

PROVIDER SERVICES AGREEMENT
No. C0003851

This **PROVIDER Services Agreement** (“**Agreement**”) made and entered into this date of **July 27, 2020** by and between **Palm Springs Unified School District** (“**District**”) and **ACDC** (“**PROVIDER**”).

WITNESSED, the parties do hereby agree to perform services as follows:

1. DESCRIBE SCOPE OF SERVICES:

The work will be performed under the direction of Stephanie Bruce, Nutrition Services Director for the District. The terms of this Agreement shall be controlling in the event any of the terms hereof shall be in conflict with any of the terms in Attachment “A”.

2. PERFORMANCE PERIOD: The performance period of this Agreement shall begin on July 27, 2020 and terminate automatically on June 30, 2021.

PAYMENT/SCHEDULE: Provider shall furnish to the District the above-described services (the “**Services**”) for a total cost not to exceed **THIRTY THOUSAND DOLLARS AND 00/100 (\$30,000.00)** per Attachment “A” hereby attached. Payments will be processed upon satisfactory completion of the Services and receipt of an approved invoice.

Reimbursable expenses **DO** apply to this agreement. Reimbursable expenses are not to exceed the amount of **TEN THOUSAND DOLLARS AND 00/100 (\$10,000.00)**. Payment of reimbursable expenses will be made on actual expenses from approved original receipts. Mileage will be paid at the current Internal Revenue Service approved rate.

Providers who **do not** declare a State of California address may be subject to California tax withholding (up to 7%) for all services provided within the State of California. A CA590 or CA587 is required for all Non-resident Providers.

Payments will be processed as invoiced upon satisfactory completion of the services within 30 days of receipt of an approved original invoice. **Non-resident Providers are to itemize their services to reflect in-state services.**

3. WORK PRODUCT OWNERSHIP: Any copyrightable works, ideas, discoveries, inventions, patents, products, or other information (collectively, the “**Work Product**”) developed in whole or in part by **PROVIDER** in connection with the Services shall be the exclusive property of the District. Upon request, **PROVIDER** shall sign all documents necessary to confirm or perfect the exclusive ownership of the District to the Work Product.

4. ENTIRE AGREEMENT / AMENDMENT / MODIFICATION: This Agreement contains the entire agreement of the parties, and there are no other promises or conditions in any other agreement whether oral or written. Any amendment or modification of this Agreement shall be effective only if it is in writing and signed by the parties, except that the District may unilaterally amend this Agreement in writing to accomplish the following changes:

- (a) Increase dollar amounts;
- (b) Effect administrative changes; and
- (c) Effect other changes as required by law.

5. NOTICE: All notices required to be delivered under this Agreement to the other party must be in writing and addressed to the respective party as set forth below or to such other persons as the parties may hereafter designate by written notice to the other party hereto:

TO THE DISTRICT:

PALM SPRINGS UNIFIED SCHOOL DISTRICT
150 District Center Drive
Palm Springs, CA 92264
Phone: (760) 883-2710 Ext. 3
Attention: Rebecca Abeyta, Director of Purchasing

TO PROVIDER:

Adin Clark Development Corporation
2427 Bean Rd
Auburn, Ca 95603
(916) 704-2302

6. **INDEPENDENT CONTRACTOR:** PROVIDER will provide services under this Agreement as an independent contractor and not as an employee of the District. District will not withhold federal or state income tax deductions from payments made to PROVIDER under this Agreement and will not provide PROVIDER fringe benefits, including health insurance benefits, sick leave, paid vacation, or any other employee benefit. PROVIDER must provide District with his/her Social Security Number or Taxpayer ID number. District will provide PROVIDER and the Internal Revenue Service with a statement of earnings at the conclusion of each calendar year as required by the IRS.

7. **INDEMNIFICATION:** To the fullest extent permitted by law, PROVIDER agrees to indemnify, defend and hold District entirely harmless from all liability arising out of:

(a) Worker Compensation and Employer Liability: Any and all claims under Workers' Compensation acts and other employee benefit acts with respect to PROVIDER's employees or PROVIDER's subcontractor's employees arising out of PROVIDER's work under this Agreement; and

(b) General Liability: Liability for damages for (1) death or bodily injury to person; (2) injury to, loss or theft of property; (3) any failure or alleged failure to comply with any provision of law or (4) any other loss, damage or expense arising under either (1), (2), or (3) above, sustained by the PROVIDER or the District, or any person, firm or corporation employed by the PROVIDER, either directly or by independent contract, upon or in connection with the Services, except for liability resulting from the sole or active negligence, or willful misconduct of the District, its officers, employees, agents or independent consultants who are directly employed by the District;

(c) Professional Liability: Any loss, injury to, or death of, persons or damage to property arising out of, pertaining to, or relating to any default, error, omission, negligent or wrongful act of the PROVIDER, or any person, firm or corporation employed by the PROVIDER, either directly or by independent contract, including damages due to loss or theft, sustained by any person, firm or corporation including the DISTRICT, arising out of, or in any way connected with the PROJECT and/or SERVICES, including liability for damages that occur on or off DISTRICT property; but not for damages that result from the sole or active negligence, or willful misconduct of the DISTRICT

The PROVIDER, at PROVIDER's own expense, cost, and risk, shall defend any and all claims, actions, suits, or other proceedings that may be brought or instituted against the District, its officers, agents or employees, on any such claim or liability, and shall pay or satisfy any judgment that may be rendered against the District, its officers, agents or employees in any action, suit or other proceedings as a result thereof.

8. **INSURANCE:** As required by law, PROVIDER acknowledges PROVIDER's obligation to obtain appropriate insurance coverage in accordance with the requirements listed below for the benefit of the District and PROVIDER's employees, if any.

- a) The PROVIDER shall carry Workers' Compensation and Employers Liability Insurance in accordance with the laws of the State of California.
- b) The PROVIDER shall carry Comprehensive General Insurance with limits of not less than One Million Dollars (\$1,000,000) and Auto Liability Insurance with limits of not less than One Million Dollars (\$1,000,000) combined single limit respectively, bodily injury and property damage liability per occurrence.
- c) Professional liability insurance, including contractual liability, with limits of \$1,000,000, per claim. Such insurance shall be maintained during the term of this AGREEMENT and renewed for a period of at least five (5) years thereafter and/or at rates consistent with the time of execution of this AGREEMENT adjusted for inflation. In the event that PROVIDER subcontracts any portion of PROVIDER's duties, PROVIDER shall require any such subcontractor to purchase and maintain insurance coverage as provided in this subparagraph.

Failure to maintain professional liability insurance is a material breach of this AGREEMENT and grounds for immediate termination.

Each policy of insurance required in Item 8 above shall by separate endorsement name DISTRICT and its officers, agents and employees as additional named insureds; shall state that, with respect to the operations of PROVIDER hereunder, such policy is primary and any insurance carried by DISTRICT is excess and non-contributory with such primary insurance; shall state that not less than thirty (30) days' written notice shall be given to DISTRICT prior to cancellation; and, shall waive all rights of subrogation.

9. **COMPLIANCE WITH LAW/CONFIDENTIALITY:** PROVIDER shall comply with all federal, state and local laws and ordinances applicable to the Services. PROVIDER will not at any time or in any manner, either directly or indirectly, use for the personal benefit of PROVIDER, or divulge, disclose, or communicate in any manner any information that is proprietary to the District or protected from disclosure by law (such as student records). PROVIDER will protect such information and treat it as strictly confidential. This provision shall continue to be effective after the termination of this Contract. Upon termination of this Contract, PROVIDER will return to the District all student records, other records, notes, documentation and other items that were used, created, or controlled by PROVIDER during the term of this Contract.

10. **FINGERPRINTING REQUIREMENTS:** Education Code § 45125.1 states that if employees of any PROVIDER providing services at a school site might have any contact with any under age pupils (younger than 18 years of age); those employees shall be fingerprinted by the Department of Justice (DOJ) before entering to determine that they have not been convicted of a serious or violent felony. If the District determines that more than limited contact with students will occur during the performance of these services by PROVIDER, PROVIDER will not perform SERVICES until all employees providing services have been fingerprinted by the DOJ and DOJ fingerprinting clearance certification has been provided to District.

11. **ANTIDISCRIMINATION:** It is the policy of the DISTRICT that in connection with all work performed under Agreements, there be no discrimination against any prospective or active employee engaged in the work because of race, color, ancestry, national origin, religious creed, sex, age, or marital status. The PROVIDER agrees to comply with applicable federal and California laws, including, but not limited to, the California Fair Employment and Housing Act, beginning with Government Code section 12900 and Labor Code section 1735. In addition, the PROVIDER agrees to require like compliance by any subcontractors employed on the work by such PROVIDER. In accordance with Government Code section 12990, the PROVIDER shall give written notice of its anti-discrimination obligations to any labor organization with which PROVIDER has a collective bargaining or other agreement. PROVIDER shall also require any subcontractor it hires to provide written notice of its anti-discrimination obligations to any labor organizations with which the subcontractor has a collective bargaining or other agreement.

12. **TERMINATION:** This AGREEMENT may be terminated without cause by DISTRICT upon fourteen (14) days written notice to PROVIDER. In the event of a termination without cause, the DISTRICT shall pay PROVIDER for all services performed and all expenses incurred under this AGREEMENT supported by documentary evidence, including payroll records, and expense reports up until the date of notice of termination plus any sums due the PROVIDER for Board approved extra services. Any advance payments to Provider at the time of termination will be pro-rated at the District's discretion based on services completed. Any overpaid amounts will be returned to District within ten (10) days. The District's termination of the Agreement shall in no way affect PROVIDER's obligation to hold harmless and indemnify the District in accordance with the paragraph 6.

13. **IN WITNESS THEREOF,** the parties hereunto have subscribed to this Contract, including all Agreement Documents included in this Agreement as listed below:

- Specifications/Scope of Work Statement
- Purchase Order (will be sent after signature and needed documents are received)
- School Site Safety Certification (Needed if working with students unsupervised)
- W-9 form (Company Name must be the Consultant)
- Other: Certificate(s) of Insurance

PALM SPRINGS UNIFIED SCHOOL DISTRICT

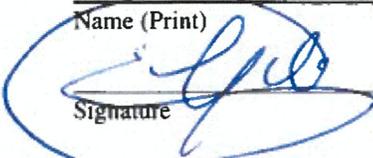
Brian J. Murray, Ed.D.
Assistant Superintendent, Business Services

Signature Date

Board Date

PROVIDER: ADIN CLARK DEVELOPMENT CORPORATION

Edmond Malak
Name (Print)


Signature Date

2427 Bean Rd, Auburn, CA 95603
Address, City, Zip

(916) 704-2302 Emalak@echosps.com
Phone Fax E-mail

APPROVED AS TO FORM:

Atkinson, Andelson, Loya, Ruud & Romo

Constance J. Schwindt, Esq.
Attorneys for Palm Springs Unified School District

SUSTAINABLE PRACTICES & SOLUTIONS

PSUSD No. C0003851

Attachment "A"

Consulting Agreement

Scope of Work

Goals:

Echo will work with Production Staff, Management and Director to achieve three primary goals.

Reduce per unit meal cost by 15-20%.

Improve the meal offering in Freshness, Plating and Sustainability.

Create an environment of pride and accountability.

Increase employee awareness and understanding of proper operating procedures, Safety guidelines and Potential hazards regarding equipment and machinery.

Objectives: To assess and advise on the following:

Current-VS- Benchmarked Production Methods

Current-VS- Benchmarked Manpower Requirements

Current equipment utilization and optimization

Potential for automation and efficiencies through the acquisition of equipment or the alteration of existing equipment to increase efficiencies.

Coordination of site visits to "like industry" facilities to utilize as benchmarks.

Training on existing and potential equipment to optimize production, reduce the potential for injury and increase safety practices.

SUSTAINABLE PRACTICES & SOLUTIONS

Week one: Meet with director and Kitchen Manager to evaluate monthly menu

Determine which menu items require higher manpower or are produced at low “meals per hour” rate

Analyze production output for selected items and calculate current “Cost Per Meal” for those items

Analyze existing operating processes and procedures to determine methods and opportunities to increase safety and awareness of potential hazards in the use and operation of equipment and machinery

Week Two: observe the production of meals that have been targeted for improvement and or efficiencies

Calculate number of movements required to package each unit observed

Visit other Central kitchens that produce like product to determine number of movements required in their operation to use as benchmark

Document Benchmarked kitchen’s manpower utilization, equipment and consumables used in the production of their meals.

Develop, document and create processes to increase safety and awareness of potential Hazards in the use of existing equipment and Machinery

Week three and four: Continue to observe production of meals that have been targeted for improvement and or efficiencies

Continue to calculate number of movements required to package each unit observed

SUSTAINABLE PRACTICES & SOLUTIONS

Research, evaluate and present to Director and Management a proposal that details recommended changes in Safety Procedures, documentation, plating, processing, depositing, packaging and transporting of meals

Implement, deploy and train staff on safety procedures, guidelines and reporting channels to insure adherence to safety practices

Document new processes that have been developed with management to be utilized for existing and incoming employees

Present to Director available suppliers of recommended equipment and consumables

Implementation: Additional consulting hours will be determined based on the how many recommendations are to be implemented and the level of participation required by the consultant. They can include

One on one meeting with key production staff and management to encourage pride and ownership of the new process.

Group meeting to introduce the new process, procedures and equipment.

Formal training of key staff personal on newly acquired equipment operation, maintenance, Safety guidelines and cleaning.

Work with production team in various phases to clarify expectation and performance.

Re-evaluation of movements per meal and cost per meal with recommendations implemented

Creation of Required Specifications on equipment and consumables to aid in the bidding process.

Work with internal staff to determine best methods to achieve a team environment that is reward based yet accountable.