

Robert E. Shannon
City Attorney of Long Beach
333 West Ocean Boulevard
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1 SUMMER FOOD PROGRAM
2 SPONSOR/SITE AGREEMENT

3 **30118**

4 THIS AGREEMENT is made and entered, in duplicate, as of April 3,
5 2007 for reference purposes only, pursuant to a minute order adopted by the City Council
6 of the City of Long Beach at its meeting held on April 3, 2007, by and between the CITY
7 OF LONG BEACH ("Sponsor") and LONG BEACH COMMUNITY SERVICES
8 DEVELOPMENT CORPORATION ("Site Organization"), whose address is 780 Atlantic
9 Avenue, Long Beach, California 90813.

10 WHEREAS, the California Department of Education ("CDE") has funds for
11 a 2007 Summer Food Service Program for Children ("Program") to provide free meals to
12 eligible children; and

13 WHEREAS, Sponsor has executed or will soon execute an agreement with
14 a vendor to prepare the meals; and

15 WHEREAS, Site Organization rents, leases, owns, operates, maintains, or
16 otherwise controls a site, independent of Sponsor, located in or near the City of Long
17 Beach at which the meals could be served; and

18 WHEREAS, Site Organization desires to participate in the Program; and

19 WHEREAS, CDE requires that Sponsor enter a written agreement with each
20 Site Organization that participates in the Program;

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

- 23 1. Site Organization shall serve lunch to all needy children 18 years of age
24 and under (or persons over 18 years of age if they are mentally or physically disabled and
25 participating in a public or private nonprofit school program for the mentally or physically
26 disabled), using Site Organization employees and volunteers, all of whom are subject to
27 the management, direction, and control of Site Organization at Long Beach Tutorial
28 Academy (780 Atlantic Avenue).

1 2. Sponsor shall provide to Site Organization, through Sponsor's vendor,
2 lunch as part of the Program. The number and type of meals to be provided shall depend
3 on the attendance reported to Sponsor by Site Organization on a daily basis.

4 3. Site Organization shall provide adequate supervision during the food
5 service, and shall report to Sponsor any and all problems concerning or related to the food
6 service.

7 4. Site Organization shall maintain and submit promptly such reports and
8 records as Sponsor requires.

9 5. Site Organization shall promptly report to Sponsor any change in the
10 number of meals required as attendance at Site Organization activities, programs, classes
11 and the like fluctuates. Such report is exempt from the notice provision set forth in
12 Section 17 hereof.

13 6. Site Organization and Sponsor shall comply with Title VI of the Civil Rights
14 Act of 1964 (P.L. 88-352) and all requirements imposed by the regulations of the
15 Department of Agriculture (7 CFR Part 15), Department of Justice (28 CFR Parts 42 & 50),
16 and FNS directives or regulations issued pursuant to that Civil Rights Act to the effect that
17 no person in the United States shall, on the ground of race, religion, color, sex, sexual
18 orientation, AIDS, AIDS related condition, age, national origin, disability, handicap, or
19 Vietnam Era veteran status, be excluded from participation in, be denied benefits of, or
20 otherwise be subject to discrimination under any program or activity for which Site
21 Organization and Sponsor received Federal financial assistance from the Department of
22 Agriculture. And, Site Organization and Sponsor hereby give assurance that they shall
23 immediately take any measures necessary to effectuate compliance.

24 7. Site Organization shall indemnify and hold harmless the City, its Boards,
25 Commissions, and their officials, employees and agents (collectively in this Section "City")
26 from and against any and all liability, claims, demands, damage, causes of action,
27 proceedings, penalties, loss, costs, and expenses (including attorney's fees, court costs,
28 and expert and witness fees) (collectively "Claims" or individually "Claim"). Claims include

1 allegations and include by way of example but are not limited to: Claims for property
2 damage, personal injury or death arising in whole or in part from any negligent act or
3 omission of Site Organization, its officers, employees, or agents, or anyone under Site
4 Organization's control (collectively "Indemnitor"); Site Organization's breach of this
5 Agreement; misrepresentation; willful misconduct; and Claims by any employee of
6 Indemnitor relating in any way to worker's compensation. Independent of the duty to
7 indemnify and as a free-standing duty on the part of Site Organization, Site Organization
8 shall defend City and shall continue such defense until the Claim is resolved, whether by
9 settlement, judgment or otherwise. Site Organization shall notify the City of any claim
10 within ten (10) days. Likewise, City shall notify Site Organization of any claim, shall tender
11 the defense of such claim to Site Organization, and shall assist Site Organization, as may
12 be reasonably requested, in such defense.

13 8. As a condition precedent to the effectiveness of this Agreement, Site
14 Organization shall procure and maintain at Site Organization's expense for the duration of
15 this Agreement from insurance companies that are admitted to write insurance in California
16 or from authorized non-admitted insurance companies that have ratings of or equivalent
17 to A:VIII by A.M. Best Company the following insurance:

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

1 (b) Workers' Compensation insurance as required by the Labor Code
2 of the State of California and employer's liability insurance in an amount not
3 less than One Million Dollars (\$1,000,000).

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

6 (d) If use of vehicles are necessary in the performance of this
7 Agreement, commercial automobile liability insurance (equivalent in scope
8 to ISO form CA 00 01 06 92), covering Auto Symbol 1 (Any Auto) in an
9 amount not less than Five Hundred Thousand Dollars (\$500,000) combined
10 single limit per accident.

11 Any self-insurance program, self-insured retention, or deductible must be
12 separately approved in writing by City's Risk Manager or designee and shall protect
13 Sponsor, its officials, employees and agents in the same manner and to the same extent
14 as they would have been protected had the policy or policies not contained retention or
15 deductible provisions. Each insurance policy shall be endorsed to state that coverage shall
16 not be reduced, nonrenewed or cancelled except after thirty (30) days prior written notice
17 to Sponsor, and shall be primary and not contributing to any other insurance or
18 self-insurance maintained by Sponsor. Site Organization shall notify the Sponsor in writing
19 within five (5) days after any insurance required herein has been voided by the insurer or
20 cancelled by the insured.

21 Site Organization shall require that all contractors and subcontractors which
22 Site Organization uses in the performance of services hereunder maintain insurance in
23 compliance with this Section unless otherwise agreed in writing by City's Risk Manager or
24 designee.

25 Site Organization shall deliver to Sponsor certificates of insurance and
26 required endorsements for approval as to sufficiency and form. The certificate and
27 endorsements for each insurance policy shall contain the original signature of a person
28 authorized by that insurer to bind coverage on its behalf. In addition, Site Organization,

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1 shall, within thirty (30) days prior to expiration of the insurance required herein, furnish to
2 Sponsor certificates of insurance and endorsements evidencing renewal of such insurance.
3 Sponsor reserves the right to require complete certified copies of all policies of Site
4 Organization and Site Organization's contractors and subcontractors, at any time. Site
5 Organization shall make available to City's Risk Manager or designee all books, records
6 and other information relating to the insurance coverage required herein, during normal
7 business hours.

8 Any modification or waiver of the insurance requirements herein shall only
9 be made with the approval of City's Risk Manager or designee. Not more frequently than
10 once a year, the City's Risk Manager or designee may require that Site Organization, Site
11 Organization's contractors and subcontractors change the amount, scope or types of
12 coverages required herein if, in his or her sole opinion, the amount, scope, or types of
13 coverages herein are not adequate.

14 The procuring or existence of insurance shall not be construed or deemed
15 as a limitation on liability relating to Site Organization's performance or as full performance
16 of or compliance with the indemnification provisions of this Agreement.

17 9. Site Organization shall comply with all applicable laws, rules, and
18 regulations, and the directives or instructions issued by Sponsor and the CDE relating to
19 the activities or operations conducted herein. Failure to do so may result in the immediate
20 termination of this Agreement.

21 10. Sponsor shall obtain any and all State or Federal financial assistance,
22 grants, loans of State or Federal funds, and grants or loans of State or Federal property
23 necessary to the implementation of the Program.

24 11. Sponsor retains the right to require Site Organization to replace any
25 employee or volunteer whom Sponsor determines is unsatisfactory because of personal
26 appearance, conduct or failure to properly serve the public. Sponsor shall notify Site
27 Organization in writing of such deficiencies and Site Organization shall replace the
28 employee or volunteer with a suitable employee or volunteer within forty-eight (48) hours

1 after the date of such notice.

2 12. Sponsor shall have administrative responsibility for Program operations,
3 and shall submit all reports and monitor compliance with Program requirements in
4 accordance with CDE rules, regulations, policies, and procedures as set forth in 7 CFR
5 Part 225. Site Organization shall cooperate with Sponsor, if necessary, to provide
6 information for said reports.

7 13. Sponsor and Site Organization understand and agree that this
8 Agreement is contingent upon the execution of underlying agreements with the United
9 States, the State of California, or departments or agencies thereof. Consequently, neither
10 Sponsor nor Site Organization shall have any obligation to perform, and this Agreement
11 shall have no force and effect, until and unless such underlying agreements are executed.
12 Furthermore, Sponsor may terminate this Agreement if Site Organization fails to comply
13 with any underlying agreement.

14 14. Site Organization, its officers, agents, employees, and volunteers are
15 independent contractors and are not nor shall they be deemed employees or agents of
16 Sponsor. Site Organization acknowledges and agrees that a) Sponsor will not withhold
17 taxes of any kind hereunder, b) Sponsor will not secure workers' compensation or pay
18 unemployment insurance to, for or on behalf of Site Organization's employees, and c)
19 Sponsor will not provide and Site Organization is not entitled to any of the usual and
20 customary rights, benefits or privileges of Sponsor's employees.

21 15. Site Organization shall not assign its rights nor delegate its duties
22 hereunder, or any interest herein, or any portion hereof, without the prior written consent
23 of Sponsor. Any attempted assignment or delegation shall be void, and any assignee or
24 delegate shall acquire no right or interest by reason of such attempted assignment or
25 delegation.

26 16. The Director of Parks, Recreation and Marine or any other designee of
27 Sponsor's City Manager shall administer this Agreement.

28 17. All notices required or any communication desired to be given hereunder

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1 shall be in writing and shall be personally delivered or deposited in the U.S. Postal Service,
2 first class, postage prepaid to the address first given herein for Site Organization and to
3 Sponsor c/o Department of Parks, Recreation and Marine, 2760 Studebaker Road, Long
4 Beach, California 90815-1697. Notice shall be deemed given on the date of deposit in the
5 mail or on the date of delivery, whichever applies.

6 18. The term of this Agreement shall commence at 12:01 a.m. on
7 June 18, 2007, and shall terminate at midnight on August 17, 2007, unless sooner
8 terminated as provided herein.

9 19. Sponsor shall have no liability to Site Organization if the vendor
10 supplying the food service fails to provide or delays in providing said food service.

11 20. Termination or expiration of this Agreement shall not terminate the rights
12 or liabilities of either party which rights or liabilities accrued or existed during the term of
13 the Agreement and prior to its termination or expiration.

14 IN WITNESS WHEREOF, the parties have caused this document to be

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1 executed with all formalities required by law as of the date first stated above.

2 LONG BEACH COMMUNITY DEVELOPMENT CORPORATION

3 April 23, 2007

By [Signature]
President

4 April 23, 2007

By [Signature]
Secretary/Treasurer

6 "Site Organization"

7 CITY OF LONG BEACH, a municipal corporation

8 May 18, 2007

By [Signature] **ASSISTANT**
City Manager

10 "Sponsor" **EXECUTED PURSUANT TO SECTION 301 OF THE CITY CHARTER.**

11 This Summer Food Program Sponsor/Site Agreement is hereby approved as
12 to form on May 1, 2007.

14 ROBERT E. SHANNON, City Attorney

15 By [Signature]
Senior Deputy

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