carmelitos Housing
Development**
851 Via Carmelitos, Long Beach, CA 90805

North Long Beach Christian Fellowship
5640 Orange Ave., Long Beach, CA 90805

Path Ventures
2200 W. Willard St., Long Beach, CA 90810

**2010 SUMMER FOOD SERVICE PROGRAM
CITY OF LONG BEACH MEAL SERVICE SITES**

CITY SITES	MEAL SERVICE LOCATIONS
Admiral Kidd Park	2125 Santa Fe Ave. Long Beach, CA 90810
Bixby Park	130 Cherry Ave. Long Beach, CA 90802
California Recreation Center/Ernest S. McBride, Sr. Park	1550 Martin Luther King, Jr. Ave. Long Beach, CA 90813
Cesar E. Chavez Park	401 Golden Ave. Long Beach, CA 90802
Cherry Park	1901 E. 45 th St. Long Beach, CA 90807
Coolidge Park	352 E. Neece St. Long Beach, CA 90805
DeForest Park	6255 DeForest Ave. Long Beach, CA 90805
Drake Park	951 Maine Ave. Long Beach, CA 90813
Houghton Park	6301 Myrtle Ave. Long Beach, CA 90805
MacArthur Park	1321 Anaheim St. Long Beach, CA 90813
Martin Luther King, Jr. Park	1950 Lemon Ave. Long Beach, CA 90806
Miracle on 4 th Street Park	1518 E. 4th St. Long Beach, CA 90802
North Long Beach Community Center	2301 E. South St. Long Beach, CA 90805
Orizaba Park	1435 Orizaba Ave. Long Beach, CA 90804
Ramona Park	3301 E. 65 th St. Long Beach, CA 90805
Scherer Park	4600 Long Beach Blvd. Long Beach, CA 90805
Silverado Park	1545 W. 31 st St. Long Beach, CA 90810
Somerset Park	1500 E. Carson St. Long Beach, CA 90807
Springdale Apt. Community Center	2095 E. Spring St. Long Beach, CA 90810
Stearns Champions Park	4520 E. 23 rd St. Long Beach, CA 90815
Veterans Park	101 E. 28 th St. Long Beach, CA 90806
14 th Street Park	Chestnut Ave./14 th St. Long Beach, CA 90813

**2010 SUMMER FOOD SERVICE PROGRAM
CITY OF LONG BEACH MEAL SERVICE SITES**

NON-CITY SITES/NONPROFIT ORGANIZATIONS

AGENCY	MEAL SERVICE LOCATIONS
Antioch Missionary Baptist Church of Long Beach	1535 Gundry Ave. Long Beach, CA 90813
Boys & Girls Clubs of Long Beach 3635 Long Beach Blvd. Long Beach, CA 90807	Eastman/Fairfield Boys & Girls Club 700 E. Del Amo Blvd. Long Beach, CA 90807 Washington Branch Boys & Girls Club 1450 Cedar Ave. Long Beach, CA 90813
CA Aqua Therapy and Wellness Center	6801 Long Beach Blvd. Long Beach, CA 90805
First Congregational Church of Long Beach	241 Cedar Ave. Long Beach, CA 90802
Housing Authority, County of Los Angeles, Carmelitos Housing Development	851 Via Carmelitos Long Beach, CA 90805
North Long Beach Christian Fellowship	5640 Orange Ave. Long Beach, CA 90805
Path Ventures	2200 W. Willard St. Long Beach, CA 90810

SITES LOCATED OUTSIDE THE CITY OF LONG BEACH

AGENCY	MEAL SERVICE LOCATIONS
City of Signal Hill 2175 Cherry Ave. Signal Hill, CA 90755	Discovery Well Park 2200 Temple Ave. Signal Hill, CA 90755 Signal Hill Park 1780 E. Hill St. Signal Hill, CA 90755