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SUMMER FOOD PROGRAM

SPONSOR/SITE AGREEMENT

34246

THIS AGREEMENT is made and entered, in duplicate, as of March 23, 2016 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 March 22, 2016 by and between the CITY OF LONG BEACH ("Sponsor") and BOYS & GIRLS CLUBS OF LONG BEACH ("Site Organization"), whose address is Dean A. Eastman/Fairfield Boys & Girls Club, 700 E. Del Amo Boulevard, Long Beach, California 90807.

WHEREAS, the California Department of Education ("CDE") has funds for a 2016 Summer Food Service Program for Children ("Program") to provide free meals to eligible children; and

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

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

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

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

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

1. Site Organization shall serve lunch to all needy children 1 to 18 years of age (or persons over 18 years of age if they are mentally or physically disabled and participating in a public or private nonprofit school program for the mentally or physically disabled), using Site Organization employees and volunteers, all of whom are subject to the management, direction, and control of Site Organization.

2. Sponsor shall provide to Site Organization, through Sponsor's vendor,

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

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

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

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

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

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

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

18 (a) Commercial general liability insurance (equivalent in scope to ISO form
19 CG 00 01 11 85 or CG 00 01 11 88) in an amount not less than One Million Dollars
20 (\$1,000,000.00) per each occurrence and Two Million Dollars (\$2,000,000.00)
21 general aggregate. Such coverage shall include but not be limited to broad form
22 contractual liability, cross liability, independent contractors' liability, and products
23 and completed operations liability and shall not exclude claims alleging abuse or
24 molestation. The Sponsor, its officials, employees and agents shall be named as
25 additional insureds by endorsement (on Sponsor's endorsement form or on an
26 endorsement equivalent in scope to ISO form CG 20 26 11 85), and this insurance
27 shall contain no special limitations on the scope of protection given to the Sponsor,
28 its officials, employees and agents.

1 (b) Workers' Compensation insurance as required by the Labor Code of the
2 State of California and employer's liability insurance in an amount not less than One
3 Million Dollars (\$1,000,000.00).

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

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

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

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

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

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

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

17 11. Sponsor retains the right to require Site Organization to replace any
18 employee or volunteer whom Sponsor determines is unsatisfactory because of personal
19 appearance, conduct or failure to properly serve the public. Sponsor shall notify Site
20 Organization in writing of such deficiencies and Site Organization shall replace the
21 employee or volunteer with a suitable employee or volunteer within forty-eight (48) hours
22 after the date of such notice.

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

28 13. Sponsor and Site Organization understand and agree that this

1 Agreement is contingent upon the execution of underlying agreements with the United
2 States, the State of California, or departments or agencies thereof. Consequently, neither
3 Sponsor nor Site Organization shall have any obligation to perform, and this Agreement
4 shall have no force and effect, until and unless such underlying agreements are executed.
5 Furthermore, Sponsor may terminate this Agreement if Site Organization fails to comply
6 with any underlying agreement.

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

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

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

21 17. All notices required or any communication desired to be given
22 hereunder shall be in writing and shall be personally delivered or deposited in the U.S.
23 Postal Service, first class, postage prepaid to the address first given herein for Site
24 Organization and to Sponsor c/o Department of Parks, Recreation and Marine, 2760
25 Studebaker Road, Long Beach, California 90815-1697. Notice shall be deemed given on
26 the date of deposit in the mail or on the date of delivery, whichever applies.

27 18. The term of this Agreement shall commence at 12:01 a.m. on June
28 20, 2016, and shall terminate at midnight on August 24, 2016, unless sooner terminated

OFFICE OF THE CITY ATTORNEY
CHARLES PARKIN, City Attorney
333 West Ocean Boulevard, 11th Floor
Lona Beach, CA 90802-4664

1 as provided herein.

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

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

7 IN WITNESS WHEREOF, the parties have caused this document to be
8 executed with all formalities required by law as of the date first stated above.

BOYS & GIRLS CLUBS OF LONG BEACH

9
10 March 28, 2016

By [Signature]
Name Claudia Torres
Title Director of Operations

11
12 March 28, 2016

By [Signature]
Name Stephanie Espinoza
Title Area Director

"Site Organization"

CITY OF LONG BEACH, a municipal corporation

13
14
15
16
17 April 19, 2016

By [Signature] Assistant City Manager
City Manager

EXECUTED PURSUANT
TO SECTION 301 OF
THE CITY CHARTER.

"Sponsor"

This Agreement is approved as to form on April 4, 2016.

CHARLES PARKIN, City Attorney

By [Signature]
Deputy

28