

INDEPENDENT CONSULTANT AGREEMENT FOR FOOD SERVICES

This Independent Consultant Agreement for Food Services ("Agreement") is made and entered into as of the _____ day of _____, 20____, by and between the Imperial Community College District, ("District") and _____ ("Food Service Provider"), (together, "Parties").

WHEREAS, the District is authorized by Public Contract Code section 20111 to contract with and employ any persons for the furnishing of non-construction services without formal bidding, if the contract amount is no greater than the annually adjusted statutory limit, which is \$114,500 in 2024;

WHEREAS, the District is in need of those services on a limited basis; and

WHEREAS, the Food Service Provider is specially trained and experienced and competent to perform the services required by the District.

NOW, THEREFORE, the Parties agree as follows:

1. **Services.** The Food Service Provider shall provide food services as further described in **Exhibit "A,"** attached hereto and incorporated herein by this reference ("Services"). Food Service Provider will determine the method, details, and means of performing the Services.
2. **Time/Date/Location.** Food Service Provider shall provide Services under this Agreement on _____, 20____ at ____:____ a.m./p.m. at the following location: _____.
3. **Submittal of Documents.** The Food Service Provider shall not commence the Services under this Agreement until the Food Service Provider has submitted and the District has approved the documents, certificate(s) and affidavit(s), and endorsement(s) of insurance required as indicated below:

<u> X </u>	Signed Agreement
<u> X </u>	Workers' Compensation Certification
<u> X </u>	Insurance Certificates and Endorsements
<u> X </u>	W-9 Form
<u> </u>	Other: _____

4. **Compensation.** The District has considered the following daily sales revenue guarantee to subsidize the following food services at the Imperial Valley College through a Food Service Provider: \$1,250 per day for Food Vendors; \$500 per day for Concession Stands. The District shall provide the difference of the Food Service Provider total daily sales and the respective daily sales revenue guarantee. At no point will the District provide a payment to the Food Service Provider, which will collective surpass the stated respective daily sales revenue guarantee total. Should the Food Service Provider sales exceed the District's daily sales revenue guarantee amount, no payment from the District to the Food Service Provider shall be made. A transactional summary report of sales rendered pursuant to this Agreement shall be provided to the District to determine the difference owed. Payment shall be made within thirty (30) days of the submission of the transactional summary report by the Food Service Provider in a form acceptable to the District.
5. **Materials/Expenses.** Food Service Provider shall furnish, at its own expense, all labor, materials, equipment, supplies and other items necessary to complete the Services to be provided pursuant to this Agreement. Except for those expenses set forth in the attached

Exhibit "A," District shall not be liable to Food Service Provider for any costs or expenses paid or incurred by Food Service Provider in performing Services for District.

6. **Independent Contractor.** Food Service Provider represents and warrants that Food Service Provider is an independent contractor or business entity that is: (i) free from the control and direction of the District in connection with the performance of the Services, (ii) performing Services that are outside the usual course of the District's business, and (iii) customarily engaged in an independently established trade, occupation, or business of the same nature as that involved in the Services performed, District being interested only in the results obtained. Food Service Provider understands and agrees that it and all of its employees shall not be considered officers, employees, agents, partner, or joint venture of the District, and are not entitled to benefits of any kind or nature normally provided employees of the District and/or to which District's employees are normally entitled, including, but not limited to, State Unemployment Compensation or Worker's Compensation. Food Service Provider shall assume full responsibility for payment of all federal, state and local taxes or contributions, including unemployment insurance, social security and income taxes with respect to Food Service Provider's employees.
7. **Disputes.** In the event of a dispute between the Parties as to performance of the Services, the interpretation of this Agreement, or payment or nonpayment for work performed or not performed, the Parties shall attempt to resolve the dispute in good faith. Disputes may be determined by mediation if mutually agreeable, otherwise by litigation. If a claim, or any portion thereof, remains in dispute upon satisfaction of all applicable dispute resolution requirements, the Food Service Provider shall comply with all claims presentation requirements as provided in Chapter 1 (commencing with section 900) and Chapter 2 (commencing with section 910) of Part 3 of Division 3.6 of Title 1 of Government Code as a condition precedent to the Food Service Provider's right to bring a civil action against the District.
8. **Termination For Convenience by District.** District may, at any time, with or without reason, terminate this Agreement and compensate Food Service Provider only for Services satisfactorily rendered to the date of termination. Written notice by District shall be sufficient to stop further performance of Services by Food Service Provider. Notice shall be deemed given when received by the Food Service Provider or no later than three (3) days after the day of mailing, whichever is sooner.
9. **Indemnification.** To the furthest extent permitted by California law, Food Service Provider shall, at its sole expense, indemnify, and hold harmless the District, the State of California, and their agents, representatives, officers, contractors, employees, trustees, and volunteers (the "District Parties") from any and all demands, losses, liabilities, claims, suits, and actions (the "Claims") of any kind, nature, and description, including, but not limited to, personal injury, death, property damage, and contractors' and/or attorneys' fees and costs, directly or indirectly arising out of, connected with, or resulting from the performance of the Agreement or from any activity, work, or thing done, permitted, or suffered by the Food Service Provider under or in conjunction with this Agreement, unless the Claims are caused wholly by the sole negligence or willful misconduct of the District Parties. Food Service Provider shall, to the furthest extent permitted by California law, defend the District Parties at Food Service Provider's own expense, from any and all Claim(s) and allegations relating thereto with counsel approved by the District Parties where such approval is not to be unreasonably withheld. The District Parties shall have the right to accept or reject any legal representation that the Food Service Provider proposes to defend the indemnified parties.

10. Insurance.

- 10.1. **Coverage.** The Food Service Provider shall procure and maintain at all times it performs any portion of the Services the following insurance with minimum limits equal to the amount indicated below.

Type of Coverage	Minimum Requirement
Commercial General Liability Insurance , including Bodily Injury, Personal Injury, Property Damage, Advertising Injury, and Medical Payments Each Occurrence General Aggregate	 \$ 1,000,000 \$ 2,000,000
Automobile Liability Insurance - Any Auto Each Occurrence General Aggregate	 \$ 1,000,000 \$ 2,000,000
Workers Compensation	Statutory Limits

- 10.1.1. **Commercial General Liability and Automobile Liability Insurance.** Commercial General Liability Insurance and Any Auto Automobile Liability Insurance that shall protect the Food Service Provider, the District, and the State from all claims of bodily injury, property damage, personal injury, death, advertising injury, and medical payments arising performing any portion of the Services. (Form CG 0001 and CA 0001, or forms substantially similar, if approved by the District.)

- 10.1.2. **Workers' Compensation.** Workers' Compensation Insurance and Employer's Liability Insurance for all of its employees performing any portion of the Services. In accordance with provisions of section 3700 of the California Labor Code, the Food Service Provider shall be required to secure workers' compensation coverage for its employees.

- 10.2. **Proof of Carriage of Insurance.** The Food Service Provider shall not commence performing any portion of the Services until all required insurance has been obtained and certificates indicating the required coverage have been delivered in duplicate to the District and approved by the District.

11. **Compliance with Laws.** Food Service Provider shall observe and comply with all rules and regulations of the Board of Trustees of the District and all federal, state, and local laws, ordinances, and regulations, including but not limited to any laws, ordinances, and regulations concerning health and safety standards associated with food preparation and service. All equipment and vehicles used for Services shall also remain compliant with applicable laws, ordinances, and regulations. Food Service Provider must dispose of all waste, including any hazardous waste, pursuant to the applicable laws, ordinances, and regulations.

12. **Certificates/Permits/Licenses/Registrations.** Food Service Provider and all Food Service Provider's employees or agents are solely responsible for securing and maintaining in force such certificates, permits, licenses, and registrations as are required by law in connection with the furnishing of Services pursuant to this Agreement, including but not limited to any certificates, permits, licenses, and registrations concerning health and safety standards associated with food preparation and service. Food Service Provider shall hold the requisite certificates, permits, licenses, and registrations of the operation of all equipment and vehicles used for Services.

13. **Clean Up.** Food Service Provider shall be responsible for the full and complete cleanup of the area in which Services are performed, leaving such area in a comparable state as existed prior to Food Service Provider's Services.
14. **Anti-Discrimination.** It is the policy of the District that in connection with all work performed under contracts there be no discrimination against any employee engaged in the work because of race, color, ancestry, national origin, religious creed, physical disability, medical condition, marital status, sexual orientation, gender, or age and therefore the Food Service 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 and District policy. In addition, the Food Service Provider agrees to require like compliance by all of its subcontractor(s).
15. **Limitation of District Liability.** Other than as provided in this Agreement, District's financial obligations under this Agreement shall be limited to the payment of the compensation provided in this Agreement. Notwithstanding any other provision of this Agreement, in no event, shall District be liable, regardless of whether any claim is based on contract or tort, for any special, consequential, indirect or incidental damages, including, but not limited to, lost profits or revenue, arising out of or in connection with this Agreement for the Services performed in connection with this Agreement.
16. **Notice.** Any notice required or permitted to be given under this Agreement shall be deemed to have been given, served, and received if given in writing and either personally delivered or deposited in the United States mail, registered or certified mail, postage prepaid, return receipt required, or sent by overnight delivery service, or facsimile transmission, addressed as follows:

District:

Imperial Community College District
380 E. Aten Rd.
Imperial CA, 92251
ATTN: Cesar L. Vega,
Vice President of Administrative Services

Food Service Provider:

Name:
Address:

ATTN:

Any notice personally given or sent by facsimile transmission shall be effective upon receipt. Any notice sent by overnight delivery service shall be effective the business day next following delivery thereof to the overnight delivery service. Any notice given by mail shall be effective three (3) days after deposit in the United States mail.

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement on the date indicated below.

Dated: _____, 20____

Dated: _____, 20____

Imperial Community College District

[Food Service Provider]

Signed By: _____

Signed By: _____

Print Name: _____

Print Name: _____

Print Title: _____

Print Title: _____

Information regarding Food Service Provider:

License No.: _____

Address: _____

Telephone: _____

Facsimile: _____

E-Mail: _____

Type of Business Entity:

____ Individual

____ Sole Proprietorship

____ Partnership

____ Limited Partnership

____ Corporation, State: _____

____ Limited Liability Company

____ Other: _____

Employer Identification

NOTE: Section 6041 of the Internal Revenue Code (26 U.S.C. 6041) and Section 1.6041-1 of Title 26 of the Code of Federal Regulations (26 C.F.R. 1.6041-1) requires the recipients of \$600.00 or more to furnish their taxpayer information to the payer. In order to comply with these requirements, the District requires the Food Service Provider to furnish the information requested in this section.

EXHIBIT "A"
DESCRIPTION OF SERVICES TO BE PERFORMED BY FOOD SERVICE PROVIDER

WORKERS' COMPENSATION CERTIFICATION

Labor Code Section 3700 in relevant part provides:

Every employer except the State shall secure the payment of compensation in one or more of the following ways:

- By being insured against liability to pay compensation by one or more insurers duly authorized to write compensation insurance in this State.
- By securing from the Director of Industrial Relations a certificate of consent to self-insure, which may be given upon furnishing satisfactory proof to the Director of Industrial Relations of ability to self-insure and to pay any compensation that may become due to its employees.

I am aware of the provisions of Section 3700 of the Labor Code which require every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of that code, and I will comply with such provisions before commencing the performance of the Work of this Contract.

Date: _____

Name of Food Service Provider: _____

Signature: _____

Print Name and Title: _____

(In accordance with Article 5 – commencing at Section 1860, Chapter 1, part 7, Division 2 of the Labor Code, the above certificate must be signed and filed with the District prior to performing any Services under this Agreement.)