

## VENDING AGREEMENT FOR THE NATIONAL SCHOOL LUNCH PROGRAM

This agreement is entered onto July 1, 2023 by and between Oak Grove Center at the Ranch located at 1251 North "A" St. Perris CA, herein referred to as the "Agency," and Perris Union High School District, herein referred to as the "Vendor."

This agreement sets forth the terms and conditions upon which the agency retains the vendor to provide meals for the agency's nonprofit and a la carte food service program.

WHEREAS, the agency desires the vendor to provide meals; and

WHEREAS, the vendor is willing to provide such services to the agency on a cost reimbursement basis;

THEREFORE, both parties hereto agree as follows: The agency will pick-up the meals from the vendor.

Meals will be picked up at the address 1990 South "A" St. Perris CA, at or before the specified time.

**The cost per meal is agreed upon by both parties, will include lunch only, and will be \$4.75 per meal.**

The vendor can only guarantee the pick-up of meals on Perris Union HSD employee contracted work days. A district attendance calendar will be provided to the agency.

### THE VENDOR AGREES TO:

1. Prepare meals in accordance with the number of meals requested. Meals WILL include milk.
2. Provide the agency, for approval, a proposed cycle menu for the operational period at least 30 days prior to the beginning of the period to which the menu applies. Any changes to the menu made after agency approval must be agreed upon by the agency, and documented on menu records.
3. Assure that each meal provided to the agency under this agreement meets the minimum requirements as to the nutritional content as specified by the NSLP / SBP Meal Pattern, which is excerpted from the regulations 7 CFR Part 210.10 and 220.8 or an approved National School Lunch Program (NSLP) / School Breakfast Program option.
4. Maintain full and accurate records that document (a) the menus were provided to the agency during the term of the agreement, (b) a listing of all components of each meal, and (c) an itemization of the quantities of each component used to prepare said meal.

The vendor agrees to provide meal preparation documentation by using yield factors for each food item as listed in the USDA Food Buying Guide when calculating and recording the quantity of food.

5. Maintain cost records such as invoices, receipts, and / or other documentation that exhibit the purchase, or otherwise availability to the vendor of the mean components and quantities itemized in the meal preparation records.
6. Maintain, on a daily basis, an accurate count of the number of meals, by meal type, prepared for and picked up by the agency. Meal count documentation must include number of meals requested by the agency.
7. Allow the agency to increase or decrease the number of meal orders, as needed, when the request is made within 1 day of the scheduled delivery time.
8. Present to the agency an invoice accompanied by reports no later than the 30 day of each month, which itemizes the previous month's delivery. The vendor agrees to forfeit payment for meals which are not ready within one (1) hour of the agreed upon delivery time, are spoiled or unwholesome at the time of delivery, or do not otherwise meet the meal requirements contained in this agreement. In cases of non-performance or noncompliance on the part of the vendor, the vendor shall pay the agency for any excess costs the agency incurs by obtaining meals from another source.
9. Provide the agency with a copy of current health certifications for the food service facility in which it prepares the meals for the NSLP. The vendor shall ensure that all health and sanitation requirements of the California Retail Food Code Law, Chapter 4 of the California Health and Safety Code, are met at all times.
10. Operate in accordance with current NSLP regulations. Comply with all other USDA regulations regarding food service vendors including those specified for commercial food service if applicable.
11. Retain all required records for a period of three (3) years after the end of the fiscal year to which they pertain (or for 3 years after the end of an audit). Upon request make all accounts and records pertaining to the agreement available to the CPA hired by the agency, representatives of the California Department of Education, and the Office of the Inspector General for audits or administrative reviews at a reasonable time and place.
12. Not subcontract for the total meal, with or without milk, or the assembly of the meal.
13. Be paid by the agency for all meals in accordance with this agreement and NSLP meal pattern requirements. Neither the CDE nor USDA will assume any liability for payment of differences between the number of meals prepared for delivery by the vendor and the number of meals served by the agency that are not eligible for reimbursement.
14. Accept commodities from the agency to be used in the preparation of meals prepared for the NSLP. The vendor will reduce the price of meals by the fair market value of the commodities used in the meals. Price reductions will be itemized on the invoice. Until used, all commodities are the property of the agency.
15. The vendor shall include physician recommended substitutions in the food components when making recommendations for the meal pattern of students with disabilities when their disability restricts their diet, and those non-disabled students who are unable to consume the regular lunch because of medical or other special dietary needs.

16. The vendor is prohibited from entering into any processing contracts utilizing USDA donated food on behalf of the agency.
17. The vendor shall be responsible for loss or damage to equipment owned by the agency while on the vendor's premises.
18. The vendor shall provide access, with or without notice, to all of the vendor's facilities for the purpose of inspection and audit.
19. The vendor shall surrender to the SFA upon termination of the agreement all records pertaining to the operation of the food service, to include all production records, product invoices, claim documentation, financial reports, and preparation documentation. The records shall be in appropriate order, complete, and legible.

THE AGENCY AGREES TO:

1. Request by telephone no later than **one (1) working calendar day** an accurate number of meals to be picked up by the agency each day. Notify the vendor of necessary increases / decreases in the number of meals ordered within **one (1) day** of the scheduled delivery time. Errors in meal orders shall be the responsibility of the agency making the error.
2. Ensure that an agency representative is available at the pick-up site at the specified time on each specified pick-up day to receive, inspect, and sign for the requested number of meals. This individual will verify the temperature, quality, and quantity of each meal service delivery. The agency assures the vendor that this individual will be trained and knowledgeable in the record keeping and meal requirements of the NSLP and with local health and safety code.
3. Provide personnel to serve meals, clean the serving and eating areas, and assemble transport carts and auxiliary items for pick up by the vendor ready at the time of each delivery.
4. Notify the vendor within 10 days of receipt of the next month's proposed cycle menu, of any changes, additions, or deletions.
5. Provide the vendor with a copy of the NSLP meal pattern requirement, the USDA Food Buying Guide, and all other technical assistance materials pertaining to the food service requirements of the NSLP. The agency will, within 24 hours of receipt from the NSD, advise the vendor of any changes in the food service requirements.
6. Pay the vendor by the forty-fifth day of each month the full amount as presented on the monthly itemized invoice. Notify the vendor within 48 hours of receipt of any discrepancy in the invoice. Pay the vendor for all meals in accordance with the agreement. Neither the CDE nor USDA assume any liability for payment of the difference between the number of meals prepared and picked up by the agency, and the number of meals served by the agency that are ineligible for reimbursement.
7. Order only those commodities that can be incorporated into its meals. The agency shall be responsible for transferring all unused commodities at the close of this agreement. The agency is responsible for the fair market value of any commodity losses that may occur.

8. The agency shall retain control of the quality, extent, and general nature of the food service operation; and (WORK WITH THE VENDOR TO MUTUALLY) establish all program and non-program meal and a la carte prices.

## GENERAL ASSURANCES

1. **AMENDMENTS AND WAIVERS:** Any term of this agreement may be amended or waived only with the written consent of both parties.
2. **SOLE AGREEMENT:** This agreement constitutes the sole agreement of the parties and supersedes all oral negotiations and prior writings with respect to the subject matter hereof.
3. **NOTICES:** Any notice required or permitted by this agreement shall be in writing and shall be deemed sufficient upon receipt, when delivered personally or by courier, overnight delivery service, or confirmed facsimile, 48 hours after being deposited in the regular mail as certified or registered mail, with postage prepaid, if such notice is addressed to the party to be notified at such party's address or facsimile number as set forth below, or as subsequently modified by written notice.
4. **SEVERABILITY:** If one or more provisions of this agreement are held to be unenforceable under applicable law, the parties agree to renegotiate such provision in good faith. In the event that the parties cannot reach a mutually agreeable and enforceable replacement for such provision, then (a) such provision shall be excluded from this agreement, (b) the balance of the agreement shall be interpreted as if such provision were so excluded and c) the balance of the agreement shall be enforced in accordance with its terms.
5. **ARBITRATION:** The Parties agree all disputes that arise between Client and Law Firm shall be resolved through binding arbitration. IN the case of a fee dispute, arbitration shall occur in accordance with the California State Bar rules for arbitration of disputes regarding attorneys' fees. The Parties waive their respective rights to a jury trial and an appeal. The terms of this provision shall survive the termination of this Agreement.
6. **MUTUAL HOLD HARMLESS:** The Parties hereto, and each of them, do hereby mutually agree to indemnify, defend, save and hold harmless each other, and their respective officers, agents and employees, of and from any and all liability, claims, demands, debts, suits, actions and causes of action, including wrongful death and reasonable attorneys' fees for the defense thereof, arising out of or in any manner connected with the performance of any act or deed under or pursuant to the terms and provisions of this Agreement by such indemnifying Party, or its officers, agents and employees.
7. **INSURANCE:** The Parties mutually agree each shall provide and maintain commercial general liability insurance or self-insurance acceptable to both parties in the minimum amounts of \$1,000,000 per occurrence, \$3,000,000 general aggregate and upon request shall furnish proof thereof in the form of a certificate of insurance within 30 days of the effective date of this Agreement.

Each Certificate of Insurance shall specify that should any above described policies be cancelled before the expiration date thereof, notice will be delivered in accordance with the policy provisions.

## CERTIFICATIONS

If this agreement is in excess of \$100,000 the agency and vendor shall comply with all applicable standards, orders, or regulations issued:

- Section 306 of the Clean Air Act (42 USC 1857 (h), Section 508 of the Clean Water Act 33 USC 1368), Executive Order 11738 and EPA regulations.
- Certification regarding lobbying pursuant to 31 USC 1352 (Appendix A: 7 CFR Part 3018).
- Disclosure of lobbying activities pursuant to 31 USC 1352 (Appendix A: CFR Part 3018).

THE VENDOR CERTIFIES THAT THEY ARE IN COMPLIANCE WITH:

- Energy Policy and Conservation Act (OMB Circular A-102, Attachments O, paragraph 14 j).
- Provisions of the Contract Work hours and Safety Standards Act involving food service workers whose duties are manual and physical in nature (OMB Circular A- 102, Attachment O, paragraph 14 f).
- Executive Order 11246, entitled “Equal Employment Opportunity”, as amended by Executive order 11375 and Department of Labor Regulations.

With this contract Oak Grove will be the school food authority and will be responsible for point-of-service oversight and claiming of the meal reimbursements.

The parties have executed this agreement on the respective dates set forth below.

## TERMS OF THE AGREEMENT

This agreement will take effect commencing on July 1, 2023 and shall end June 30, 2024. Either party may terminate this Agreement at any time by giving written notice to the other party of such termination and specifying the effective date thereof, at least 60 days before the effective date of such termination. The agency shall have the option to cancel this agreement if the federal government withdraws funds to support the NSLP. It is further understood that, in the event of cancellation of the agreement, the agency shall be responsible for meals that have already been ordered, assembled, and picked up in accordance with this agreement.

The agency and vendor will adhere to the following meal planning option:  
Food Based Menu Plan

In witness whereof, the parties hereto have executed this agreement as of the dates indicated below:

\_\_\_\_\_  
Vendor Official Signature

\_\_\_\_\_  
Agency Official Signature

\_\_\_\_\_  
Printed Name and Title

\_\_\_\_\_  
Printed Name and Title

\_\_\_\_\_  
Telephone

\_\_\_\_\_  
Telephone

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date