

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

SUMMER FOOD PROGRAM  
SPONSOR/SITE AGREEMENT

**31695**

THIS AGREEMENT is made and entered, in duplicate, as of May 18, 2010 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 23, 2010, by and between the CITY OF LONG BEACH, a municipal corporation ("Sponsor"), and CITY OF SIGNAL HILL ("Site Organization"), whose address is 2175 Cherry Avenue, Signal Hill, California 90755.

WHEREAS, the California Department of Education ("CDE") has funds for a 2010 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 eighteen (18) years of age and under (or persons over eighteen (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.

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

4                   3.     Delivery of meals shall be Monday through Friday to the following  
5 locations:

6                   A.     Signal Hill Park from 12:30 p.m. to 1:00 p.m., and

7                   B.     Discovery Park from 12:45 p.m. to 1:15 p.m.

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

11                  5.     Site Organization shall maintain and submit promptly such reports  
12 and records as Sponsor requires.

13                  6.     Site Organization shall promptly report to Sponsor any change in the  
14 number of meals required as attendance at Site Organization activities, programs,  
15 classes and the like fluctuates. Such report is exempt from the notice provision set forth  
16 in Section 17 hereof.

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

28                  8.     Site Organization shall indemnify and hold harmless the City, its

1 Boards, Commissions, and their officials, employees and agents (collectively in this  
2 Section "City") from and against any and all liability, claims, demands, damage, causes of  
3 action, proceedings, penalties, loss, costs, and expenses (including attorney's fees, court  
4 costs, and expert and witness fees) (collectively "Claims" or individually "Claim") to the  
5 extent such Claims or Claim arise from any negligent act or omission of Site  
6 Organization, its officers, employees, or agents, or anyone under Site Organization's  
7 control. Claims include allegations and include by way of example but are not limited to:  
8 Claims for property damage, personal injury or death arising in whole or in part from any  
9 negligent act or omission of Site Organization, its officers, employees, or agents, or  
10 anyone under Site Organization's control (collectively "Indemnitor"); Site Organization's  
11 breach of this Agreement; misrepresentation; willful misconduct; and Claims by any  
12 employee of Indemnitor relating in any way to worker's compensation. Independent of  
13 the duty to indemnify and as a free-standing duty on the part of Site Organization, Site  
14 Organization shall defend City and shall continue such defense until the Claim is  
15 resolved, whether by settlement, judgment or otherwise. Site Organization shall notify  
16 the City of any claim within ten (10) days. Likewise, City shall notify Site Organization of  
17 any claim, shall tender the defense of such claim to Site Organization, and shall assist  
18 Site Organization, as may be reasonably requested, in such defense.

19 9. Sponsor shall indemnify and hold harmless the Site Organization, its  
20 Boards, Commissions, and their officials, employees, and agents from and against any  
21 Claims or Claim to the extent such Claims or Claim arise from any negligent act or  
22 omission of Sponsor. Claims include allegations and include by way of example but are  
23 not limited to: Claims for property damage, personal injury or death arising in whole or in  
24 part from any negligent act or omission of Sponsor, its officers, employees, or agents, or  
25 anyone under Sponsor's control; Sponsor's breach of this Agreement;  
26 misrepresentations; willful misconduct; and Claims by any employee of Sponsor relating  
27 in any way to worker's compensation. Independent of the duty to indemnify and as a  
28 free-standing duty on the part of Sponsor, Sponsor shall defend Site Organization and

1 shall continue such defense until the Claim is resolved, whether by settlement, judgment,  
2 or otherwise. Sponsor shall notify Site Organization of any Claim within ten (10) days.  
3 Likewise, Site Organization shall notify Sponsor of any Claim, shall tender the defense of  
4 such Claim to Sponsor, and shall assist Sponsor, as may be reasonably requested, in  
5 such defense.

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

11 (a) Commercial general liability insurance (equivalent in scope to ISO form  
12 CG 00 01 11 85 or CG 00 01 11 88) in an amount not less than One Million Dollars  
13 (\$1,000,000.00) per each occurrence and Two Million Dollars (\$2,000,000.00)  
14 general aggregate. Such coverage shall include but not be limited to broad form  
15 contractual liability, cross liability, independent contractors liability, and products  
16 and completed operations liability. The Sponsor, its officials, employees and  
17 agents shall be named as additional insureds by endorsement (on Sponsor's  
18 endorsement form or on an endorsement equivalent in scope to ISO form CG 20  
19 10 11 85 or CG 20 26 11 85), and this insurance shall contain no special  
20 limitations on the scope of protection given to the Sponsor, its officials, employees  
21 and agents.

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

25 (c) Professional liability or errors and omissions insurance in an amount not  
26 less than One Million Dollars (\$1,000,000.00) per claim.

27 (d) If use of vehicles are necessary in the performance of this Agreement,  
28 commercial automobile liability insurance (equivalent in scope to ISO form CA 00

1           01 06 92), covering Auto Symbol 1 (Any Auto) in an amount not less than Five  
2           Hundred Thousand Dollars (\$500,000.00) combined single limit per accident.

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

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

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

28           Any modification or waiver of the insurance requirements herein shall only

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

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

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

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

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

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

27 15. Sponsor and Site Organization understand and agree that this  
28 Agreement is contingent upon the execution of underlying agreements with the United

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

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

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

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

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

26           20. The term of this Agreement shall commence at 12:01 a.m. on June  
27 21, 2010, and shall terminate at midnight on August 20, 2010, unless sooner terminated  
28 as provided herein.

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

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

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

June 2, 2010

CITY OF SIGNAL HILL  
By [Signature]  
Title: City manager

"Site Organization"

7.6, 2010

CITY OF LONG BEACH, a municipal Corporation  
By [Signature]  
**EXECUTED PURSUANT TO SECTION 301 OF THE CITY CHARTER**  
City Manager  
Assistant City Manager

"Sponsor"

This Agreement is approved as to form on June 10, 2010.

ROBERT E. SHANNON, City Attorney  
By [Signature]  
Deputy