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7801 Auburn Blvd., Citrus Heights CA 95610

**FACILITY USE CONTRACT**

**This agreement, made and entered into this 1st day of July 2018**

By and between

**MEALS ON WHEELS by ACC (MOW)**  
Hereinafter referred to as "**Contractor**".

And

Sunrise Recreation and Park District  
hereinafter referred to as "**District**".

**WHEREAS**, District owns and operates Rusch Park Community Center for the use and benefit of the public; and

**WHEREAS**, District desires to provide use of Rusch Park Community Center Patio Room, Commercial Kitchen for the purpose of serving and home delivered meals for area seniors; and

**NOW, THEREFORE**, and in consideration of the promises, terms, conditions and covenants set forth herein, District and Contractor hereby agree as follows:

1. **SERVICES:**

**Contractor shall perform the following services:**

Responsible for setting up the facility to serve meals and leave the facility as found prior to use. This includes sanitizing tabletops, kitchen counter tops, and sinks, and sweeping and cleaning any spills made by program. Any furniture that has been moved will be restored to the original location. At all times, any furniture that is moved must be carried, not dragged across the floors.

Use two kitchens including a commercial kitchen. The senior program currently uses the commercial kitchen as a primary distribution location for hot meal bags and igloos. A group of congregate seniors dine at Rusch Park Community Center Monday through Friday between the hours of 8:30 a.m. to 12:30 p.m.

2. **TERM:**

The term of this agreement shall commence on **July 1, 2018** and end on **June 30, 2019**. This agreement may be renegotiated and extended for a period of one year upon mutual consent of the parties hereto.

3. **TERMINATION:**

Either party may terminate the agreement hereto by thirty-30 days written notice. The Recreation Manager III shall give notice of termination by District. In the event the Contractor terminates without the advance approval of the Recreation Manager III as required by this paragraph, the Contractor is responsible for any financial loss incurred by the District pursuant to this contract.

4. **FEES:**

All fees are waived for use of the facility for the delivery of Senior Meals. There shall be no compensation to either party under this agreement.

5. **INDEMNIFICATION**

For professional services provided under this Agreement, CONTRACTOR shall indemnify, defend, and hold harmless DISTRICT, its Board of Supervisors, officers, directors, agents, employees and volunteers from and against any and all claims, demands, actions, losses, liabilities, damages, and costs, including reasonable attorneys' fees, arising out of or resulting from the negligent performance of the professional services provided under this Agreement except to the extent caused by the negligence or willful misconduct of District.

6. **INSURANCE**

Without limiting CONTRACTOR'S indemnification, CONTRACTOR shall maintain in force at all times during the term of this Agreement and any extensions or modifications thereto, insurance as specified in Exhibit A. It is the responsibility of CONTRACTOR to notify its insurance advisor or insurance carrier(s) regarding coverage, limits, forms and other insurance requirements specified in Exhibit A. It is understood and agreed that DISTRICT shall not pay any sum to CONTRACTOR under this Agreement unless and until DISTRICT is satisfied that all insurance required by this Agreement is in force at the time services hereunder are rendered. Failure to maintain insurance as required in this agreement may be grounds for material breach of contract.

7. **NONDISCRIMINATION:**

Contractor shall not discriminate with respect to race, color, religion or sex in the hiring of any employees pursuant to this contract.

8. **PARAGRAPH HEADINGS:**

The paragraph headings contained herein are for convenience and reference only and are not intended to define or limit the scope of this agreement.

**IN WITNESS WHEREOF**, parties hereto have caused this agreement to be executed in duplicate.

\_\_\_\_\_  
Date (month/day/year)

Darrick Lam,  
Managing Agent, Meals on Wheels by ACC  
CEO, ACC Senior Services

7375 Park City Drive  
Street Address

Sacramento, CA      95831  
City                      State      Zip Code

(916) 444-9533      (916) 394-9156  
Phone                      Fax

**Sunrise Recreation and Park District**  
a dependent District of Sacramento County

ATTEST:

\_\_\_\_\_  
Darrick Lam, Managing Agent, for Meals on Wheels by ACC      Date \_\_\_\_\_

\_\_\_\_\_  
Dave Mitchell, Diristrict Adminisrator      Date \_\_\_\_\_

**EXHIBIT A to Agreement  
between the Sunrise Recreation & Park District,  
hereinafter referred to as "DISTRICT," and MEALS ON WHEELS - ACC hereinafter  
referred to as "CONTRACTOR".**

**INSURANCE REQUIREMENTS FOR CONTRACTORS**

Without limiting CONTRACTOR'S indemnification, CONTRACTOR shall procure and maintain for the duration of the Agreement, insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the Agreement by the CONTRACTOR, its agents, representatives or employees. DISTRICT shall retain the right at any time to review the coverage, form, and amount of the insurance required hereby. If in the opinion of the DISTRICT, insurance provisions in these requirements do not provide adequate protection for DISTRICT and for members of the public, DISTRICT may require CONTRACTOR to obtain insurance sufficient in coverage, form and amount to provide adequate protection. DISTRICT'S requirements shall be reasonable but shall be imposed to assure protection from and against the kind and extent of risks that exist at the time a change in insurance is required.

**I. VERIFICATION OF COVERAGE**

CONTRACTOR shall furnish the DISTRICT with certificates evidencing coverage required below. **Copies of required endorsements must be attached to provide certificates.** The DISTRICT may approve self-insurance programs in lieu of required policies of insurance if, in the opinion of the DISTRICT, the interests of the DISTRICT and the general public is adequately protected. All certificates, evidences of self-insurance, and additional insured endorsements are to be received and approved by the DISTRICT before performance commences. The DISTRICT reserves the right to require that CONTRACTOR provide complete, certified copies of any policy of insurance offered in compliance with these specifications.

**II. MINIMUM SCOPE OF INSURANCE**

**Coverage shall be at least as broad as:**

1. **GENERAL LIABILITY:** Insurance Services Office's Commercial General Liability occurrence coverage form CG 0001. Including, but not limited to Premises/Operations, Products/Completed Operations, Contractual, and Personal & Advertising Injury, without additional exclusions or limitations, unless approved by the DISTRICT.

2. **AUTOMOBILE LIABILITY:** Insurance Services Office's Commercial Automobile Liability coverage form CA 0001.
  - a. Commercial Automobile Liability: auto coverage symbol "1" (any auto) for corporate/business owned vehicles. If there are no owned or leased vehicles, symbols 8 and 9 for non-owned and hired autos shall apply.
  - b. Personal Lines automobile insurance shall apply if vehicles are individually owned.
3. **WORKERS' COMPENSATION:** Statutory requirements of the State of California and Employer's Liability Insurance.
4. **PROFESSIONAL LIABILITY** or Errors and Omissions Liability insurance appropriate to the CONTRACTOR'S profession.
5. **UMBRELLA** or Excess Liability policies are acceptable where the need for higher liability limits is noted in the Minimum Limits of Insurance and shall provide liability coverage's that at least follow form over the underlying insurance requirements where necessary for Commercial General Liability, Commercial Automobile Liability, Employers' Liability, and any other liability coverage (other than Professional Liability) designated under the Minimum Scope of Insurance.

### **III MINIMUM LIMITS OF INSURANCE**

**CONTRACTOR shall maintain limits no less than:**

1. **General Liability** shall be on an Occurrence basis (as opposed to Claims Made basis). Minimum limits and structure shall be:

General Aggregate:	\$2,000,000/or No General Aggregate.
Products Comp/Op Aggregate:	\$2,000,000
Personal & Adv. Injury:	\$1,000,000
Each Occurrence:	\$1,000,000
Fire Damage:	\$ 100,000

Building Trades Contractors and Contractors engaged in other projects of construction shall have their general liability Aggregate Limit of Insurance endorsed to apply separately to each job site or project, as provided for by Insurance Services Office form CG-2503 Amendment-Aggregate Limits of Insurance (Per Project).

## 2. **AUTOMOBILE LIABILITY:**

- a. Commercial Automobile Liability for Corporate/business owned vehicles including non-owned and hired, \$1,000,000 Combined Single Limit.
  - b. Personal Lines Automobile Liability for Individually owned vehicles, \$250,000 per person, \$500,000 each accident, \$100,000 property damage.
3. **WORKERS' COMPENSATION:** Statutory. Not applicable if there are no employees.
  4. **EMPLOYER'S LIABILITY:** \$1,000,000 per accident for bodily injury or disease. Not applicable if Workers' Compensation does not apply.
  5. **PROFESSIONAL LIABILITY OR ERRORS AND OMISSIONS LIABILITY:** Not applicable.

### **DEDUCTIBLES AND SELF-INSURED RETENTION**

Any deductibles or self-insured retention that applies to any insurance required by this Agreement must be declared and approved by the DISTRICT.

### **CLAIMS MADE PROFESSIONAL LIABILITY INSURANCE**

If professional liability coverage is written on a Claims Made form:

1. The "Retro Date" must be shown, and must be on or before the date of the Agreement or the beginning of Agreement performance by CONTRACTOR.
2. Insurance must be maintained and evidence of insurance must be provided for at least one (1) year after completion of the Agreement.
3. If coverage is cancelled or non-renewed, and not replaced with another claims made policy form with a "Retro Date" prior to the contract effective date, the CONTRACTOR must purchase "extended reporting" coverage for a minimum of one (1) year after completion of the Agreement.

### **OTHER INSURANCE PROVISIONS**

**The insurance policies required in this Agreement are to contain, or be endorsed to contain, as applicable, the following provision:**

#### **All Policies:**

1. **ACCEPTABILITY OF INSURERS:** Insurance is to be placed with insurers with a current A.M. Best's rating of no less than **A-: VII**. The DISTRICT

may waive or alter this requirement, or accept self-insurance in lieu of any required policy of insurance if, in the opinion of the DISTRICT, the interests of the DISTRICT and the general public are adequately protected.

2. **MAINTENANCE OF INSURANCE COVERAGE:** The CONTRACTOR shall maintain all insurance coverage's in place at all times and provide the DISTRICT with evidence of each policy's renewal ten (10) days in advance of its anniversary date. Each insurance policy required by this Agreement shall be endorsed to state that coverage shall not be canceled by either party except after thirty (30) days' written notice for cancellation or sixty (60) days' written notice for non-renewal has been given to the DISTRICT. For non-payment of premium 10 days' prior written notice of cancellation is required.

### **COMMERCIAL GENERAL LIABILITY AND/OR COMMERCIAL AUTOMOBILE LIABILITY**

1. **ADDITIONAL INSURED STATUS:** The DISTRICT, its officers, directors, officials, employees, and volunteers are to be endorsed as additional insured as respects: liability arising out of activities performed by or on behalf of the CONTRACTOR; products and completed operations of the CONTRACTOR; premises owned, occupied or used by the CONTRACTOR; or automobiles owned, leased, hired or borrowed by the CONTRACTOR. The coverage shall contain no endorsed limitations on the scope of protection afforded to the DISTRICT, its officers, directors, officials, employees, or volunteers.
2. **CIVIL CODE PROVISION:** Coverage shall not extend to any indemnity coverage for the active negligence of the additional insured in any case where an agreement to indemnify the additional insured would be invalid under Subdivision (b) of Section 2782 of the Civil Code.
3. **PRIMARY INSURANCE:** For any claims related to this Agreement, the CONTRACTOR'S insurance coverage shall be endorsed to be primary insurance as respects the DISTRICT, its officers, officials, employees and volunteers. Any insurance or self-insurance maintained by the DISTRICT, its officers, directors, officials, employees, or volunteers shall be excess of the CONTRACTOR'S insurance and shall not contribute with it.
4. **SEVERABILITY OF INTEREST:** The CONTRACTOR'S insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.
5. **SUBCONTRACTORS:** CONTRACTOR shall be responsible for the acts and omissions of all its subcontractors and additional insured endorsements as

provided by Contractors subcontractor.

### **PROFESSIONAL LIABILITY:**

**PROFESSIONAL LIABILITY PROVISION:** Any professional liability or errors and omissions policy required hereunder shall apply to any claims, losses, liabilities, or damages, demands and actions arising out of or resulting from professional services provided under this Agreement.

### **WORKERS' COMPENSATION**

**WORKERS' COMPENSATION WAIVER OF SUBROGATION:** The workers' compensation policy required hereunder shall be endorsed to state that the workers' compensation carrier waives its right of subrogation against the DISTRICT, its officers, directors, officials, employees, agents or volunteers, which might arise by reason of payment under such policy in connection with performance under this Agreement by the Contractor.

### **PROPERTY**

**Course of Construction (COC) Waiver of Subrogation:** Any Course of Construction (COC) policies maintained by the CONTRACTOR in performance of the Agreement shall contain the following provisions:

1. The DISTRICT shall be named as loss payee.
2. The Insurer shall waive all rights of subrogation against the DISTRICT.

Inland Marine Waiver of Subrogation: Any Inland Marine insurance policies maintained by the CONTRACTOR in performance of the Agreement shall be endorsed to state that the insurer shall waive all rights of subrogation against the DISTRICT.

### **NOTIFICATION OF CLAIM**

If any claim for damages is filed with CONTRACTOR or if any lawsuit is instituted against CONTRACTOR, that arise out of or are in any way connected with Contractor's performance under this Agreement and that in any way, directly or indirectly, contingently or otherwise, affect or might reasonably affect DISTRICT, CONTRACTOR shall give prompt and timely notice thereof to DISTRICT. Notice shall be prompt and timely if given within thirty (30) days following the date of receipt of a claim or ten (10) days following the date of service of process of a lawsuit.