

# SUMMER FOOD SERVICE AGREEMENT

**THIS AGREEMENT** is made and entered into as of this 18<sup>th</sup> day of June, 2001, by and between

**THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA**  
(hereinafter referred to as "SBBC"),  
a body corporate and political subdivision of the State of Florida,  
whose principal place of business is  
600 Southeast Third Avenue, Fort Lauderdale, Florida 33301

and

**CITY OF POMPANO BEACH**  
(hereinafter referred to as "CITY"),  
a municipal corporation of the State of Florida.

**WHEREAS**, the CITY is desirous of obtaining food services for a Summer Food Program (hereinafter referred to as "Program") from SBBC and SBBC is willing to provide such services.

**NOW, THEREFORE**, in consideration of the premises and of the mutual covenants contained herein and the sum of Ten Dollars (\$10.00) and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties hereby agree as follows:

## ARTICLE 1 - RECITALS

1.01 **Recitals.** The Parties agree that the foregoing recitals are true and correct and that such recitals are incorporated herein by reference.

## ARTICLE 2 - SPECIAL CONDITIONS

2.01 **Effective Date.** The effective date of this Agreement shall be June 18, 2001.

2.02 **Term.** The term of this Agreement shall be from June 18, 2001 through August 10, 2001.

2.03 **Meals Provided.** SBBC will provide the CITY meals that meet the minimum meal pattern requirements for the Program as to components and portion sizes. The meals will be delivered by SBBC in a timely manner to the sites listed on Exhibit "A".

2.04 **Meal Rates.** SBBC will deliver unitized meals, inclusive of milk, to the CITY for the following rates:

Lunch: \$1.75 per meal; and

Snacks: \$0.50 per snack.

2.05 **Meal Reports.** SBBC's Food and Nutrition Services Department will maintain full and accurate records specifying menu records and identifying the amount of food prepared and the daily number of meals delivered by type. SBBC will provide meal reports to the CITY promptly at the end of each month. SBBC will retain such records for a period of three (3) years from the date of receipt of final payment under this agreement (or longer, if SBBC has been notified of an audit in progress). Upon request, SBBC will make all accounts and records pertaining to the Program available to representatives of the United States Department of Agriculture and the General Accounting Office for audit or administrative review at a reasonable time and place.

2.06 **Meal Invoices.** SBBC's School Food Accounting Department will send an invoice to the CITY each month setting forth the amounts payable to SBBC for meals provided. The invoice shall be based upon food delivery reports generated by SBBC's Food and Nutrition Services Department. The CITY will pay SBBC the invoiced amount within ten (10) days of receipt of the invoice. SBBC's records regarding the delivery of meals and the CITY's Program participation shall be open to inspection and audit by the CITY and its designees upon reasonable advance notice.

2.07 **Audits.** With regard to any inspection or audit of records pursuant to this Agreement, each party agrees that the other party and its designee(s) shall have full access to inspect and copy any records reasonably necessary for the conduct of such inspection and audit. Such inspection shall be conducted at the place where such records are usually kept and during normal business hours. The Parties agree that all records maintained concerning the duties, responsibilities and obligations imposed under this Agreement shall be kept in Broward County, Florida. Each party agrees to provide a reasonable sufficient workspace for the use of the inspecting or auditing party's personnel during such inspection or audit. Each party agrees to cooperate with the inspecting or auditing party and its designee(s) during the course of an inspection or audit. The costs of any such inspection or audit shall be borne by the party requesting the inspection or audit.

2.08 **Indemnification.** Each party agrees to be fully responsible for its acts of negligence, or its agent's acts of negligence when acting within the scope of their employment and agrees to be liable for any damages resulting from said negligence.

### **ARTICLE 3 - GENERAL CONDITIONS**

3.01 **No Waiver of Sovereign Immunity.** Nothing contained in this Agreement is intended to serve as a waiver of sovereign immunity by any agency to which sovereign immunity may be applicable.

3.02 **No Third Party Beneficiaries.** The Parties expressly acknowledge that it is not their intent to create or confer any rights or obligations in or upon any third person or entity under this Agreement. None of the parties intend to directly or substantially benefit a third party by this Agreement. The parties agree that there are no third party beneficiaries to this Agreement and that no third party shall be entitled to assert a claim against any of the parties based upon this Agreement. Nothing herein shall be construed as consent by an agency or political subdivision of the State of Florida to be sued by third parties in any manner arising out of any contract.

3.03 **Non-Discrimination.** The Parties shall not discriminate against any employee or participant in the performance of the duties, responsibilities and obligations under this Agreement because of race, age, religion, color, gender, national origin, marital status, disability or sexual orientation.

3.04 **Termination.** This Agreement may be canceled by either party during the term hereof upon thirty (30) days written notice to the other parties of its desire to terminate this Agreement.

3.05 **Records.** Each Party shall maintain its own respective records and documents associated with this Agreement in accordance with the records retention requirements applicable to public records. Each Party shall be responsible for compliance with any public documents request served upon it pursuant to Section 119.07, Florida Statutes, and any resultant award of attorney's fees of non-compliance with that law.

3.06 **Entire Agreement.** This document incorporates and includes all prior negotiations, correspondence, conversations, agreements and understandings applicable to the matters contained herein and the Parties agree that there are no commitments, agreements or understandings concerning the subject matter of this Agreement that are not contained in this document. Accordingly, the Parties agree that no deviation from the terms hereof shall be predicated upon any prior representations or agreements, whether oral or written.

3.07 **Amendments.** No modification, amendment, or alteration in the terms or conditions contained herein shall be effective unless contained in a written document prepared with the same or similar formality as this Agreement and executed by each party hereto.

3.08 **Preparation of Agreement.** The Parties acknowledge that they have sought and obtained whatever competent advise and counsel as was necessary for them to form a full and complete understanding of all rights and obligations herein and that the preparation of this Agreement has been their joint effort. The language agreed to herein expresses their mutual intent and the resulting document shall not, solely as a matter of judicial construction, be construed more severely against one of the parties than the other.

3.09 **Waiver.** The parties agree that each requirement, duty and obligation set forth herein is substantial and important to the formation of this Agreement and, therefore, is a material term hereof. Any party's failure to enforce any provision of this Agreement shall not be deemed a waiver of such provision or modification of this Agreement. A waiver of any breach of a provision of this Agreement shall not be deemed a waiver of any subsequent breach and shall not be construed to be a modification of the terms of this Agreement.

3.10 **Compliance with Laws.** Each party shall comply with all applicable federal and state laws, codes, rules and regulation in performing its duties, responsibilities and obligations pursuant to this Agreement.

3.11 **Governing Law.** This Agreement shall be interpreted and construed in accordance with and governed by the laws of the State of Florida. Any controversies or legal problems arising out of this Agreement and any action involving the enforcement or interpretation of any rights hereunder shall be submitted to the jurisdiction of the State courts of the Seventeenth Judicial Circuit of Broward County, Florida. By entering into this Agreement, each party hereby expressly waives any rights either party may have to a trial by jury of any civil litigation related to, or arising out of this Agreement.

3.12 **Binding Effect.** This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns.

3.13 **Assignment.** Neither this Agreement or any interest herein may be assigned, transferred or encumbered by any party without the prior written consent of the other party.

3.14 **Force Majeure.** Neither party shall be obligated to perform any duty, requirement or obligation under this Agreement if such performance is prevented by fire, hurricane, earthquake, explosion, wars, sabotage, accident, flood, acts of God, strikes, or other labor disputes, riot or civil commotions, or by reason of any other matter or condition beyond the control of either party, and which cannot be overcome by reasonable diligence and without unusual expense ("Force Majeure"). In no event shall a lack of funds on the part of either party be deemed Force Majeure.

3.15 **Place of Performance.** All obligations of SBBC under the terms of this Agreement are reasonably susceptible of being performed in Broward County, Florida and shall be payable and performable in Broward County, Florida.

3.16 **Severability.** In case any one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal, unlawful, unenforceable or void in any respect, the invalidity, illegality, unenforceability or unlawful or void nature of that provision shall not effect any other provision and this Agreement shall be considered as if such invalid, illegal, unlawful, unenforceable or void provision had never been included herein.

3.17 **Notice.** When any of the parties desire to give notice to the other, such notice must be in writing, sent by U.S. Mail, postage prepaid, addressed to the party for whom it is intended at the place last specified; the place for giving notice shall remain such until it is changed by written notice in compliance with the provisions of this paragraph. For the present, the Parties designate the following as the respective places for giving notice:

To SBBC: Superintendent of Schools  
The School Board of Broward County, Florida  
600 Southeast Third Avenue  
Fort Lauderdale, Florida 33301

With a Copy to: Director of Food and Nutrition Services  
7720 West Oakland Park Boulevard, Suite 204  
Sunrise, Florida 33351

To CITY: William F. Griffin, Mayor  
1801 NE 6 Street  
Pompano Beach, Florida 33060

With a Copy to: Tim Tracy  
1801 NE 6 Street  
Pompano Beach, Florida 33060

3.18 **Captions.** The captions, section numbers, article numbers, title and headings appearing in this Agreement are inserted only as a matter of convenience and in no way define, limit, construe or describe the scope or intent of such articles or sections of this Agreement, nor in any way effect this Agreement and shall not be construed to create a conflict with the provisions of this Agreement.

3.19 **Authority.** Each person signing this Agreement on behalf of either party individually warrants that he or she has full legal power to execute this Agreement on behalf of the party for whom he or she is signing, and to bind and obligate such party with respect to all provisions contained in this Agreement.

**IN WITNESS WHEREOF**, the Parties hereto have made and executed this Agreement on the date first above written.

**FOR SBBC**

(Corporate Seal)

THE SCHOOL BOARD OF BROWARD  
COUNTY, FLORIDA

ATTEST:

By \_\_\_\_\_  
Paul D. Eichner, Chairperson

\_\_\_\_\_  
Franklin L. Till, Jr., Superintendent of  
Schools

Approved as to Form:

\_\_\_\_\_  
Robert Paul Vignola  
School Board Attorney

**FOR CITY**

(Corporate Seal)

CITY OF POMPANO BEACH

ATTEST:

By \_\_\_\_\_

\_\_\_\_\_  
, City Clerk

-or-

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Witness

## Summer Feeding/Vending 2001

Organization	Site	Contact Person	Street Address	City, Zip	Phone
City of Pompano Beach	Cresthaven Elementary	TBA	801 NE 25 St.	Pomp. Bch.,	786-4573
City of Pompano Beach	Mitchell/Moore Rec. Center	Greg Walker	901 NW 10 St.	Pomp. Bch.,	786-4111
City of Pompano Beach	McNair Recreation Center	Jesse Smith	950 NW 27 Ave.	Pomp. Bch.,	974-7394