

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

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SUMMER FOOD PROGRAM
SPONSOR/SITE AGREEMENT
33880

THIS AGREEMENT is made and entered, in duplicate, as of April 14, 2015 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 24, 2015, by and between the CITY OF LONG BEACH ("Sponsor") and EDWIN & DOROTHY BAKER FOUNDATION at FIRST CONGREGATIONAL CHURCH OF LONG BEACH, ("Site Organization") whose address is 241 Cedar Avenue, Long Beach, CA 90802.

WHEREAS, the California Department of Education ("CDE") has funds for a 2015 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, Foundation 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, Foundation desires to participate in the Program; and

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

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

1. Foundation 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 Foundation employees and volunteers, all of whom are subject to the management, direction, and control of Foundation.

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

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

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

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

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

23 7. To the fullest extent permitted by California law, Site Organization shall
24 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
2 death arising in whole or in part from any negligent act or omission of Site Organization,
3 its officers, employees, or agents, or anyone under Site Organization's control
4 (collectively "Indemnitor"); Site Organization's breach of this Agreement;
5 misrepresentation; willful misconduct; and Claims by any employee of Indemnitor relating
6 in any way to worker's compensation. Independent of the duty to indemnify and as a
7 free-standing duty on the part of Site Organization, Site Organization shall defend City
8 and shall continue such defense until the Claim is resolved, whether by settlement,
9 judgment or otherwise. Site Organization shall notify the City of any claim within ten (10)
10 days. Likewise, City shall notify Site Organization of any claim, shall tender the defense
11 of such claim to Site Organization, and shall assist Site Organization, as may be
12 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
15 of this Agreement from insurance companies that are admitted to write insurance in
16 California or from authorized non-admitted insurance companies that have ratings of or
17 equivalent to 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
3 One 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
9 shall not be reduced, non-renewed or cancelled except after thirty (30) days prior written
10 notice to Sponsor, and shall be primary and not contributing to any other insurance or
11 self-insurance maintained by Sponsor. Site Organization shall notify the Sponsor in
12 writing within five (5) days after any insurance required herein has been voided by the
13 insurer or 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.
26 Site Organization shall make available to City's Risk Manager or designee all books,
27 records and other information relating to the insurance coverage required herein, during
28 normal business hours.

1 Any modification or waiver of the insurance requirements herein shall only
2 be made with the approval of City's Risk Manager or designee. Not more frequently than
3 once 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
8 as a limitation on liability relating to Site Organization's performance or as full
9 performance of or compliance with the indemnification provisions of this Agreement.

10 9. Foundation shall comply with all applicable laws, rules, and regulations,
11 and the directives or instructions issued by Sponsor and the CDE relating to the activities
12 or operations conducted herein. Failure to do so may result in the immediate termination
13 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 Foundation 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
20 Foundation in writing of such deficiencies and Foundation shall replace the employee or
21 volunteer with a suitable employee or volunteer within forty-eight (48) hours after the date
22 of such notice.

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

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

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

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

19 16. The Director of Parks, Recreation and Marine or any other designee of
20 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
24 Foundation 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 22,
28 2015, and shall terminate at midnight on August 21, 2015, unless sooner terminated as

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1 provided herein.

2 19. Sponsor shall have no liability to Foundation if the vendor supplying the
3 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
6 term 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.

Edwin & Dorothy Baker Foundation at
FIRST CONGREGATIONAL CHURCH OF
LONG BEACH

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11 April 14, 2015

By Nancy Valencia
Title: Director
"Site Organization"

CITY OF LONG BEACH, a municipal
Corporation

12
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16 June 12, 2015

By T. Sullivan
City Manager
"Sponsor" Assistant City Manager

EXECUTED PURSUANT
TO SECTION 301 OF
THE CITY CHARTER.

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20 This Agreement is approved as to form on May 26, 2015.

CHARLES PARKIN, City Attorney

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23 By [Signature]
Deputy

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