

OFFICE OF THE CITY ATTORNEY
ROBERT E. SHANNON, City Attorney
333 West Ocean Boulevard, 11th Floor
Long Beach, CA 90802-4664

CONTRACT

32216

THIS CONTRACT is made and entered, in duplicate, as of May 5, 2011 for reference purposes only, pursuant to a minute order adopted by the City Council of the City of Long Beach at its meeting held on April 19, 2011, by and between LONG BEACH RESCUE MISSION, a nonprofit California corporation, with offices located at 1430 Pacific Avenue, Long Beach, California 90813 ("Organization"), and the CITY OF LONG BEACH, a municipal corporation ("City").

WHEREAS, the City Council approved an Ordinance establishing the Mayor's Fund for the Homeless ("Mayor's Fund"); and

WHEREAS, Organization provides human or social services to homeless residents of the City; and

WHEREAS, City wishes to support said services by providing funding through the Mayor's Fund; and

WHEREAS, the City Council has authorized the City Manager to enter into a contract with Organization that provides the following:

- 1. Funding within a maximum amount;
- 2. Program accountability by the City; and

WHEREAS, Organization agrees to perform said services and to provide City with the information and supporting documentation required herein;

NOW, THEREFORE, in consideration of the terms and conditions contained herein, the parties agree as follows:

1. Organization shall provide direct and indirect human or social services to homeless residents of the City, in accordance with Attachment "A" entitled "Scope of Work and Budget", attached hereto and incorporated herein by this reference.

2. The term of this Contract shall commence at 12:01 a.m. on April 19, 2011, and, unless sooner terminated as provided herein, shall terminate at midnight on December 31, 2012.

1 3.

2 A. Total disbursements made to the Organization under this
3 Contract by City shall not exceed Five Thousand Dollars (\$5,000). Organization
4 shall prepare invoices and submit them to City for payment. Organization shall
5 attach documentation to each invoice that evidences the amount expended as
6 shown on the invoice. Documentation shall include copies of cancelled checks
7 and other documents supporting the charges in the invoices. Invoices shall show
8 units of service and costs identified in Attachment "A". Failure to submit an invoice
9 and its accompanying documentation may result in late payment from the City.
10 City reserves the right to refuse payment of an invoice received sixty (60) days
11 after the end of the Contract period.

12 B. City shall pay to Organization the amounts specified in
13 Attachment "A" for the categories, criteria and rates established in that
14 Attachment. Organization may, with the prior written approval of the Director of
15 City's Department of Health and Human Services, or his designee, make
16 adjustments within and among the categories of expenditures in Attachment "A"
17 and modify the performance to be rendered hereunder stated in that Attachment
18 provided, however, that such adjustment in expenditures shall not cause the
19 amount of the total budget stated in that Attachment to be exceeded.

20 4.

21 A. Organization's records relating to the performance of this
22 Contract shall be kept in accordance with generally accepted accounting principles
23 and in the manner prescribed by City. Organization's records shall be current and
24 complete. City shall have the right to examine, copy, inspect, extract from, and
25 audit financial and other records related, directly or indirectly, to this Contract
26 during Organization's normal business hours. If examination of these financial and
27 other records by City reveals that Organization has not used these grant funds for
28 the purposes and on the conditions stated in this Contract, then Organization

1 covenants, agrees to and shall immediately repay all or that portion of the grant
2 funds which were improperly used. If Organization is unable to repay all or that
3 portion of the grant funds, then City will terminate all activities of Organization
4 under this Contract and pursue appropriate legal action to collect the funds.

5 B. In addition, Organization shall provide any information that the
6 City Auditor and other City representatives require in order to monitor and evaluate
7 Organization's performance hereunder. Organization shall provide all reports,
8 documents or information requested by City within three (3) days after receipt of a
9 written or oral request from a City representative, unless a longer period of time is
10 otherwise expressly stated by said representative.

11 C. Within fifteen (15) days after the end of each quarter in which
12 Organization provided services, Organization shall submit performance reports
13 certified by one of Organization's officers or its Executive Director identifying the
14 services performed.

15 5. In the performance of this Contract, Organization shall not
16 discriminate against any employee, applicant for employment or service, or subcontractor
17 because of race, color, religion, national origin, sex, sexual orientation, gender identity,
18 AIDS, AIDS related condition, age, disability, handicap, or Vietnam Era veteran status.
19 Organization shall take affirmative action to assure that applicants are employed or
20 served, and that employees and applicants are treated during employment or services
21 without regard to these categories. Such action shall include but not be limited to the
22 following: employment, upgrading, demotion or transfer; recruitment or recruitment
23 advertising; lay-off or termination; rates of pay or other forms of compensation; and
24 selection for training, including apprenticeship.

25 Organization shall permit access by City or any other agency of the county,
26 state or federal governments to Organization's records of employment, employment
27 advertisements, application forms and other pertinent data and records for the purpose of
28 investigation to ascertain compliance with the fair employment practices provisions of this

1 Contract.

2 6.

3 A. In performing services hereunder, Organization is and shall
4 act as an independent contractor and not as an employee, representative, or
5 agent of City. Organization's obligations to and authority from the City are solely
6 as prescribed herein. Organization expressly warrants that it will not, at any time,
7 hold itself out or represent that Organization or any of its agents, volunteers,
8 subscribers, members, officers or employees are in any manner officials,
9 employees or agents of City. Organization shall not have any authority to bind
10 City for any purpose.

11 B. Organization acknowledges and agrees that i) City will not
12 withhold taxes of any kind from Organization's compensation, ii) City will not
13 secure workers' compensation or pay unemployment insurance to, for or on
14 Organization's behalf, and iii) City will not provide and Organization and
15 Organization's employees are not entitled to any of the usual and customary
16 rights, benefits or privileges of City employees.

17 7. This Contract contemplates the personal services of Organization
18 and Organization's employees. Organization shall not delegate its duties or assign its
19 rights hereunder, or any interest herein or any portion hereof, without the prior written
20 consent of City. Any attempted assignment or delegation shall be void, and any assignee
21 or delegate shall acquire no right or interest by reason of such attempted assignment or
22 delegation.

23 8. Organization shall indemnify and hold harmless the City, its Boards,
24 Commissions, and their officials, employees and agents (collectively in this Section
25 "City") against any and all liability, claims, demands, damage, causes of action,
26 proceedings, penalties, loss, costs and expenses (including attorney's fees, court costs,
27 and expert and witness fees) (collectively "Claims" or Individually "Claim") arising, directly
28 or indirectly, out of any negligent act or omission of Organization, its officers, employees,

1 agents, subcontractors or anyone under Organization's control (collectively "Indemnitor"),
2 breach of this Contract by Organization, misrepresentation or willful misconduct by
3 Indemnitor, and Claims by any employee of Indemnitor relating in any way to workers'
4 compensation. Independent of the duty to indemnify and as a free-standing duty on the
5 part of Organization, Organization shall defend the City and shall continue such defense
6 until the Claim is resolved, whether by settlement, judgment or otherwise. Organization
7 shall notify the City of any Claim within ten (10) days. Likewise, the City shall notify
8 Organization of any Claim, shall tender the defense of such Claim to Organization, and
9 shall assist Organization, as may be reasonably requested, in such defense.

10 9.

11 A. Organization shall procure and maintain at Organization's
12 expense for the duration of this Contract the following insurance and bond against
13 claims for injuries to persons or damage to property that may arise from or in
14 connection with the performance of this Contract by Organization, its agents,
15 representatives, employees, volunteers or subcontractors.

16 i. Commercial general liability insurance (equivalent in
17 scope to ISO form CG 00 01 11 85 or CG 00 01 11 88) in an amount not
18 less than One Million Dollars (\$1,000,000) per occurrence and Two Million
19 Dollars (\$2,000,000) general aggregate. Such coverage shall include but
20 not be limited to broad form contractual liability, cross liability, independent
21 contractors liability, and products and completed operations liability. The
22 City, its Boards and Commission, and their officials, employees and agents
23 shall be named as additional insureds by endorsement (on City's
24 endorsement form or on an endorsement equivalent in scope to ISO form
25 CG 20 10 11 85 or CG 20 26 11 85), and this insurance shall contain no
26 special limitations on the scope of protection given to the City, its Boards
27 and Commissions and their officials, employees and agents.

28 ii. Workers' Compensation insurance as required by the

1 California Labor Code.

2 iii. Employer's liability insurance in an amount not less
3 than One Million Dollars (\$1,000,000) per claim.

4 iv. Professional liability or errors and omissions insurance
5 in an amount not less than One Million Dollars (\$1,000,000) per claim.

6 v. Commercial automobile liability insurance (equivalent
7 in scope to ISO form CA 00 01 06 92), covering Auto Symbol 1 (Any Auto)
8 in an amount not less than Five Hundred Thousand Dollars (\$500,000)
9 combined single limit per accident.

10 vi. Blanket Honesty Bond in an amount equal to at least
11 fifty percent (50%) of the total amount to be disbursed to Organization
12 hereunder or Twenty-five Thousand Dollars (\$25,000), whichever is less, to
13 safeguard the proper handling of funds by employees, agents or
14 representatives of Organization who sign as the maker of checks or drafts
15 or in any manner authorize the disbursement or expenditure of said funds.

16 If delivering services to minors, seniors, or persons with disabilities,
17 Organization's Commercial General Liability insurance shall not exclude coverage for
18 abuse and molestation. If Organization is unable to provide abuse and molestation
19 coverage, it can request a waiver of this coverage from the City. The City's Risk
20 Manager will consider waiving the requirement if Organization can demonstrate to the
21 satisfaction of the City's Risk Manager that Organization has no exposure, that the
22 coverage is unavailable or that the coverage is unaffordable. If a request for a waiver is
23 desired, Organization must submit a signed document on Organization's letterhead to the
24 Director of the City's Department of Community Development, Neighborhood Services
25 Bureau, who will forward it to the City's Risk Manager, providing reasons why the
26 insurance coverage should be waived. Waivers will be considered on a case by case
27 basis.

28 B. Any self-insurance program, self-insured retention or

1 deductible must be separately approved in writing by the City's Risk Manager or
2 his/her designee and shall protect the City, its Boards and Commissions, and their
3 officials, employees and agents in the same manner and to the same extent as
4 they would have been protected had the policy or policies not contained retention
5 or deductible provisions. Each insurance policy shall be endorsed to state that
6 coverage shall not be reduced, non-renewed or canceled except after thirty (30)
7 days prior written notice to the City, and shall be primary and not contributing to
8 any other insurance or self-insurance maintained by the City. Organization shall
9 notify the City in writing within five (5) days after any insurance required herein has
10 been voided by the insurer or cancelled by the insured.

11 C. Organization shall require that all contractors and
12 subcontractors that Organization uses in the performance of services hereunder
13 maintain insurance in compliance with this Section unless otherwise agreed in
14 writing by the City's Risk Manager or his/her designee.

15 D. Prior to the start of performance or payment of first invoice,
16 Organization shall deliver to the City certificates of insurance and required
17 endorsements for approval as to sufficiency and form. The certificate and
18 endorsements for each insurance policy shall contain the original signature of a
19 person authorized by that insurer to bind coverage on its behalf. In addition,
20 Organization shall, within thirty (30) days prior to expiration of the insurance
21 required herein, furnish to the City certificates of insurance and endorsements
22 evidencing renewal of such insurance. The City reserves the right to require
23 complete certified copies of all policies of Organization and Organization's
24 contractors and subcontractors, at any time. Organization shall make available to
25 the City's Risk Manager or his/her designee during normal business hours all
26 books, records and other information relating to the insurance coverage required
27 herein.

28 E. Any modification or waiver of the insurance requirements

1 herein shall only be made with the approval of the City's Risk Manager or his/her
2 designee. Not more frequently than once a year, the City's Risk Manager or
3 his/her designee may require that Organization, Organization's contractors and
4 subcontractors change the amount, scope or types of coverages required herein if,
5 in his or her sole opinion, the amount, scope or types of coverages herein are not
6 adequate.

7 F. The procuring or existence of insurance shall not be
8 construed or deemed as a limitation on liability relating to Organization's
9 performance or as full performance of or compliance with the indemnification
10 provisions of this Contract.

11 10.

12 A. In addition to, and not in substitution for, other terms of this
13 Contract regarding the provision of services, Organization shall not:

14 i. Represent that it is, or may be deemed to be, a
15 religious or denominational institution or organization or an organization
16 operated for religious purposes that is supervised or controlled by or in
17 connection with a religious or denominational institution or organization.

18 ii. In connection with costs of its services hereunder,
19 engage in the following conduct:

20 (a) discriminate against any employee or applicant
21 for employment on the basis of religion;

22 (b) discriminate against any person seeking housing
23 or related supportive services only on the basis of religion or limit
24 such services or give preference to persons on the basis of religion;

25 (c) provide religious instruction or counseling,
26 conduct religious worship or services, engage in religious
27 proselytizing, or exert other religious influence in the provision of
28 services or the use of facilities and furnishings;

1 iii. The portion of the facility used for housing or
2 supportive services only assisted in whole or in part under this Contract or
3 in which services are provided that are assisted under this Contract shall
4 contain no sectarian religious symbols or decorations.

5 B. Organization shall provide human or social services to
6 homeless individuals with assistance in obtaining:

7 i. Appropriate supportive services, including transitional
8 housing, permanent housing, physical health treatment, mental health
9 treatment, counseling, supervision and other services essential for
10 achieving independent living; and

11 ii. Other federal, state and local private assistance
12 available for such individuals, including mainstream resources.

13 11. All notices required hereunder shall be in writing and personally
14 served or deposited in the U.S. Postal Service, certified mail, return receipt requested, to
15 City at 2525 Grand Avenue, Long Beach, California 90815, Attn: Homeless Services
16 Officer, and to Organization at the address first stated herein. Notice shall be deemed
17 given on the date personal service is obtained or the date of the signature on the return
18 receipt, whichever first occurs. Notice of change of address shall be given in the same
19 manner as stated herein for other notices.

20 12. The City Manager or designee is authorized to administer this
21 Contract and all related matters, and any decision of the City Manager or designee in
22 connection herewith shall be final.

23 13. Organization shall have the right to terminate this Contract at any
24 time for any reason by giving thirty (30) days' prior notice of termination to City, and City
25 shall have the right to terminate all or any part of this Contract at any time for any reason
26 or no reason by giving five (5) days' prior notice to Organization. If either party
27 terminates this Contract, all funds held by the Organization under this Contract which
28 have not been spent on the date of termination shall be returned to City.

1 14. This Contract, including all exhibits and attachments hereto,
2 constitutes the entire understanding of the parties and supersedes all other agreements,
3 oral or written, with respect to the subject matter herein. This Contract shall not be
4 amended, nor any provision or breach hereof waived, except in writing by the parties that
5 expressly refers to this Contract.

6 15. The acceptance of any service or payment of any money by the City
7 shall not operate as a waiver of any provision of this Contract, or of any right to damages
8 or indemnity stated herein. The waiver of any breach of this Contract shall not constitute
9 a waiver of any other or subsequent breach of this Contract.

10 16. This Contract shall be governed by and construed pursuant to the
11 laws of the State of California, without regard to conflicts of law principles.

12 17. In the event of any conflict or ambiguity between this Contract and
13 one or more attachments, the provisions of this Contract shall govern.

14 ///
15 ///
16 ///
17 ///
18 ///
19 ///
20 ///
21 ///
22 ///
23 ///
24 ///
25 ///
26 ///
27 ///
28 ///

1 IN WITNESS WHEREOF, the parties hereto have caused this document to
2 be duly executed with all formalities required by law as of the date first stated herein.

3 LONG BEACH RESCUE MISSION, a
4 nonprofit California corporation

5 May 25, 2011

By [Signature]
6 President
7 MICHAEL KIMMEL
Type or Print Name

8 May 25, 2011

By [Signature]
9 Secretary
10 DAVE R. JOHNSON
Type or Print Name

11 "Organization"

12 CITY OF LONG BEACH, a municipal
13 corporation

14 6.23, 2011

By [Signature]
15 Assistant City Manager
16 City Manager
EXECUTED PURSUANT
TO SECTION 301 OF
THE CITY CHARTER

17 "City"

18 This Contract is approved as to form on 6/9, 2011.

19 ROBERT E. SHANNON, City Attorney

By [Signature]
20 Deputy

OFFICE OF THE CITY ATTORNEY
ROBERT E. SHANNON, City Attorney
333 West Ocean Boulevard, 11th Floor
Long Beach, CA 90802-4664

21
22
23
24
25
26
27
28

**City of Long Beach
Mayor's Fund for the Homeless
Scope of Work and Budget**

Agency: Long Beach Rescue Mission **CLB Contract:** _____

Program Objective: Mayor's Fund allocation of **\$5,000** as reimbursement for costs incurred providing overflow temporary shelter to homeless individuals and families above 150 nightly as funded by the County of Los Angeles under the Winter Shelter Program (December 1, 2010 - March 15, 2011)

Service Activities	Total Amount Funded
1. The Winter Shelter Program provides overflow program supplies and shelter that exceed 150 nightly	\$5,000
TOTAL CITY OF LONG BEACH CONTRACT	\$5,000

Initial Here: MAIC 
Authorized Agency Official