

**Master Contract between the County of Santa Clara and
The City of Milpitas**

- 1. This County of Santa Clara Social Services Agency Master Contract is between the COUNTY and CONTRACTOR named below:

Contractor's Name: **The City of Milpitas**

- 2. The parties agree to comply with the General Terms and Conditions contained in Articles I-VI of this Contract and provisions contained in Attachment A which are attached hereto and incorporated herein by this reference and made a part of this Contract.

IN WITNESS WHEREOF, COUNTY and CONTRACTOR hereby agree to the terms of this Contract.

APPROVED FOR COUNTY

APPROVED FOR CONTRACTOR

By: _____
Gina Sessions, Acting Director
Social Services Agency

By: _____

Date: _____

Date: _____

**APPROVED AS TO FORM
AND LEGALITY**

Kristin Baker Date
Deputy County Counsel

Luke Leung Date
Deputy County Executive

Article I General Terms

1. AMENDMENTS

All amendments or modifications must be in writing and signed by authorized representatives of all contracting parties.

2. AVAILABILITY AND SUBSTITUTION OF FUNDS

- a. Notwithstanding any provision herein, this Contract is valid and enforceable only if sufficient funds are available. In the event of reduction, suspension, discontinuance, or other unavailability of funds, COUNTY unilaterally may take appropriate actions including, but not limited to, reducing existing service authorization, immediate termination of the Contract, or reducing the maximum dollar amount of this Contract.
- b. The COUNTY may substitute State or Federal funds for funds appropriated by the Board of Supervisors for payments to be made pursuant to this Contract. CONTRACTOR will then be bound by the requirements of any State or Federal grant contracts, statutes, regulations, guidelines, or directives associated with the funds.
- c. If CONTRACTOR receives funds under this Contract, and such funds are from Federal sources, such funds may not be used by CONTRACTOR, either directly or indirectly, as a contribution for the purpose of obtaining any Federal funds under any Federal programs. An indirect use of such funds to match Federal funds is defined as: "the allocation by CONTRACTOR of funds received under this Contract to a non-matching expenditure, thereby releasing or displacing other of its funds for the purpose of matching Federal funds."

3. SERVICES PROVIDED

- a. CONTRACTOR must inform COUNTY of services and activities performed under this Contract and accept appropriately referred clients from the COUNTY for contract services as part of CONTRACTOR's client base.
- b. CONTRACTOR must coordinate services with other organizations providing similar services in order to foster community cooperation and avoid unnecessary duplication of services.

4. SUBCONTRACTING AND ASSIGNABILITY

This Contract cannot be subcontracted or assigned without the prior written approval of the COUNTY. In the event of such assignment, any sub-contract or assignment is subject to the same provisions for providing service as the Contract between COUNTY and CONTRACTOR. CONTRACTOR must monitor, evaluate, and account for the sub-contractor(s) services and operations. CONTRACTOR will remain liable for the fulfillment of contractual obligations.

5. INDEPENDENT CONTRACTOR STATUS

CONTRACTOR will perform all work and services described herein as an independent contractor and not as an officer, agent, servant, or employee of COUNTY. None of the provisions of this Contract is intended to create, nor will be deemed or construed to create, any relationship between the parties other than that of independent parties contracting with each other for purpose of effecting the provisions of this Contract. The parties are not, and will not be construed to be in a relationship of joint venture, partnership, or employer-employee. Neither party has the authority to make any Statements, representations, or commitments of any kind on behalf of the other party, or to use the name of the other party in any publications or advertisements, except with the written consent of the other party or as is explicitly provided herein. CONTRACTOR is solely responsible for the acts and omissions of its officers, agents, employees, contractors, and subcontractors, if any.

6. CONFLICT OF INTEREST

- a. CONTRACTOR must make all reasonable efforts to ensure that no conflict of interest exists between its officers, employees, or sub-contractors.
- b. In the event that a conflict of interest exists, costs may be disallowed and such conflict may constitute grounds for terminating this Contract.
- c. Contractor's employees, or any members of Contractor's employee's immediate family, are prohibited from serving on an outside review or advisory board or committee, or hold any similar position, which either by rule, practices or action recommends, or supervises CONTRACTOR's operations under this Contract, or authorizes funding to CONTRACTOR under this program.

7. MAINTENANCE OF SOFTWARE

If CONTRACTOR is provided with "remote access", defined as the act of connecting to a COUNTY attached information technology system from a non-County attached system through a public network, CONTRACTOR will maintain and use its non-County system, hardware, and software in compliance with COUNTY standards and policies set by the County Information Services Department.

8. WAIVER

The waiver of any breach of the terms hereof, or of any default hereunder, is not deemed a waiver of any subsequent breach or default, whether of the same or similar nature, and does not affect the terms hereof. No waiver or modification is valid or binding unless in writing and signed by both parties.

9. SEVERABILITY OF PROVISIONS

If any provision(s) of this Contract are held invalid, the remainder of this Contract remains in force.

Article II
Fiscal Accountability and Requirements

1. COST REIMBURSEMENT CONTRACT

- a. CONTRACTOR will be reimbursed by COUNTY for its actual, reasonable, necessary, and allowable costs incurred up to the maximum compensation, for the performance of services as specified in this Contract. These costs will also be in accordance with current cost principles:
- i. For Non-Profit Agencies, OMB Circular A-122, OMB Circular A-133.
 - ii. For Local Governments, OMB Circular A-87.
 - iii. For Public and Nonprofit Institutions of Higher Education, OMB Circular A-121.
 - iv. For Profit Making Organization, 41 CFR Part 1.

and with all other requirements of this Contract.

- b. If CONTRACTOR provides any tasks, deliverables, goods, services, or other work, other than as specified in this Contract, the same will be deemed to be a gratuitous effort on the part of the CONTRACTOR, and the CONTRACTOR will have no claim whatsoever against COUNTY.
- c. CONTRACTOR must participate in a closeout period at the end of the COUNTY funding period. During the closeout period all funds awarded to CONTRACTOR must be reconciled to the costs incurred and to the remaining cash, if any. A closeout packet will be provided to CONTRACTOR by COUNTY at the end of the funding period and is due within forty-five (45) days thereafter. This provision survives the termination of this Contract.

2. COST REIMBURSEMENT CLAIM

CONTRACTOR must submit to COUNTY a cost reimbursement claim in a form approved by COUNTY, by the tenth (10th) working day of each month for the month just preceding in which services were performed.

- a. Prior to submittal, cost reimbursement claims must be certified and signed by a responsible officer of CONTRACTOR with authority to certify that the information submitted by CONTRACTOR is accurate and CONTRACTOR is entitled to payment under the terms of the Contract. COUNTY may rely on said certification in making payment, but this payment will not constitute a waiver of any of COUNTY's legal rights or objections. Cost reimbursement claims will certify that the claim is accurate and includes only allowable actual costs incurred to provide services in accordance with terms of the contract between CONTRACTOR and COUNTY and that none of the items in the claim were submitted for reimbursement to another funding agency.
- b. If the cost reimbursement claim is in proper form and the items billed are payable under this Contract, COUNTY will make payment to CONTRACTOR within twenty-one (21) working days after receipt of the cost reimbursement claim.

- c. COUNTY will not be required to make payment if the amount claimed is not in accordance with the provisions of this Contract. All payments under this Contract will be made directly to CONTRACTOR as a corporate entity. Under no circumstances will COUNTY be required to make payments in any amount pursuant to this Contract to any other parties, including individual employees or creditors of CONTRACTOR.
- d. COUNTY is not obligated to reimburse CONTRACTOR for any expenditure not reported to COUNTY within sixty (60) calendar days after the end of the last month of the Contract term.

3. DISALLOWED COSTS

CONTRACTOR is liable for any funds expended that are not in accordance with this Contract, including, but not limited to, disallowed costs, violation, and/or default of Contract. CONTRACTOR will repay COUNTY disallowed costs, violation and/or default amounts within ninety (90) days of discovery of these costs. This provision survives the termination of this Contract.

4. PARTICIPANT CONTRIBUTIONS

- a. CONTRACTOR will submit participant contributions on a monthly basis to be included in the monthly expense claims. CONTRACTOR will retain fifty percent (50%) of participant contributions. The remaining fifty percent (50%) will be submitted to the COUNTY.
- b. CONTRACTOR will deposit all participant contributions in a bank account maintained for the Senior Nutrition Program (SNP). All deposits, withdrawals, and balances for the Senior Nutrition Program must be separately identified. COUNTY has the right to review all financial records and bank accounts for audit purposes. Participants' contributions will be collected, counted, and recorded daily by CONTRACTOR. Two persons designated by CONTRACTOR will co-verify the collection and count of participant contributions daily by their signature and date on a participant contribution accounting record. Participant contributions are to be deposited daily when possible, but no less frequently than on a weekly basis. Participant contributions are to be kept in a secure locked pending deposit into the Senior Nutrition Program bank account.

5. ADVANCE PAYMENTS

- a. Notwithstanding Section 1 above, COUNTY, at its discretion may make advance payments under this contract to CONTRACTOR up to a maximum of 25% of the total contract amount and under conditions as the COUNTY may specify. Such advance payments will in no way increase the total maximum financial obligation specified under this contract.
- b. CONTRACTOR must meet fidelity bond requirements as specified in Article V 2.f of this contract prior to receiving advance payment.
- c. All advance payments require full repayment prior to the expiration of the contract. COUNTY will specify repayment method of the advance payment amount by deducting an agreed upon monthly amount from the outstanding

balance of the contract until the repayment obligation is fulfilled, or; deducting the advance payment amount in a lump sum from the remaining contract balance.

6. ADJUSTMENT OF BUDGET ITEMS

CONTRACTOR may request in writing, adjustments to the budget, Exhibit C, Budget Summary, within the following budget categories:

- a. Personnel
- b. Operation Costs
- c. Variance Categories
- d. Food Costs

Prior written approval by COUNTY is required for budget adjustments of \$500.00 or greater, and any proposed adjustments to shift funds from one budget category to another.

COUNTY, at its discretion, reserves the right to review and disallow any budget adjustment request by CONTRACTOR that deviates from Exhibit C Budget Summary. No budget adjustments will increase the maximum financial obligation of this contract.

7. ADJUSTMENTS TO MAXIMUM FINANCIAL OBLIGATION

Compensation to a CONTRACTOR for the provision of services may be adjusted by a written contract amendment as allowed in Exhibit A, 2 during the contract term when compelling circumstances warrant an increase or decrease in the maximum financial obligation. Such circumstances may include, but are not limited to the following:

- a. An unanticipated reduction or augmentation of funding;
- b. The level of CONTRACTOR services exceeds original projections to the extent that the contract amount is insufficient to reimburse CONTRACTOR for services provided;
- c. Government regulations have changed, causing additional costs to CONTRACTOR;
- d. A reallocation of funds from one nutrition contractor to another will result in an improved ability to provide desired service levels;
- e. Unforeseen and uncontrollable increases in costs jeopardize the ability of contractor to continue to provide services.

8. FINANCIAL RECORDS

- a. CONTRACTOR will establish and maintain a system of financial controls and accounting in conformance with Generally Accepted Accounting Principles (GAAP).

- b. CONTRACTOR must maintain accurate and complete financial records of all costs and operating expenses in connection with this Contract including, but not limited to subcontracts, invoices, timecards, cash receipts, vouchers, canceled checks, bank Statements, and other official documentation indicating in proper detail the nature and propriety of all costs incurred, and reimbursed by COUNTY.
- c. The financial records must show that funds received under this Contract are used for purposes consistent with the terms of this Contract.

9. MEDICAL INSURANCE

CONTRACTOR will be budgeted an allowance as specified in Exhibit C Budget Summary towards the purchase of medical insurance for its employees provided that all of the following conditions are satisfied:

- a. CONTRACTOR's employees must work a minimum of four hours daily, and twenty hours per week rendering services described hereunder in order to qualify for the allowance herein:
- b. Based upon the number of days of operation during the term of the contract, COUNTY determines at its sole discretion, the CONTRACTOR is running a "full-time" congregate meals site program.

10. COMPLIANCE WITH CHANGES IN LAWS AND POLICIES

- a. CONTRACTOR must comply with all subsequent amended or added statutes, regulations, policies, procedures and instructions, plans, or other Federal, State or COUNTY requirements.

11. RESTRICTIONS ON FUNDS

- a. CONTRACTOR may not use any funds provided by COUNTY, directly or indirectly, in representing a client in any action or complaint filed in any forum against COUNTY, its agents or employees, nor may such funds be used to offset, underwrite or subsidize any costs or expenses incurred in connection with such action.
- b. CONTRACTOR must notify COUNTY in writing of any action it intends to bring on behalf of a client against COUNTY, its agents or employees at least 30 days prior to commencing the action. Such notice must include information regarding the nature of the claim, the outcome desired, and the source of funding the costs of pursuing the underlying claim. A copy of the notice must be sent to the Office of the County Counsel, 70 West Hedding Street, San Jose, CA 95110.
- c. COUNTY has the discretion to negotiate resolution of the claim or take such other action with respect to the claim as the COUNTY deems appropriate.

Article III
Reporting, Records, Audit, Evaluations, and Termination

1. INSPECTION AND AUDIT

- a. All records, books, reports, and documentation maintained by CONTRACTOR pursuant to this Contract, or related to the CONTRACTOR's activities and expenditures under this Contract, will be open for inspection and audit by Federal, State, and County officials, or their agents, upon demand at reasonable times. Such records must be kept in the State of California for the retention period specified in this Contract. This provision survives the termination of this contract.
- b. CONTRACTOR will provide the Federal, State, or County officials, or their agents' reasonable access, through representatives of CONTRACTOR, to facilities, records, clients, and employees that are used in conjunction with the provision of contract services, except where prohibited by Federal or State laws, regulations or rules.
- c. CONTRACTOR must submit to COUNTY an audit report conducted by an independent certified public accountant no later than four (4) months after the end of the last month of the contract term, indicating that reported costs are actual, reasonable, necessary, allowable, and computed in accordance with GAAP and provisions stipulated in this Contract. In addition, the CONTRACTOR must submit any management letters or management advisory letters that apply to the CONTRACTOR's agency audit. COUNTY has the discretion to only require an audit report every two (2) years.
- d. COUNTY may elect to accept an audit report in accordance with GAAP conducted to meet compliance requirements of other funding entities in the event all of the above provisions are met.

2. REPORTING REQUIREMENTS

- a. CONTRACTOR must maintain complete and accurate records of its operation, including any and all records required by COUNTY relating to matters covered by this Contract, including, but not limited to, financial records, supporting documents, client statistical records, personnel and all other pertinent records. COUNTY may receive copies of any and all such records upon request.
- b. CONTRACTOR must submit to COUNTY a weekly reimbursement claim on forms approved by COUNTY Social Services Agency, as outlined in Article II.
- c. CONTRACTOR must assist COUNTY in meeting COUNTY's reporting requirements to the State and other agencies with respect to CONTRACTOR's work hereunder. This cooperation includes assisting COUNTY to prepare evaluations required by the State or Federal governments regarding services provided by CONTRACTOR under this Contract. CONTRACTOR must submit to COUNTY any and all reports that may be required by COUNTY concerning CONTRACTOR's performance under this Contract.

- d. Upon COUNTY's request, CONTRACTOR must provide COUNTY evidence of CONTRACTOR's capacity to perform under this Contract, its compliance with applicable statutes and regulations, and its compliance with the terms and conditions of this Contract.
- e. All records, books, reports and documentation must be retained in the State of California by CONTRACTOR for four (4) years after termination of this Contract; or until all Federal, State and County audits are completed; or until all disputes, litigation, or claims are resolved; whichever is later. All such records, books, reports and documentation must be transmitted to the COUNTY of Santa Clara, Social Services Agency in the event that CONTRACTOR goes out of business during the period in which records are required to be maintained. This provision survives the termination of this contract.
- f. CONTRACTOR must within 30 calendar days advise the COUNTY of 1) the issuance of any legal complaint by an enforcement agency, or any enforcement proceedings by any Federal, State or local agency for alleged violations of Federal, State or local rules, regulations or laws, and/or 2) the issuance of citations, court findings or administrative findings for violations of applicable Federal, State or local rules, regulations or laws.
- g. Contractor guarantees that it, its employees, contractors, subcontractors or agents are not suspended or debarred from receiving Federal fund as listed in the List of Parties Excluded from Federal Procurement or Non-procurement Programs issued by the Federal General Services Administration. (<http://epls.arnet.gov/>) CONTRACTOR must within 30 calendar days advise the COUNTY if it, its employees, contractors, subcontractors or agents become suspended or debarred from receiving Federal funds as listed in the List of Parties Excluded from Federal Procurement or Non-procurement Programs issued by the Federal General Services Administration during the term of this Agreement.

3. RESPONSIBILITY FOR AUDIT EXCEPTIONS

CONTRACTOR accepts responsibility for receiving, replying to, and complying with any audit exceptions by appropriate Federal, State, or County, audit agencies.

4. MONITORING AND EVALUATION

- a. COUNTY's Social Services Agency will monitor the work performed and financial operations conducted under this Contract to determine whether CONTRACTOR's operation conforms to County policy, Federal and State statutes and regulations, and to the terms of this Contract.
- b. COUNTY may conduct participant interviews to determine program compliance.
- c. CONTRACTOR agrees to participate in and cooperate with studies and surveys COUNTY deems necessary to meet its monitoring and evaluation responsibility.

- d. CONTRACTOR must furnish all data, Statements, records, information, and reports necessary for COUNTY to monitor, review, and evaluate the performance of the program and its components.
- e. If, in the course of monitoring and evaluation, COUNTY discovers any practice, procedure or policy of CONTRACTOR that deviates from the terms of this Contract; that violates State or Federal statutes or regulations; that threatens the success of the program carried on pursuant to this Contract, or that jeopardizes the fiscal integrity of said program, COUNTY may impose reasonable funding restrictions upon notice specifying the nature of the restrictions(s), reasons for imposition, the corrective action that must be taken before they will be removed, time allowed for completing the corrective action, and method of requesting reconsideration.
- f. CONTRACTOR must respond in writing to any discrepancies, violations, or deficiencies identified by COUNTY within ten (10) days.

5. CORRECTIVE ACTION PROCEDURE

- a. Upon receipt by COUNTY of information regarding a failure by CONTRACTOR to comply with any provision of this Contract, COUNTY has the right to forward to CONTRACTOR a notice of COUNTY's intent to consider corrective action to enforce compliance with such provision. Such notice will indicate the nature of the issue, or issues, to be reviewed in determining the need for corrective action. CONTRACTOR may have the opportunity to respond or participate in formulating the corrective action recommendation. COUNTY has the right to require the presence of CONTRACTOR's officer(s) or employee(s) at any hearing or meeting called for the purpose of considering corrective action.
- b. After issuing such notice, and after considering CONTRACTOR's response, if any, COUNTY may forward to CONTRACTOR a set of specific corrective actions recommended and a timetable for implementing the specified corrective actions recommended. Following implementation of the corrective actions, CONTRACTOR will forward to COUNTY, within the time specified by COUNTY, any verification required by COUNTY regarding the corrective actions.
- c. In the event CONTRACTOR does not implement the corrective actions recommended in accordance with the corrective actions timetable, COUNTY may suspend payments hereunder or immediately terminate this Contract without further notice to CONTRACTOR.

6. TERMINATION

- a. Termination for Convenience
COUNTY and/or CONTRACTOR may request a termination of convenience (without cause) by notifying the other party in writing 30 days prior to the effective date of termination.

b. Termination for Cause

COUNTY may, at any time, elect to suspend or terminate this Contract or withhold payments to CONTRACTOR, in whole or in part, for cause, by giving written notice specifying the effective date and scope of such termination.

Budget Contingency Language

This Agreement is contingent upon the appropriation of sufficient funding by the County for the services covered by this Agreement. If funding is reduced or deleted by the County for the services covered by this Agreement, the County has the option to either terminate this Agreement with no liability occurring to the County or to offer an amendment to this Agreement indicating the reduced amount

CONTRACTOR has the right to remedy a default under this Contract within thirty (30) days after receipt of written notification thereof before the COUNTY can then terminate Contract upon ten (10) days prior written notice to CONTRACTOR. In the event that the resulting Contract is terminated for CONTRACTOR's unremedied default (which would be defined as "cause"), COUNTY will pay CONTRACTOR for services rendered up and to the close of business on the termination date.

Cause includes, but is not limited to the following:

- i. CONTRACTOR failure to comply with any contract provision;
- ii. CONTRACTOR fails to meet the performance criteria of this Contract;
- iii. COUNTY deems CONTRACTOR's performance unsatisfactory.
- iv. Litigation is pending with respect to the CONTRACTOR's performance under this Contract that may jeopardize or adversely affect services;
- v. CONTRACTOR is the subject of a voluntary or involuntary proceeding under the Bankruptcy Act;
- vi. CONTRACTOR submits to COUNTY any reports that are incorrect or incomplete in any material respect, or fails to file timely reports; or,
- vii. CONTRACTOR is suspended or debarred from receiving Federal funds as listed in the List of Parties Excluded from Federal Procurement or Non-procurement Programs issued by the General Services Administration.

c. Terminations

In the event of any termination, all finished or unfinished documents, data, studies, reports, and materials (Materials) prepared by the CONTRACTOR under this Contract becomes the property of the COUNTY and will be promptly delivered to the COUNTY. Upon termination, the CONTRACTOR may make and retain a copy of such Materials. CONTRACTOR may be compensated based on the completion of services provided, as solely and reasonably determined by COUNTY. CONTRACTOR has the right to exclude any Proprietary Materials designated by CONTRACTOR from delivery to the COUNTY. COUNTY reserves the right to review and examine any Proprietary Materials excluded from delivery to COUNTY.

7. NON-EXCLUSIVE REMEDIES

The remedies listed in this Contract are non-exclusive, and COUNTY retains all other rights and remedies it may have under general law, including the right to terminate the Contract immediately without advance notice if CONTRACTOR becomes unable to perform its obligations under this Contract.

**ARTICLE IV
STATUTES, REGULATIONS, AND POLICIES**

1. COMPLIANCE WITH STATUTES AND REGULATIONS

- a. CONTRACTOR will comply with all Federal, State and local statutes, laws, rules, regulations, codes, and ordinances, (Laws) effective at the inception of the Contract and that become effective during the Term of this Contract relating to its performance under this Contract. To the extent that Laws are in conflict with provisions of this Contract, the Laws prevail. CONTRACTOR will also provides services under the Contract in accordance with the resolutions, policies, procedures, directives and guidelines issued by the County Board of Supervisors or the Social Services Agency.
- b. CONTRACTOR will comply with all applicable subsequent amended or added Federal, State, and local Laws and execute amendments necessary to implement such Laws.
- c. CONTRACTOR recognizes the mandatory standards and policies relating to energy efficiency in the State energy conservation plan (Title 24, California Administrative Code).
- d. For Contracts over \$100,000 CONTRACTOR will comply with all applicable standards, orders, or requirements issued under Section 306 of the Clean Air Act (42 U.S. Code 1857 (h)), Section 508 of the Clean Water Act (33 U.S. Code 1368), Executive Order 11738, and Environmental Protection Agency regulations (40 CFR Part 15).
- f. CONTRACTOR must establish procedures assuring that any person's complaints and grievances against CONTRACTOR regarding the delivery of services under this Contract are promptly addressed and fairly resolved.

2. NONDISCRIMINATION OF EMPLOYMENT

- a. Contractor shall comply with all applicable Federal, State, and local laws and regulations including Santa Clara County's policies concerning nondiscrimination and equal opportunity in contracting. Such laws include but are not limited to the following: Title VII of the Civil Rights Act of 1964 as amended; Americans with Disabilities Act of 1990; The Rehabilitation Act of 1973 (Sections 503 and 504); California Fair Employment and Housing Act (Government Code sections 12900 et seq.); and California Labor Code sections 1101 and 1102.

- b. For Contracts over \$10,000 CONTRACTOR agrees to comply with Executive Order 11246, entitled "Equal Employment Opportunity" as amended by Executive Order 11375 and as supplemented in Department of Labor regulations (41 CFP Part 60).
- c. During the performance of this Contract, CONTRACTOR and its SUBCONTRACTORS must not unlawfully discriminate, harass or allow harassment, against any employee or applicant for employment because of:
 - i. Age (40 and above),
 - ii. Ancestry,
 - iii. Color,
 - iv. Disability (Mental and Physical) including HIV and AIDS,
 - v. Ethnic Group Identification,
 - vi. Family and Medical Care Leave,
 - vii. Marital Status,
 - viii. Medical Condition (cancer/genetic characteristics),
 - ix. National Origin,
 - x. Pregnancy Disability Leave,
 - xi. Political Belief,
 - xii. Race,
 - xiii. Reasonable Accommodation,
 - xiv. Religious Creed,
 - xv. Sex/Gender, or
 - xvi. Sexual Orientation.
- d. CONTRACTOR and SUBCONTRACTORS ensure that the evaluation and treatment of their employees and applicants for employment are free from such discrimination and harassment.
- e. CONTRACTOR and SUBCONTRACTORS comply with the provisions of the Fair Employment and Housing Act (Government Code, Section 12900 et seq.) and the applicable regulation promulgated hereunder (California Code Regulations, Title 2, Section 7285.0 et seq.). The applicable regulations of the Fair Employment and Housing Commission implementing Government Code, Section 12990 (a) - (f), are incorporated into this Contract by reference and made a part hereof as if set forth in full (California code Regulations, Title 2, Section 7285.0 et seq.).
- f. CONTRACTOR and its SUBCONTRACTORS will give written notice of their obligations under this clause to labor organizations with which they have a collective bargaining or other agreement.
- g. CONTRACTOR must include the non-discrimination and compliance provisions of this clause in all SUBCONTRACTS to perform work under this Contract.

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3. NONDISCRIMINATION OF SERVICES

- a. CONTRACTOR ensures that services provided under this Contract are nondiscriminatory and that no person is denied services or subjected to discrimination under any program or activity because of:
 - i. Age (40 and above),
 - ii. Ancestry,
 - iii. Color,
 - iv. Disability (Mental and Physical) including HIV and AIDS,
 - v. Ethnic Group Identification,
 - vi. Marital Status,
 - vii. Medical Condition (cancer/genetic characteristics),
 - viii. National Origin,
 - ix. Political Belief,
 - x. Race,
 - xi. Reasonable Accommodation,
 - xii. Religious Creed,
 - xiii. Sex/Gender, or
 - xiv. Sexual Orientation.

- b. CONTRACTOR may exclude an individual or group when the services of a program are restricted to a specific class of individuals or group and included as a provision of this Contract.

- c. CONTRACTOR ensures that its appropriate personnel involved in providing services are educated regarding AIDS and HIV infection.

4. CONFIDENTIALITY

- a. CONTRACTOR must require its employees and all persons performing services at its direction to comply with the provisions of Sections 827 and 10850 et seq. of the Welfare and Institutions Code (WIC) and California Department of Social Services (CDSS) Manual of Policies and Procedures, Division 19 Regulations.
 - i. All applications and records concerning any individual receiving services pursuant to this contract are confidential and are not open to examination for any purpose not directly connected with the administration, performance compliance, monitoring or auditing of the program.
 - ii. No person may publish, disclose, use, or permit or cause to be published or disclosed; any confidential information pertaining to services, except as is provided by law.

- b. Upon the disclosure of confidential information, inadvertent or otherwise, the COUNTY may terminate this contract immediately and take legal action against CONTRACTOR. Any person who knowingly and intentionally violates the provisions Stated above is guilty of a misdemeanor and the COUNTY intends to prosecute such violators to the full extent of the law.

c. CONTRACTOR will inform all employees, agents, officers, and all persons performing services at its direction of the above provisions. All provisions of Article IV, Section 4 survive the termination of this Contract.

5. ASSIGNMENT OF CLAYTON ACT, CARTWRIGHT ACT CLAIMS

Contractor hereby assigns to the County all rights, title, and interest in and to all causes of action it may have under Section 4 of the Clayton Act (15 U.S.C. Sec. 15) or under the Cartwright Act (Chapter 2 (commencing with Section 16700) of Part 2 of Division 7 of the Business and Professions Code), arising from purchases of goods, materials, or services by the Contractor for sale to the County pursuant to this Agreement.

6. COUNTY NO-SMOKING POLICY

CONTRACTOR and its employees, agents and subcontractors, shall comply with the County's No-Smoking Policy, as set forth in the Board of Supervisors Policy Manual section 3.47 (as amended from time to time), which prohibits smoking: (1) at the Santa Clara Valley Medical Center Campus and all County-owned and operated health facilities, (2) within 30 feet surrounding County-owned buildings and leased buildings where the County is the sole occupant, and (3) in all County vehicles.

7. BEVERAGE NUTRITIONAL CRITERIA

CONTRACTOR shall not use County funds to purchase beverages that do not meet the County's nutritional beverage criteria. The six categories of nutritional beverages that meet these criteria are (1) water with no additives; (2) 100% fruit juices with no added sugars, artificial flavors or colors (limited to a maximum of 10 ounces per container); (3) dairy milk, non-fat, 1% and 2% only, no flavored milks; (4) plant derived (i.e., rice, almond, soy, etc.) milks (no flavored milks); (5) artificially-sweetened, calorie-reduced beverages that do not exceed 50 calories per 12-ounce container (teas, electrolyte replacements); and (6) other non-caloric beverages, such as coffee, tea, and diet sodas. These criteria may be waived in the event of an emergency or in light of medical necessity.

8. APPLICABLE LAWS AND VENUE

This Contract is governed and construed in accordance with the statutes of the State of California. Venue for all actions is in Santa Clara County.

9. GRIEVANCE PROCEDURE

CONTRACTOR will establish procedures assuring that any person's complaints and grievances against CONTRACTOR regarding delivery of services under this contract are promptly addressed and fairly resolved.

10. PERMITS AND LICENSES

CONTRACTOR will obtain all permits and licenses necessary to the performance of this contract will assure that its subcontractors obtain the same. The CONTRACTOR will pay all normal fees for permits, licenses, inspections or any other certification or service required in the performance of this contract.

11. POLITICAL ACTIVITY AND LOBBYING PROHIBITED

None of the funds, materials, property, or services provided directly or indirectly under this contract may be used for any partisan political activity, or to further the election or defeat of any candidate for public office.

12. PRESS RELEASES

In all publications distributed by either the internet or by written materials, CONTRACTOR will make specific reference to the County of Santa Clara and the Council of Aging Silicon Valley Inc., as the sponsoring agencies for the provision of senior nutrition services under this contract.

13. TOTALITY OF CONTRACT

This Contract represents all of the terms and conditions agreed upon by the parties. No other understanding, oral or otherwise, regarding the subject matter of this Contract is binding of the parties.

ARTICLE V
INSURANCE REQUIREMENTS
INSURANCE REQUIREMENTS FOR
STANDARD CONTRACTS ABOVE \$100,000

1. INDEMNITY

The CONTRACTOR will indemnify, defend, and hold harmless the County of Santa Clara (hereinafter "COUNTY"), its officers, agents and employees from any claim, liability, loss, injury or damage arising out of, or in connection with, performance of this Contract by CONTRACTOR and/or its agents, employees or sub-contractors, excepting only loss, injury or damage caused by the sole negligence or willful misconduct of personnel employed by the COUNTY. It is the intent of the parties to this Contract to provide the broadest possible coverage for the COUNTY. The CONTRACTOR will reimburse the COUNTY for all costs, attorneys' fees, expenses and liabilities incurred with respect to any litigation in which the CONTRACTOR is obligated to indemnify, defend and hold harmless the COUNTY under this Contract.

2. INSURANCE

Without limiting the Contractor's indemnification obligation, the Contractor shall provide and maintain at its own expense, during the term of this Agreement, or as may be further required herein, the following insurance coverages and provisions:

a. Evidence of Coverage

Prior to commencement of this Agreement, the Contractor shall provide a Certificate of Insurance certifying that coverage as required herein has been obtained. Individual endorsements executed by the insurance carrier shall accompany the certificate. In addition, a certified copy of the policy or policies shall be provided by the Contractor upon request.

This verification of coverage shall be sent to the requesting County department, unless otherwise directed. The Contractor shall not receive a Notice to Proceed with the work under the Agreement until it has obtained all insurance required and such insurance has been approved by the County. This approval of insurance shall neither relieve nor decrease the liability of the Contractor.

b. Qualifying Insurers

All coverages, except surety, shall be issued by companies which hold a current policy holder's alphabetic and financial size category rating of not less than A- V, according to the current Best's Key Rating Guide or a company of equal financial stability that is approved by the County's Insurance Manager.

c. Notice of Cancellation

All coverage as required herein shall not be canceled or changed so as to no longer meet the specified County insurance requirements without 30 days' prior written notice of such cancellation or change being delivered to the County of Santa Clara or their designated agent.

d. Insurance Required

i. Commercial General Liability Insurance - for bodily injury (including death) and property damage which provides limits as follows:

- (1.) Each occurrence - \$1,000,000
- (2.) General aggregate - \$2,000,000
- (3.) Products/Completed Operations aggregate - \$2,000,000
- (4.) Personal Injury - \$1,000,000

ii. General liability coverage shall include:

- (1.) Premises and Operations
- (2.) Products/Completed
- (3.) Personal Injury liability
- (4.) Severability of interest

iii. General liability coverage shall include the following endorsement, a copy of which shall be provided to the County:

Additional Insured Endorsement, which shall read:

“County of Santa Clara, and members of the Board of Supervisors of the County of Santa Clara, and the officers, agents, and employees of the County of Santa Clara, individually and collectively, as additional insureds.”

Insurance afforded by the additional insured endorsement shall apply as primary insurance, and other insurance maintained by the County of Santa Clara, its officers, agents, and employees shall be excess only and not contributing with insurance provided under this policy. Public Entities may also be added to the additional insured endorsement as applicable and the contractor shall be notified by the contracting department of these requirements.

iv. Automobile Liability Insurance

For bodily injury (including death) and property damage which provides total limits of not less than one million dollars (\$1,000,000) combined single limit per occurrence applicable to all owned, non-owned and hired vehicles.

v. Aircraft/Watercraft Liability Insurance (Required if Contractor or any of its agents or subcontractors will operate aircraft or watercraft in the scope of the Agreement)

For bodily injury (including death) and property damage which provides total limits of not less than one million dollars (\$1,000,000) combined single limit per occurrence applicable to all owned, non-owned and hired aircraft/watercraft.

vi. Workers' Compensation and Employer's Liability Insurance

- (1.) Statutory California Workers' Compensation coverage including broad form all-States coverage.
- (2.) Employer's Liability coverage for not less than one million dollars (\$1,000,000) per occurrence.

e. Special Provisions

The following provisions shall apply to this Agreement:

- i. The foregoing requirements as to the types and limits of insurance coverage to be maintained by the Contractor and any approval of said insurance by the County or its insurance consultant(s) are not intended to and shall not in any manner limit or qualify the liabilities and obligations otherwise assumed by the Contractor pursuant to this Agreement, including but not limited to the provisions concerning indemnification.
- ii. The County acknowledges that some insurance requirements contained in this Agreement may be fulfilled by self-insurance on the part of the Contractor. However, this shall not in any way limit liabilities assumed by the Contractor under this Agreement. Any self-insurance shall be approved in writing by the County upon satisfactory evidence of financial capacity. Contractor's obligation hereunder may be satisfied in whole or in part by adequately funded self-insurance programs or self-insurance retentions.
- iii. Should any of the work under this Agreement be sublet, the Contractor shall require each of its subcontractors of any tier to carry the aforementioned coverages, or Contractor may insure subcontractors under its own policies.
- iv. The County reserves the right to withhold payments to the Contractor in the event of material noncompliance with the insurance requirements outlined above.

f. Fidelity Bonds

(Required only if contractor will be receiving advanced funds or payments)

Before receiving compensation under this Agreement, Contractor will furnish County with evidence that all officials, employees, and agents handling or having access to funds received or disbursed under this Agreement, or authorized to sign or countersign checks, are covered by a BLANKET FIDELITY BOND in an amount of AT LEAST fifteen percent (15%) of the maximum financial obligation of the County cited herein. If such bond is canceled or reduced, Contractor will notify County immediately, and County may withhold further payment to Contractor until proper coverage has been obtained. Failure to give such notice may be cause for termination of this Agreement, at the option of County.

Article VI
Contracting Principles
Type I

This contract is a Type I service contract subject to the Resolution of Contracting Principles (Resolution) adopted by the Board of Supervisors on October 28, 1997. Accordingly, Contractor shall comply with all of the following during the term of this contract:

- a. Contractor shall comply with all applicable federal, state, and local rules, regulations, and laws.
- b. Contractor shall maintain financial records adequate to show that County funds paid under the contract were used for purposes consistent with the terms of the contract. These records shall be maintained during the term of this contract and for a period of three (3) years from termination of this contract or until all claims, if any, have been resolved, whichever period is longer.

The failure of Contractor to comply with this Section or any portion thereof, and/or the breach of Contractor's warranty thereunder, may be considered a material breach of this contract and may, at the option of the County, constitute grounds for the termination and/or non-renewal of the contract. Contractor shall be provided reasonable notice of any intended termination or non-renewal on the grounds of noncompliance with this Section, and the opportunity to respond and discuss the County's intended action.

Attachment A – List of Master Contract Programs

For Each Program Listed on this Attachment will have a corresponding set of Exhibits to specify the program terms and conditions. All Exhibits, listed are referred here and incorporated herein by this reference.

1. **Senior Nutrition Program**

Exhibit B – Program Provisions

Exhibit C – Program Plan and Requirements

Exhibit D – Budget Summary and Payment Provisions

**Senior Nutrition Program
Exhibit B – Program Provisions**

This is a Type II contract between the County of Santa Clara (COUNTY) and the (CONTRACTOR) for the purpose of providing meals for persons 60 years of age and older, funded by the following source: authorized by the Older Americans Act of 1965, as amended, P.L. 89-73; U.S.C. Section 3000 et seq., and all amendments, rules, and regulations pertaining thereto.

1. TERM OF CONTRACT

The term begins on July 1, 2011, and expires on June 30, 2012 unless terminated earlier or otherwise amended.

2. MAXIMUM FINANCIAL OBLIGATION

COUNTY will reimburse CONTRACTOR actual allowable expenditures subject to the provisions of this Contract, not to exceed **\$177,820**.

3. ADJUSTMENT TO EXHIBIT C – BUDGET SUMMARY AND PAYMENT PROVISIONS

A written request by CONTRACTOR for a Budget Detail adjustment may be approved by the COUNTY Contract Representative, or designee, identified in Section 6 of this Exhibit without a contract amendment, as long as the adjustment does not increase the maximum financial obligation of this Contract.

4. CONTRACT REPRESENTATIVES

a. CONTRACTOR designates Executive Director, as CONTRACTOR's representative for the purpose of performing the services as required by this Contract. Unless otherwise indicated in writing, the above named person has the primary authority and responsibility to carry out this Contract.

b. COUNTY designates the Director of Social Services Agency as its representative for the purpose of managing the services performed pursuant to this Contract.

5. NOTICES

All notices prescribed by this Contract will be in writing and deemed effective if sent by certified mail or registered mail and properly deposited with the United States Postal Service, postage prepaid with return receipt requested and addressed as follows:

a. To COUNTY: Senior Nutrition Program Manager
333 West Julian Street, 4th Floor
San Jose, California 95110-2335

b. To CONTRACTOR: City Manager
City of Milpitas
455 East Calaveras Boulevard
Milpitas, CA 95035

6. **COUNTY'S CONTRACT TRANSITION PROCESS**

CONTRACTOR agrees to provide all information deemed necessary by the County for use in subsequent procurement cycles.

Exhibit C
PROGRAM PLAN AND REQUIREMENTS

1. Eligible Individuals

Persons who are eligible for meals and services under this contract are those persons who are 60 years of age or older or who are spouses of persons who are 60 years of age or older. Meals may be made available to handicapped or disabled individuals who have not attained 60 years of age but who reside in housing facilities occupied primarily by the elderly at which congregate nutrition services are provided, or individuals with disabilities who reside at home with and accompany older individuals who are eligible for services. Priority will be given to those older persons in greatest economic or greatest social need as defined by the Older Americans Act of 1965 as amended.

2. Meals

- a. Meals served by CONTRACTOR must provide at least one third of the current recommended dietary allowance specified by the Food and Nutrition Board of the National Academy of Sciences - National Research Council.
- b. Menus will be planned by CONTRACTOR in cycles, the minimum period being four weeks. Such menus must be planned in accordance with COUNTY requirements. Such menus will be submitted to COUNTY three weeks prior to initial use. Menus will be posted in a conspicuous location at the meal site at least one week in advance of use.
- c. Table settings will be of reasonable quality. If disposable dinnerware is used, it will be of sturdy quality.

3. Congregate Meal Sites

- a. CONTRACTOR will provide congregate meals at the following meal sites:

Milpitas Senior Center, 40 N. Milpitas Blvd., Milpitas, CA 95035

- b. CONTRACTOR may not relocate the meal site or add a meal site without prior notification, inspection, and approval by COUNTY. Relocation or addition of a meal site without the prior approval of the COUNTY may be considered a breach of the provisions of this contract. COUNTY may suspend or withhold payments, or terminate the contract if the relocation affects any of the provisions of the contract including, but not limited to the following:
 - The relocation or addition reduces or terminates the provision of services to seniors in the geographic area served by this contract
 - The relocation or addition changes the service area served by this contract
 - The relocation or addition does not serve or give priority to older persons in the greatest social or economic need as defined by the Older Americans Act of 1965 as amended.

- c. The site must have adequate lighting and ventilation and must meet all applicable health, fire, safety and sanitation regulations. CONTRACTOR must obtain current certificates from appropriate public officials indicating the site is in compliance with health and fire regulations.
- d. CONTRACTOR ensures that a pleasant dining atmosphere is maintained and that there is adequate space for the equipment of participants, such as canes, crutches and wheelchairs.
- e. There will be no architectural barriers which would prevent an eligible individual from having access to the meal site facility.

4. Number of Meals

- a. CONTRACTOR will provide the average of 96 hot meals per day, 249 days per year. If demand by eligible individuals in the first six months of this contract does not require CONTRACTOR to provide the average number of meals per day as described above, COUNTY may terminate this contract. Prior to termination, COUNTY and CONTRACTOR may attempt to renegotiate this contract in order to allow CONTRACTOR to reduce the average number of meals to be provided per day. If CONTRACTOR provides additional meals and such additional meals will cause CONTRACTOR to exceed the Maximum Financial Obligation of this contract, such additional costs will be the sole expense of CONTRACTOR, unless the parties agree to and execute a modification of this contract, as allowed hereunder.
- b. The average number of meals which CONTRACTOR has agreed herein to provide per day will be provided 5 days per week during the term of the contract unless otherwise specified in Section 4a of this Attachment and except for holidays to be set forth on a holiday plan submitted by CONTRACTOR.

5. Project Council

CONTRACTOR will ensure that an election is held to elect a participant to represent the site on the COUNTY- wide Project Council. It will be the responsibility of the Project Council to advise the COUNTY on policy matters relating to the delivery of the nutrition services throughout the COUNTY program area.

6. Supportive Services

CONTRACTOR will provide supportive services, to the extent that such services are needed and are not already available from third parties and accessible to individuals participating in the Nutrition Program.

Support services may include:

- a. Transportation of eligible individuals to and from congregate meal sites so that nutrition and other services will be accessible to those eligible individuals living within the program area who, because of lack of mobility or physical or mental handicap, would otherwise be unable to participate in the program;

- b. Information and referral services designed to provide eligible individuals with current information of, and referral to, all appropriate services to meet their needs;
- c. Health and welfare counseling services designed to assist program participants in dealing with the problems and stresses that interfere with normal health and social functioning. CONTRACTOR may provide such services through person – to - person assistance from trained counselors or referrals to appropriate resources;
- d. Nutrition education through a formal program of regularly scheduled meetings to make available pertinent facts related to nutritional need;
- e. Recreation activities designed to foster the health and social well-being of program participants through social interaction and satisfying use of free time;
- f. Outreach activities to assure maximum participation of hard – to - reach and other eligible individuals.

7. Food Inventory

CONTRACTOR will develop a written plan for conducting food inventories. The plan will include the procedures for conducting food inventories, identify persons responsible for conducting the inventory, and set the schedule for completing the inventories. The plan will also include a description of the "First-in-First Out" food rotation system that will be used to ensure stored goods are rotated to prevent deterioration. CONTRACTOR will provide COUNTY with a copy of its food inventory plan and completed food inventories, upon request.

8. Data Collection

At intervals prescribed by COUNTY and, on forms provided by COUNTY, CONTRACTOR will collect program data and information relating to nutrition health screening, registered site participants, meals, use of services and program contributions. CONTRACTOR will also be required to collect program data through the use of electronic data collection methods. Such methods may include the use of computers, scanners or other electronic means. CONTRACTOR must comply with data collection requirements as directed by the COUNTY. Unless otherwise specified, COUNTY will provide CONTRACTOR the equipment needed to collect data by electronic means. COUNTY will be considered legal owner of all equipment provided to CONTRACTOR for this purpose. Such equipment is considered Non-Expendable property as described in Section 11 of this exhibit.

9. Participant Contribution Principles

- a. CONTRACTOR will provide meals to eligible individuals regardless of their ability to pay for all or part of their meals. Recipients are requested to make a financial contribution to offset the cost of the meals. Suggested contribution for congregate meals is \$2.50 per meal. Suggested contribution for home delivered meals is \$1.80 per day. CONTRACTOR will not disclose records of the amount of contribution received or the name of contributor to third parties without written permission of the contributor. COUNTY has the right to review CONTRACTOR'S contribution records for audit purposes. Payment of the suggested contribution is not a condition for the receipt of meals.

- b. CONTRACTOR will submit participant contributions on a monthly basis to be included with the monthly expense claims. Fifty percent (50%) of such contributions are to be paid to COUNTY as specified in Attachment A, Section C.

10. Purchases

COUNTY may require CONTRACTOR, by written notice, to obtain approval of COUNTY for all purchases of food and materials. Approval will not be withheld by COUNTY except for good cause.

11. Non-Expendable Property

Any acquisition by CONTRACTOR of non-expendable property with a retail purchase price in excess of \$500.00 that is required by CONTRACTOR for performance of this contract must require prior written approval of COUNTY. COUNTY will be the legal owner of all equipment that is purchased with COUNTY funds. COUNTY may take possession of its equipment if it is not being used primarily for program purposes and will determine disposition of that equipment upon expiration or termination of this contract.

12. Competitive Bid Requirements

All subcontracts entered into by the CONTRACTOR for capital equipment purchase exceeding the amount of Five Hundred Dollars (\$500) will be only by competitive bids in compliance with Council on Aging bidding procedures except when services or materials can be obtained only from a single source. Any procurement exceeding Ten Thousand Dollars (\$10,000) will also comply with the requirements of Office of Management and Budget Circular A-102.

- a. Prior to entering into any such subcontract which has a value of Five Hundred Dollars (\$500) or more, the CONTRACTOR will submit to the COUNTY evidence that it has received a minimum of three (3) bids for such subcontract and justification for selection of the successful bidder or documentation to support the use of the sole supplier. Records will be maintained by the CONTRACTOR showing the parties solicited and the bids submitted.

13. Overtime Work

Overtime work expenditures that are incurred by the CONTRACTOR will not be paid by reducing services or meals under this contract.

14. Restriction of Disclosures

Any reports, analysis, studies, drawings, information or data generated as a result of this contract are to be provided to COUNTY prior to public dissemination.

Exhibit D Budget Summary and Payment Provisions

Santa Clara County- Social Services Agency Senior Nutrition Program MILPITAS Budget - FY 11/12

	Asian 2 days	81	*	96	7,776
	Bateman 3 days	96	*	153	14,688
	Additional Bateman 2 days a week	15	*	96	1,440
		<u>96</u>	*	<u>249</u>	<u>23,904</u>
Service Days M-F		Daily		Total	Annual

1. PERSONNEL

a. <u>Site Manager</u>		\$	28,155	
b. <u>Kitchen Aide</u>		\$	14,624	
c. <u>Janitor</u>		\$	5,563	
d. <u>Van Driver</u>		\$	8,344	<u>\$ 56,685</u>

2. OPERATION COSTS

Overhead	@ \$.183 meal	\$	-	
Site Transportation		\$	3,657	<u>\$ 3,657</u>

3. VARIANCE CATEGORIES

Insurance/Worker Comp.	n/a	\$	-	
Fiscal	n/a	\$	-	
Staff Mileage	@ \$0.51 mi.	\$	14	
Equipment & Repair		\$	50	
Non-Food Items	@ \$.22 meal	\$	5,259	<u>\$ 5,323</u>

4. FOOD COSTS

New Orient @ 4.50 & .23 milk	\$	4.73	*	7,776	36,780
Bateman	\$	4.405	*	16,128	71,044
		Food Cost		Annual Meals	<u>\$ 107,824</u>

5. TOTAL BUDGET

\$ 173,489

6. CONTRACT AMOUNT

\$ 173,489

County's share at 50% of Total Expended Budget. Maximum not to exceed \$ 86,745

Fifty percent of participant contributions retained by Milpitas

Personnel Detail

	Hours	Days	Hourly Rat	Earnings	Fringe	Vacation	Sick Leave	Medical	Total Costs
Site Manager	6.00	260	13.49	21,044	2,283	809	971	3,047	28,155
Kitchen Aide	4.00	260	9.33	9,703	1,052	373	448	3,047	14,624
Janitor	2.00	249	9.33	4,646	506	187	224	-	5,563
Van Driver	3.00	249	9.33	6,970	759	280	336	-	8,344
Total Personnel Costs				42,363	4,599	1,649	1,979	6,094	56,685

Formula

Days	249 + 11 holidays	Vacation	Hours x 10 x Hourly Rate
Earnings	Hours x Days x Hourly Rate	Sick Leave	Hours x 12 x Hourly Rate
Fringe	10% of (Earnings+Vacation+Sick Leave)		

Payment Provisions

CONTRACTOR understands and agrees that this Contract is a **cost-reimbursement** contract. All references to "you" in this Attachment refer to CONTRACTOR.

You can only be reimbursed for expenses paid out in a report month. The Line Item allocations represent the **maximum annual amount** available for your budget. **Once the contracted line item allocations balances have been used, you cannot continue to claim a current monthly expenditure reimbursement for these items.** You may want to note on the bottom of the monthly expenditure report if you have a continuing expense over and above a zero balance line item or you may want to keep a separate record of your actual expenditures. This may help if you request a line item transfer or may help justify a change in your budget during the annual budget preparation meetings. Please see **LINE ITEM CHANGES** (See Below)** for more information.

These Line Item Definitions are part of the contract standards that were recommended by the Nutrition Contract Standards Committee and approved by the Board of Supervisors on March 10, 1998. Please refer accounting questions to Senior Nutrition Program (SNP) Accounting Staff and budget questions to the SNP Management Analyst.

1. PERSONNEL - Salaries and personnel expenses paid out during the report month should be claimed for all Nutrition employees that work and are authorized by your contract. Employee positions not filled cannot be claimed. Changes in personnel or circumstances that require a substitute should be reported to your assigned Dietitian **prior to filling the position**, explaining the reason for the change. Please indicate if this is a permanent or temporary change.

Fringe – This covers employer paid payroll taxes: FICA (Social Security and Medicare) and SDI (both Federal and State). It is currently budgeted at 10% of the budgeted salary including vacation and sick. You can report the actual amount up to the budgeted amount. At fiscal year end, you may request to transfer any extra budget amount to other line items.

Sick Leave – This covers sick leave paid to the SNP budgeted staff. The County budgets 12 paid sick leave days (prorated to the number of hours the employee works and serving days). Unused sick leave amount **cannot** be paid off to the staff member, but can be transferred to other line items. Unused sick leave amount which is not transferred to other line items will be returned to the County general fund. County does not accrue any unused sick leave for the SNP staff. County can only reimburse the actual amount taken, not the allocated amount.

Medical – This covers health insurance costs. You can report the actual amount up to the budgeted amount for each budgeted staff. It does not cover spouse or dependents. It is for medical only and does not include dental or vision. If receiving County Kaiser, allocation will be deducted in Line Item 6 “Other Deductible”. If your agency does not provide health insurance, this amount can be distributed to the budgeted staff as allowance for purchasing his/her own health plan. If this amount is not claimed or distributed for medical insurance, it **cannot** be transferred to another line item.

2. OPERATION COSTS

Usage Costs - This allowance is for rent or lease costs incurred and paid by your agency. ***You are reimbursed for rent or lease payments allocated to the Nutrition Program at the current per meal rate (\$0.486) for monthly meals served up to your budgeted allocation.*** If you share building or housing costs with other programs you must be able to verify and document how you pro-rate the amount charged to the Nutrition Program. Some sites do not pay rent or lease and are not budgeted for this line item.

Overhead - This category is an allowance for utilities (heating/electricity, telephone, janitorial services, and office supplies, printing, water softener or pest control) needed to support your nutrition site, incurred and paid by your agency. ***You are reimbursed at the current per meal overhead rate (\$0.183) for monthly meals served up to your budgeted allocation.*** If the costs are shared with other programs, you must be able to verify how you pro-rate the amount charged to the Nutrition Program. Some sites are not budgeted for this line item.

Site Transportation - Most sites use the **Outreach Transportation** line item (See next line item). Some sites transport seniors to and from the nutrition program with their own van, bus or car. You can only claim for expenses paid out in the report month. A daily transportation log of who is picked up and returned, and mileage claimed must be available for verification.

Private transportation by persons in their own vehicles are not reimbursable expenses unless all automobile insurance requirements, including assigning the County and the Sponsoring Agency as "other insured" on the driver's certificate of insurance are met. In some cases, a commercial driver's license is also necessary for the driver of an agency's bus, van or car.

Outreach Transportation - This allowance is negotiated with the contractor to transport seniors who are eligible to receive Outreach Transportation Services. Unless your agency is contracting directly for Outreach Transportation Services, this amount is entered into your budget and is part of the County Nutrition Outreach Contract that pools all Outreach allowances. **You do not deduct for this line item if you are part of the County Outreach Pool.** The amount is deducted from your budget in **Line Item 6, "Other Deductible" (See Below)**. You will receive a copy of the Outreach expenses that are deducted from your portion of the pool each month for rides to and from your site and are paid directly by the County each month. Only senior nutrition participants are able to have their rides reimbursed.

3. VARIANCE CATEGORIES

Insurance/Worker's Compensation - This is an allowance for insurance or worker's compensation insurance payments that are actually paid out in the report month. You are only reimbursed for actual payments made. If your agency pays for other programs, only the pro-rated amount paid for the Nutrition Program Employees is allowable as an expense.

Fiscal - This allowance is for bookkeeping, accounting and payment for the annual audit. If you share bookkeeping and accounting expenses with other non- nutrition programs, only the portion allocated and paid out for the nutrition program is allowable for reimbursement. You must document and be able to verify how you pro-rate your expenses towards the Nutrition Program. Documentation of the expense and when the expense was incurred must be available to the County when requested.

Staff Mileage - This allowance is for nutrition employees who are required to attend Nutrition Staff Meetings or Trainings. Mileage to and from meetings is reimbursed at the County rate **(\$0.51 per mile)**. The amount allocated is determined by your yearly usage.

Equipment and Repair - This allowance is for small equipment and repair expenses.

* The **Nutrition Equipment Committee** reviews requests for other equipment that exceed your budgeted amount. The amount of funds available through the Equipment Committee varies each year. Check with your Dietitian if you wish to submit a request.

Non-Food Items - This allowance will cover the cost of paper products, utensils, serving dishes, cleaning supplies and laundry.

4. FOOD COSTS - This is the allowance for food expenses. Based on whether you are a cook-on-site or a catered meal site, you may claim for raw food costs, restaurant catered meals or vendor catered meals. Some sites will have a combination of raw and catered food expenses.

5. TOTAL BUDGET - This is the total program budget amount before any deductibles.

6. OTHER DEDUCTIBLE - This line item will show items (if **applicable**) that are deducted from the budget. This may include the following items, but will not apply to all budgets:

County Outreach Transportation
County Kaiser
Contractor Contribution Amount

City Grants or Contributions
Community Development Block Grants (CDBG)
Other Income Contributions

7. CONTRACT AMOUNT - Final contracted budget for the site.

**** LINE ITEM CHANGES** - May be requested in writing by CONTRACTOR'S Agency Representative. **Submit line item requests during the year when you first become aware of a need to transfer funds between line items. Do not assume that line item transfers will be authorized.** Final line item transfer requests for fiscal year ending June 30 are to be submitted no later than the first Friday of June. The SNP Program Manager and the Nutrition Services Manager will review these requests for approval or disapproval.

Any line item request must have funds available in your budget and be accompanied by an explanation of the reason for the request. Additional verification may be requested. The SNP Program Manager has final approval or disapproval authority for any line item change request.

**Seventh Amendment to the Contract
Between the City of Milpitas and Compass Group USA, Inc.**

This amendment (“Seventh Amendment”) to that certain agreement (“Agreement”) between the City of Milpitas (“Client”) and Compass Group USA, Inc., by and through its Bateman Division (“Bateman”) (collectively, “the Parties”) entered into on July 1, 2004, for the purpose of providing meals for the Santa Clara County Senior Nutrition Program offered at the Barbara Lee Senior Center, is entered into this 21st day of June 2011.

RECITALS

WHEREAS, the Parties wish to extend the Agreement for an additional year, so that the Agreement will terminate on June 30, 2012; and

WHEREAS, additional funding for the extension is available as a part of the Santa Clara County Senior Nutrition Budget, budgeted within the City of Milpitas Parks & Recreation Services Department Operating Budget; and

WHEREAS, the additional funding of \$71,044 will serve senior residents of the center 60 years of age and older an average of 65 meals a day, 249 days per year, totaling 16,128 meals for fiscal year 2011/2012.

NOW THEREFORE, by agreement of the Parties, the Agreement is hereby amended as follows:

Amendment

1. The term of the agreement as set forth in Section 6, First Paragraph, is hereby extended for an additional twelve (12) month period commencing on July 1, 2011 and ending on June 30, 2012.
2. The meal rates as set forth in Section 1, Second Paragraph of Exhibit A to the Agreement, is hereby modified to \$4.405 per meal, and total compensation shall not exceed \$71,044.
3. This Seventh Amendment is effective July 1, 2011 and thereafter, unless amended thereafter.
4. Exhibit A, Cost per Meal, is revised to read: \$4.405.
5. All other terms and conditions of the Agreement shall remain in full force and effect.
6. In the event of a conflict between the original Agreement and this Amendment, this Amendment shall control.

This Amendment was approved by the City Council at its meeting of June 21, 2011.

CITY OF MILPITAS:

Dated: _____

BY: _____
Thomas Williams, City Manager

ATTEST:

APPROVED AS TO FORM:

BY: _____
Mary Lavelle, City Clerk

BY: _____
Michael J. Ogaz, City Attorney

APPROVED AS TO CONTENT:

BY: _____
Bonnie Greiner, Parks & Recreation Director

COMPASS GROUP USA, INC., by and through its Bateman division

Dated: _____

BY: _____

Dated: _____

BY: _____

**Seventh Amendment to the Contract
Between the City of Milpitas and New Orient Restaurant**

This Seventh Amendment to that certain agreement (“the Agreement”) between the City of Milpitas (CITY) and New Orient Restaurant (CONTRACTOR) (collectively, “the Parties”) entered into on July 1, 2004, for the purpose of providing Asian food meals for the Santa Clara County Senior Nutrition Program offered at the Milpitas Senior Center, is entered into this 21st day of June, 2011.

RECITALS

WHEREAS, on June 15, 2010, the Milpitas City Council (“City Council”) approved a Sixth Amendment to the Agreement in order to provide a total of 6,305 meals for fiscal year 2010/2011; and

WHEREAS, the Parties now wish to amend the Agreement again so as to allow the service of additional meals for Fiscal Year 2010/2011 for an additional \$4,499 in compensation, and to also provide for meal services in Fiscal Year 2011/2012.

NOW THEREFORE, by agreement of the Parties, the Agreement is hereby amended as follows:

Amendment

1. Recital A is amended in its entirety to read as follows:
 - A. “CITY requires professional services for the preparation and delivery of meals for the City’s Senior Nutrition Program, located at the Barbara Lee Senior Center, 40 North Milpitas Boulevard, Milpitas, CA 95035.”
2. Section 2, Term, is revised to read in its entirety as follows:

“This Agreement shall be effective upon execution of the Agreement by all parties and shall terminate on June 30, 2012, unless otherwise terminated or extended pursuant to the Agreement.”
3. Exhibit A of the Agreement is amended and restated in its entirety as set forth in the attachment to this Seventh Amendment.
4. Exhibit B, Item 2, is revised to read in its entirety as follows:

“Per meal cost will not exceed \$4.42 for meals in Fiscal Year 2010/2011 (July 1, 2010 to June 30, 2011) and total compensation under the Agreement for Fiscal Year 2010/2011 (July 1, 2010 to June 30, 2011) will not exceed \$32,367.”

“Per meal cost will not exceed \$4.50 for meals in Fiscal Year 2011/2012 (July 1, 2011 to June 30, 2012) and total compensation under the Agreement for Fiscal Year 2011/2012 (July 1, 2011 to June 30, 2012) will not exceed \$34,992.”

- 5. All other terms and conditions of the Agreement shall remain in full force and effect.
- 6. In the event of a conflict between the original contract and this Amendment, this Amendment shall control.

This Amendment was approved by the City Council at its meeting of June 21, 2011.

CITY OF MILPITAS:

Dated: _____

BY: _____
Thomas Williams, City Manager

ATTEST:

APPROVED AS TO FORM:

BY: _____
Mary Lavelle, City Clerk

BY: _____
Michael J. Ogaz, City Attorney

APPROVED AS TO CONTENT:

BY: _____
Bonnie Greiner, Parks & Recreation Director

CONTRACTOR:

Dated: _____

BY: _____

Dated: _____

BY: _____

(Attachment)

EXHIBIT A
(SCOPE OF CONTRACTOR'S DUTIES AND SERVICES)

Per this Agreement, CONTRACTOR agrees to perform the following duties in accordance for the City of Milpitas' Senior Nutrition Program, which is in accordance to the County of Santa Clara's Senior Nutrition Program.

Site Name: Milpitas Senior Center
Address: 40 North Milpitas Boulevard
Milpitas, CA 95035
Delivery Time: 11:30am-12:00pm
Delivery Days: Two days per week, decided upon CITY and CONTRACTOR
Number Meals: Total meals contracted is 7,776 meals over 96 days for Fiscal Year 2010/2011 (July 1, 2010 to June 30, 2011)

Total meals contracted is 7,776 meals over 96 days for Fiscal Year 2011/2012 (July 1, 2011 to June 30, 2012)

Cost per Meal: \$4.42 for meals in Fiscal Year 2010/2011 (July 1, 2010 to June 30, 2011)
\$4.50 for meals in Fiscal Year 2011/2012 (July 1, 2011 to June 30, 2012)

1. Holding time and between meal preparation and scheduled serving time shall not exceed two hours.
2. Meals shall conform to the food and nutrition standards. Such meals shall be low in salt and fat content. Use of MSG, artificial flavoring and color is not recommended. Each serving portion shall include:
 - No less than 3 ounces of meat or protein substitute
 - No less than 1 cup of vegetables
 - No less than ½ cup of rice or other carbohydrate
 - One fruit
3. CONTRACTOR shall provide a central kitchen for the production of meals pursuant to this Agreement, and shall deliver such meals to designated location as mutually agreed upon by both parties. CONTRACTOR shall provide equipment required for the provision of services, and all equipment to transport food shall be NSF approved. Food storage facilities shall maintain a temperature of 140 degrees Fahrenheit or more for hot food and 40 degrees Fahrenheit or less for cold food. Temperatures of meals shall be checked daily and recorded before leaving the kitchen.