

**SITE AGREEMENT FOR THE 2018 SUMMER FOOD SERVICE PROGRAM  
BETWEEN THE CITY OF DENTON, TEXAS AND  
STH PROJECT, INC.**

This Agreement is hereby entered into by and between the City of Denton, Texas, a home-rule municipal corporation, hereinafter referred to as "City", and STH Project, Inc., a Texas Non-Profit Corporation, hereinafter referred to as "STH."

WHEREAS, the City recognizes the importance of providing lunches at no charge to children under the age of eighteen during the summer months when school is not in session; and

WHEREAS, in 2017 the City worked with STH Project, Inc. to provide summer lunches at multiple locations throughout the City; and

WHEREAS, the City and STH desire to continue the program in 2018; and

WHEREAS, this Agreement serves a valid public purpose and is in the public interest;

NOW, THEREFORE, the parties hereto mutually agree as follows:

**I. SCOPE OF SERVICES**

STH shall, in a satisfactory and proper manner, perform the following tasks, for which the locations provided by City may be used:

**II. OBLIGATIONS OF STH**

In consideration of the sites to be provided by the City, STH agrees to the following terms and conditions:

A. STH shall supply unitized meals ("Summer Lunches") that meet or exceed the minimum meal pattern requirements found in 7 C.F.R. Part 225: Summer Food Service Program. Further, meals are to be prepared and delivered under controlled temperatures and in accordance with state and local health standards.

B. STH shall conduct training for staff and conduct program monitoring during the duration of the program to ensure compliance of 7 C.F.R. Part 225 and all applicable state and Federal laws.

C. The Summer Lunches shall be provided during the time period described below at the locations identified in Exhibit A, which is attached.

D. The Summer Lunches shall be available to all children eighteen (18) years of age and under and qualifying disabled participants through age 21, in accordance with United States Department of Agriculture (USDA) regulations.

D. STH shall maintain records required by either the City or USDA regarding (i) meal production, including the composition of all meals, (ii) number of meals served throughout the term of this Agreement, (iii) receipts, invoices, and inventory records; and (iv) daily delivery tickets for Summer Lunches at each site location. STH will permit authorized officials of City to review these records at any time.

E. Upon request, STH will provide to City its By-Laws and any of its rules and regulations that may be relevant to this Agreement.

F. If STH is subject to an inspection by the local health department or an independent agency to determine bacterial levels in the Summer Lunches being served, a copy of the results of such inspection must be submitted promptly to the City for review.

G. STH shall report to the City any changes in the number of meals required as attendance fluctuates and any problems or issues with service of the Summer Lunches.

H. STH will appoint a representative who will be available to meet with City officials when requested.

I. STH's meal service shall include the delivery, distribution, and clean-up of Summer Lunches at the locations identified in Exhibit A.

J. STH will carry and provide evidence of insurance as detailed below.

### III. OBLIGATIONS OF CITY

In consideration of the Summer Lunch services to be provided by STH, the City agrees to allow STH to use the locations identified in Exhibit A under the following terms and conditions:

A. STH shall deliver Summer Lunches by \_\_\_\_\_ a.m. while providing adequate refrigeration or heating during the delivery of all food to insure the wholesomeness of food at delivery in accordance with State or local health codes and performing constant quality control inspections.

B. STH shall ensure cleanup is completed by \_\_\_\_\_ p.m., each day the Summer Lunches are provided. Admittance will not be allowed outside these hours.

C. All locations are accepted by STH on an "as is" basis and may not be altered in any way by STH or guests.

D. The maximum number of people the Civic Center can accommodate is six hundred (600); STH shall ensure that the number of people in the Civic Center being served with a Summer Lunch does not exceed the maximum capacity of accommodation.

E. The City reserves the right to cancel use of any of the locations in its sole discretion. If cancellation is initiated by the City, City staff will attempt to secure an alternative site (if available).

F. STH is responsible for obtaining all required vendor permits and/or health permits for the dissemination of Summer Lunches.

F. Per City of Denton Ordinance No. 2015-121, smoking is prohibited inside City facilities. In addition, patrons must be twenty feet (20') from all entrances (including handicap ramps/entryways/walkways) when smoking. This ordinance encompasses all forms of smoke, to include barbeque smokers, grills, tobacco, tobacco products, and e-cigs.

G. No storage or equipment will be available on-site.

H. No open flame, candles, hay, confetti-type décor, soap bubbles, rice, birdseed, or live animals (excluding service animals) are allowed in the building. Decorations must be authorized and meet all fire codes.

I. No alcohol sales are permitted without City Council approval in advance.

J. No alcoholic beverages are permitted in vehicles, parking lots, loading areas, sidewalks, or park/grass areas.

K. All trash must be put into trash cans.

L. When the kitchen is used, STH is responsible for cleaning of the room and appliances. Kitchen and appliances are provided on an "as-is" basis for food preparation. Appliances are provided as a courtesy and their reliability cannot be guaranteed.

#### IV. TIME OF PERFORMANCE

The term of this Agreement shall commence on the effective date and terminate September 1, 2018 unless the contract is sooner terminated under Section VII "Suspension or Termination."

The Summer Lunches provided herein shall be served week days from \_\_\_\_\_, 2018 through \_\_\_\_\_, 2018. No lunches will be served on July 4, 2018, in observance of the Independence Day holiday.

#### V. EVALUATION

STH agrees to participate in an implementation and maintenance system whereby the services can be continuously monitored. STH agrees to make available its financial records for review by City at City's discretion. In addition, upon request, STH agrees to provide City the following data and reports, or copies thereof:

A. All external or internal audits. STH shall submit a copy of the annual independent audit to City within ten (10) days of receipt.

B. All external or internal evaluation reports.

C. An explanation of any major changes in program services.

D. Nothing in the above subsections shall be construed to relieve STH of responsibility for retaining accurate and current records that clearly reflect the level and benefit of services provided under this Agreement.

#### VI. DIRECTORS' MEETINGS

Upon request, minutes of all meetings of STH's governing body shall be available to City for inspection or copy within ten (10) working days of approval.

#### VII. TERMINATION

The City may terminate this Agreement for cause if STH violates any covenants, agreements, or guarantees of this Agreement, STH's insolvency or filing of bankruptcy, dissolution, or receivership, or STH's violation of any law or regulation to which it is bound under the terms of this Agreement. The City may terminate this Agreement for any other reasons not specifically enumerated in this paragraph.

#### VIII. EQUAL OPPORTUNITY AND COMPLIANCE WITH LAWS

A. STH shall comply with all applicable equal employment opportunity and affirmative action laws or regulations, including but not limited to the following: rights laws, as amended: Title VI of the Education Amendments of 1972; Section 504 of the Rehabilitation Act of 1973; the Age Discrimination Act of 1975; Title 7 CFR Parts 15, 15a, and 15b; the Americans with Disabilities Act; and FNS Instruction 113-1, Civil Rights Compliance and Enforcement – Nutrition Programs and Activities.

B. STH will furnish all information and reports requested by City, and will permit access to its books, records, and accounts for purposes of investigation to ascertain compliance with local, State, and Federal rules and regulations.

C. In the event of noncompliance by STH with the nondiscrimination requirements, the Agreement may be canceled, terminated, or suspended in whole or in part, and STH may be barred from further contracts with City.

#### IX. WARRANTIES

STH represents and warrants that:

A. All information, reports, and data heretofore or hereafter requested by City and furnished to City, are complete and accurate as of the date shown on the information, data, or report, and, since that date, have not undergone any significant change without written notice to City.

B. Any supporting financial statements heretofore requested by City and furnished to City, are complete, accurate, and fairly reflect the financial conditions of STH on the date shown on said report, and the results of the operation for the period covered by the report, and that since said data, there has been no material change, adverse or otherwise, in the financial condition of STH.

C. No litigation or legal proceedings are presently pending or threatened against STH.

D. None of the provisions herein contravenes or is in conflict with the authority under which STH is doing business or with the provisions of any existing indenture or agreement of STH.

E. STH has the power to enter into this Agreement and has taken all necessary action to authorize such acceptance of the terms and conditions of this Agreement.

F. None of the assets of STH are subject to any lien or encumbrance of any character, except for current taxes not delinquent, except as shown in the financial statements furnished by STH to City.

Each of these representations and warranties shall be continuing and shall be deemed to have been repeated by the submission of each request for payment.

#### X. CHANGES AND AMENDMENTS

A. Any alterations, additions, or deletions to the terms of this Agreement shall be by written amendment executed by both parties, except when the terms of this Agreement expressly provide that another method shall be used.

B. It is understood and agreed by the parties hereto that changes in the State, Federal, or local laws or regulations pursuant hereto may occur during the term of this Agreement. Any such modifications are to be automatically incorporated into this Agreement without written amendment hereto, and shall become a part of the Agreement on the effective date specified by the law or regulation.

C. STH shall notify City of any changes in personnel or governing board composition.

#### XI. INSURANCE

A. Without limiting any of the other obligations or liabilities of STH, STH shall provide and maintain through the term of this Agreement the minimum insurance coverage as indicated hereinafter.

B. As soon as practicable after notification that this Agreement has been executed by the City, STH shall file with the Parks and Recreation Department satisfactory certificates of insurance including any applicable addendum or endorsements. STH may, upon written request to the Parks and Recreation Department, ask for clarification of any insurance requirements at any time; however, STH is strongly advised to make such requests prior to executing this Agreement, since the insurance requirements may not be modified or waived Agreement execution unless a written Agreement amendment is approved by the City Council. STH shall not commence any work or deliver any Summer Lunches until it receives notification that the Agreement has been accepted, approved, and signed by the City.

C. All insurance policies proposed or obtained in satisfaction of these requirements shall comply with the following general specifications, and shall be maintained in compliance with these general specifications throughout the duration of the Agreement, or longer, if so noted:

- Each policy shall be issued by a company authorized to do business in the State of Texas with an A.M. Best Company rating of at least A or better.
- Any deductibles or self-insured retentions shall be declared in the proposal. If requested by the City, the insurer shall reduce or eliminate such deductibles or self-insured retentions with respect to the City, its officials, agents, employees, and volunteers; or, STH shall procure a bond guaranteeing payment of losses and related investigations, claim administration, and defense expenses.
- Liability policies shall be endorsed to provide the following:
  - Name as Additional Insured the City of Denton, its Officials, Agents, Employees, and volunteers.
  - That such insurance is primary to any other insurance available to the Additional Insured with respect to claims covered under the policy and that this insurance applies separately to each insured against whom claim is made or suit is brought. The inclusion of more than one insured shall not operate to increase the insurer's limit of liability.
  - Provide a Waiver of Subrogation in favor of the City of Denton, its officials, agents, employees, and volunteers.
- Cancellation: City requires 30 day written notice should any of the policies described on the certificate be cancelled or materially changed before the expiration date.
- Should any of the required insurance be provided under a claims made form, STH shall maintain such coverage continuously throughout the term of this Agreement and, without lapse, for a period of three years beyond the contract expiration, such that occurrences arising during the contract term which give rise to claims made after expiration of the contract shall be covered.

- Should any of the required insurance be provided under a form of coverage that includes a general annual aggregate limit providing for claims investigation or legal defense costs to be included in the general annual aggregate limit, STH shall either double the occurrence limits or obtain Owners and Contractors Protective Liability Insurance.
- Should any required insurance lapse during the contract term, requests for location/site use originating after such lapse shall not be processed or approved until the City receives satisfactory evidence of reinstated coverage as required by this contract, effective as of the lapse date. If insurance is not reinstated, City may, at its sole option, terminate this agreement effective on the date of the lapse.

#### D. SPECIFIC ADDITIONAL INSURANCE REQUIREMENTS:

All insurance policies proposed or obtained in satisfaction of this Agreement shall additionally comply with the following marked specifications, and shall be maintained in compliance with these additional specifications throughout the duration of the Agreement, or longer, if so noted:

##### 1. General Liability Insurance:

General Liability insurance with combined single limits of not less than \$1,000,000.00 shall be provided and maintained by STH. The policy shall be written on an occurrence basis either in a single policy or in a combination of underlying and umbrella or excess policies.

If the Commercial General Liability form (ISO Form CG 0001 current edition) is used:

- Coverage A shall include premises, operations, products, and completed operations, independent contractors, contractual liability covering this contract and broad form property damage coverage.
- Coverage B shall include personal injury.
- Coverage C, medical payments, is not required.

If the Comprehensive General Liability form (ISO Form GL 0002 Current Edition and ISO Form GL 0404) is used, it shall include at least:

- Bodily injury and Property Damage Liability for premises, operations, products and completed operations, independent contractors and property damage resulting from explosion, collapse or underground (XCU) exposures.
- Broad form contractual liability (preferably by endorsement) covering this contract, personal injury liability and broad form property damage liability.

##### 2. Automobile Liability Insurance:

STH shall provide Commercial Automobile Liability insurance with Combined Single Limits (CSL) of not less than \$500,000 either in a single policy or in a combination of basic and umbrella or excess policies. The policy will include bodily injury and property damage liability arising out of the operation, maintenance and use of all automobiles and mobile equipment used in conjunction with this contract.

Satisfaction of the above requirement shall be in the form of a policy endorsement for:

- any auto, or
- all owned, hired, and non-owned autos.

### 3. Workers' Compensation Insurance

STH shall purchase and maintain Workers' Compensation insurance which, in addition to meeting the minimum statutory requirements for issuance of such insurance, has Employer's Liability limits of at least \$100,000 for each accident, \$100,000 per each employee, and a \$500,000 policy limit for occupational disease. The City need not be named as an "Additional Insured" but the insurer shall agree to waive all rights of subrogation against the City, its officials, agents, employees, and volunteers for any work performed for the City by the Named Insured.

## XII. INDEMNIFICATION

To the extent authorized by law, STH agrees to indemnify, hold harmless, and defend the City, its officers, agents, and employees from and against any and all claims or suits for injuries, damage, loss, or liability of whatever kind or character, arising out of or in connection with the performance by STH or those services contemplated by this Agreement, including all such claims or causes of action based upon common, constitutional, or statutory law, or based, in whole or in part, upon allegations of negligent or intentional acts of STH, its officers, employees, agents, subcontractors, licensees, and invitees.

## XIII. CONFLICT OF INTEREST

A. STH covenants that neither it nor any member of its governing body presently has any interest, direct or indirect, which would conflict in any manner or degree with the performance of services required to be performed under this Agreement. STH further covenants that in the performance of this Agreement, no person having such interest shall be employed or appointed as a member of its governing body.

B. STH further covenants that no member of its governing body or its staff, subcontractors, or employees shall possess any interest in or use his/her position for a purpose that is or gives the appearance of being motivated by desire for private gain for himself/herself, or others; particularly those with which he/she has family, business, or other ties.

C. No officer, member, or employee of City and no member of its governing body who exercises any function or responsibilities in the review or approval of the undertaking or carrying out of this Agreement shall participate in any decision relating to the Agreement which affects his

personal interest or the interest in any corporation, partnership, or association in which he has direct or indirect interest.

#### XIV. NOTICE

Any notice or other written instrument required or permitted to be delivered under the terms of this Agreement shall be deemed to have been delivered, whether actually received or not, when deposited in the United States mail, postage prepaid, registered or certified, return receipt requested, or via hand-delivery or facsimile, addressed to STH or City, as the case may be, at the following addresses:

CITY:

City of Denton, Texas  
Attn: City Manager  
215 E. McKinney  
Denton, TX 76201

STH Project:

with a copy to:

City of Denton, Texas  
Attn: City Attorney's Office  
215 E. McKinney  
Denton, Texas 76201

Either party may change its mailing address by sending notice of change of address to the other at the above address by certified mail, return receipt requested.

#### XV. MISCELLANEOUS

A. STH shall not transfer, pledge, or otherwise assign this Agreement or any interest therein, or any claim arising thereunder to any party or parties, bank, trust company, or other financial institution without the prior written approval of City.

B. If any provision of this Agreement is held to be invalid, illegal, or unenforceable, the remaining provisions shall remain in full force and effect and continue to conform to the original intent of both parties hereto.

C. In no event shall any use of City locations by STH hereunder, or any other act or failure of City to insist in any one or more instances upon the terms and conditions of this Agreement constitute or be construed in any way to be a waiver by City of any breach of covenant or default which may then or subsequently be committed by STH. Neither shall such payment, act, or omission in any manner impair or prejudice any right, power, privilege, or remedy available to City to enforce its rights hereunder, which rights, powers, privileges, or remedies are always specifically preserved. No representative or agent of City may waive the effect of this provision.

D. This Agreement, together with referenced exhibits and attachments, constitutes the entire agreement between the parties hereto, and any prior agreement, assertion, statement, understanding, or other commitment occurring during the term of this Agreement, or subsequent thereto, have any legal force or effect whatsoever, unless properly executed in writing, and if appropriate, recorded as an amendment of this Agreement.

E. This Agreement shall be interpreted in accordance with the laws of the State of Texas and venue of any litigation concerning this Agreement shall be in a court of competent jurisdiction sitting in Denton County, Texas.

IN WITNESS WHEREOF, the parties do hereby affix their signatures and enter into this Agreement as of the \_\_\_\_\_ day of \_\_\_\_\_, 2018.

CITY OF DENTON, TEXAS

\_\_\_\_\_  
TODD HILEMAN, CITY MANAGER

ATTEST:  
JENNIFER WALTERS, CITY SECRETARY

BY: \_\_\_\_\_

APPROVED AS TO LEGAL FORM:  
AARON LEAL, CITY ATTORNEY

BY: \_\_\_\_\_

STH Project, Inc.

ATTEST:

\_\_\_\_\_

**EXHIBIT A:**  
**LOCATIONS FOR SUMMER LUNCHES**

1. Denton Civic Center, 321 E. McKinney Street, Denton, Texas 76201
2. Denia Recreation Center, 1001 Parvin Street, Denton, Texas 76205
3. Martin Luther King Recreation Center, 1300 Wilson Street, Denton, Texas 76205
4. McMath Middle School, 1900 Jason Drive, Denton, Texas 76205