

INDEPENDENT CONTRACTOR AGREEMENT

THIS AGREEMENT is made for good and sufficient consideration, by and between Little Italy Association of San Diego ("LIA"), and the San Diego Rescue Mission ("SDRM") (collectively, "the parties").

WHEREAS LIA desires to engage the services of SDRM; and

WHEREAS SDRM represents that SDRM possesses the requisite professional qualifications, experience and expertise to provide such professional services to LIA.

NOW THEREFORE, the parties hereto agree as follows:

1. Scope of Services

SDRM shall provide the following services as requested by LIA.

Intent: The San Diego Rescue Mission (SDRM) will provide outreach-oriented activities to invite people experiencing homelessness to engage in services or go to shelter. The intent is to assist the LIA in compassionately addressing homelessness while also enabling businesses to operate and maintain the vibrant atmosphere of Little Italy.

Schedule: Services will be provided 7 days-a-week.

Expectations:

- SDRM will provide 1.75 FTE of support. This will include an Outreach Coordinator available to receive calls when needed and an Outreach Worker. This team will provide seven-day coverage.
- SDRM's Outreach Team will check-in with designated staff from the LIA each day.
- SDRM will engage with people experiencing homelessness in a compassionate and trauma informed manner.
- SDRM will determine the person's level of interest in going to a shelter or enrolling in a program.
- SDRM will provide information and resources to the person.
- SDRM will provide street case management for those who are chronically homeless or otherwise unable to get into a shelter or program but are willing to end their homelessness.
- In situations where the person is interfering with a business, SDRM will engage and encourage the person to transition to a location that is less disruptive.
- SDRM will provide transportation to help people access a program or shelter and to make appointments to end their homelessness.
- SDRM will actively participate in City and Regional Homeless Outreach initiatives to make sure all available programs and resources are being accessed by those in LIA.
- SDRM will provide reporting on number of encounters and the outcomes of those encounters weekly.
- LIA will provide clothing to identify the SDRM team.
- LIA will provide access to an office space for SDRM.
- LIA will provide geographic areas of concern or focus as raised by members of the LIA.

2. Independent Contractor Status

SDRM is retained by LIA as an independent contractor, and not as an employee or agent of LIA, and shall be wholly responsible for SDRM's work, which work is not directed by LIA nor under its control. SDRM is not authorized to enter into contracts or agreements on behalf of LIA or to otherwise create obligations of LIA of any kind to third parties.

- a. Employees furnished by SDRM, if any, shall be deemed solely those of SDRM and under SDRM's exclusive control and SDRM shall assume exclusive responsibility for payment of the salaries or wages of said employees, and to satisfy any legal obligations or reports relating to their employment, including but not limited to Social Security, Unemployment Insurance, Workers' Compensation, federal or state tax law withholding requirements, tax obligations and any related reporting requirements.
- b. LIA shall make no state or federal unemployment compensation payments on behalf of SDRM or SDRM's employees or contract personnel. SDRM will not be entitled to these benefits in connection with work performed under this Agreement.
- c. SDRM understands that neither SDRM nor SDRM's employees or contract personnel are eligible to participate in any employee pension, health, vacation pay, sick pay, or other fringe benefit plan of LIA.

3. Term and Termination

The term of this Agreement shall be October 1, 2022 to September 30, 2023 (the "Term").

- a. Either party may terminate this agreement by providing 30 days advance written notice to the other party.
- b. In the event that SDRM materially breaches this agreement, LIA may terminate this agreement immediately without prior notice.
- c. SDRM shall be paid for any services not then in dispute which were properly rendered prior to termination. Termination shall not be cause to give either party hereto a claim for damages for work to be performed beyond the actual date of the termination.

4. Compensation and Payment

- a. LIA agrees to pay SDRM according to SDRM's fee schedule of \$12,000 monthly, but all such payments to SDRM shall not to exceed a total compensation of \$144,000 over the Term unless authorized by LIA in writing.
- b. SDRM shall be solely responsible for its expenses incurred during the performance of services hereunder, and LIA shall not be liable for any of SDRM's expenses, paid or incurred unless it expressly agrees to reimburse SDRM, in whole or in part for a specific expense incurred, in writing.
- c. SDRM shall furnish LIA with a complete and executed IRS Form W-9 upon execution of this Agreement. Notwithstanding any provision of this Agreement, LIA shall not be required to make any payment to SDRM until LIA has received such form.
- d. LIA will not: (i) withhold FICA (Social Security and Medicare taxes) from SDRM's payments or make FICA payments on SDRM's behalf; (ii) make state or federal

unemployment compensation contributions on SDRM's behalf, or (iii) withhold state or federal income tax from SDRM's payments.

- e. SDRM shall pay all taxes incurred while performing services under this Agreement-- including all applicable income taxes and, if SDRM is not a corporation, self-employment (Social Security) taxes. Upon demand, SDRM shall provide LIA with proof that such payments have been made.

5. Legal Compliance

- a. SDRM agrees to and represents and warrants to LIA that it will abide by any and all laws, regulations, or other legal requirements applicable to it performing the services described herein to LIA.
- b. SDRM represents and warrants that SDRM has complied with all federal, state, and local laws requiring business permits, certificates, and licenses required to carry out the services to be performed under this Agreement.

6. Indemnification

- a. SDRM hereby waives all claims against LIA for any injury or damage to any person or property from any cause whatsoever (other than LIA's or its agent's, SDRM's, or employee's negligence or willful misconduct) which arises out of or in connection with the matters covered by this Agreement.
- b. SDRM shall, to the maximum extent allowable by law, protect, defend, indemnify, and hold harmless LIA, New City America, Inc., and the City of San Diego, and each of the foregoing entities' respective officers, directors, employees, agents, volunteers, or representatives (collectively "Indemnitees") from and against any and all claims, demands, actions, suits, fines, penalties, judgments, amounts paid in settlement, losses, liabilities, or costs of any kind, including attorneys' fees and other litigation expenses ("Losses"), arising out of the performance of this agreement, including but not limited to Losses related to (i) any injury or damage to any person or property whatsoever arising out of or in connection with SDRM's acts or omissions in its performance of or failure to perform SDRM's services or obligations under this Agreement; (ii) any injury or damage to any person or property arising out of SDRM's acts relating to the transportation of any person, homeless or otherwise, into, within, or out of the Little Italy District; (iii) any breach of SDRM's representations or warranties under this Agreement; (iv) any failure of any waiver or release to fully and completely protect Indemnitees from any and all Losses; or (v) any combination thereof, except only to the extent that it arises from the negligence or willful misconduct of LIA.
- c. SDRM's obligation to protect, defend, and pay for the defense of the Indemnitees is in advance of, in addition to, and separate from the obligation to indemnify the Indemnitees as described in 6.b of this agreement. Notwithstanding SDRM's obligation to defend and pay for defense costs, each Indemnitee reserves the right to control its own defense at its option. However, SDRM will retain the right to select counsel provided by SDRM for the provisions in 6.b of this agreement.

- d. The provisions of this Section shall survive the expiration or termination of this Agreement with respect to any claims, liability, or loss arising out of or relating to facts, circumstances, or events occurring prior to such expiration or termination.

7. Insurance

- a. LIA shall not provide any insurance coverage of any kind for SDRM or SDRM's employees or contract personnel, including without limitation, workers' compensation insurance.
- b. SDRM shall obtain and maintain throughout the Term of this Agreement policies of insurance as required by law and by this Agreement as described more particularly below:
 - i. Commercial General Liability insurance: said policy shall be written with limits no less than \$2,000,000 per occurrence and \$4,000,000 general aggregate, specifically naming the Little Italy Association of San Diego, New City America, Inc., and the City of San Diego as additional insureds, and remaining in full force and effect for all occurrences and acts or omissions relating to SDRM's services under this Agreement. In connection with the foregoing insurance coverage, SDRM shall deliver to LIA a Certificate of Liability Insurance and corresponding Endorsement evidencing LIA's, New City America, Inc.'s, and the City of San Diego's insurance coverage at least three (3) days prior to undertaking to perform any services under this Agreement. SDRM's Insurance Requirements are further detailed and set forth in LIA's Insurance Requirements attached as Exhibit A to this Agreement and incorporated herein as express terms of this Agreement.
 - ii. Business Automobile Liability insurance: said policy shall be written with a combined single limit no less than \$1,000,000, and said policy endorse LIA as additional insured.
 - iii. Worker's Compensation insurance shall be written with limits in conformity with the laws of the state in which services are performed, but with no less than \$1,000,000 in Employers Liability coverage.
 - iv. Professional Liability insurance: said policy shall be written with limits no less than \$1,000,000 per claim.
- c. All policies must
 - i. be from qualified insurance carriers who are A.M. Best Company rated no less than "Secure Rating" of A- or better, and "Financial Size Category";
 - ii. be primary and noncontributory as to coverage which requires additional insured endorsement as described above. Any insurance or self-insurance maintained by the Indemnites, and/or their officers, officials, employees, volunteers, agents and representatives shall be excess of SDRM's insurance and shall not contribute with it;
 - iii. contain a waiver of subrogation rights by the insurer;

- iv. be on an occurrence form, with the exception of Workers' Compensation.
- d. SDRM hereby grants to the Indemnitees a waiver of any right to subrogation which any insurer of SDRM may acquire against any one or more of the Indemnitees by virtue of the payment of any Loss under SDRM's insurance. SDRM agrees to request any endorsement that may be necessary to affect this waiver of subrogation, but this waiver shall apply regardless of whether or not SDRM has received a waiver of subrogation endorsement from its insurer(s).
- e. Upon the execution of this Agreement, SDRM shall furnish to LIA all certificates of insurance and additional insured endorsements evidencing the required coverage on execution of this Agreement. SDRM shall maintain the following coverage with no less than the limits of liability specified throughout the term of this Agreement.
- f. The certificates of insurance shall provide that there can be no cancellation or reduction of coverage with at least 30 days' prior written notice to LIA. If such notice of cancellation is given, SDRM shall be required to obtain the same coverage prior to expiration of any other coverage and shall provide LIA with written proof of having obtained such coverage.
- g. Nothing in this Section 7 shall be construed to limit the indemnity obligations set forth in Section 6 above.

8. Reports and Ownership of Documents

SDRM, when requested, shall provide written reports to LIA with respect to the services rendered hereunder.

9. Confidentiality and Nondisclosure

A separate confidentiality and nondisclosure agreement is attached hereto and made a part hereof as though fully set forth in full; or

SDRM will hold in confidence any and all Confidential information of the other party and not disclose to any other person, including its own employees, agents, and volunteers, or any third party, without written permission of the of the other party. SDRM's confidentiality and nondisclosure obligation shall terminate at the expiration of the Contract or by the mutual written agreement of the parties that subsequent communications and activities shall not be covered. However, the confidentiality and nondisclosure obligation as it pertains to any and all Confidential Information heard, viewed, or otherwise received prior to the termination of this agreement shall continue in perpetuity, except only to the extent that SDRM can prove such information was either publicly available or SDRM's own proprietary information without any reference reasonably construed to identify LIA. Confidential Information shall mean all information, including without limitation that which is verbal, written, or in other physical or electronic form and is:

- a. Technical and nontechnical information including, without limitation, proprietary information, techniques, know-how, processes, software programs, software source

documents, and formulae related to the current, future, and proposed products and services of LIA and includes, without limitation, financial information, customer lists, business forecasts, sales and merchandising, and marketing plans and information; or

- b. Information related that would identify a client of any one of Company's programs; or
- c. Information related to the services contemplated as being provided under the Contract, including but not limited to compensation; or
- d. Disclosed verbally or in writing as "Confidential."

10. Assignment

SDRM may not assign or delegate any rights or obligations of this Agreement, in whole or in part, to any third party without the advance express written consent of LIA.

11. Conflict of Interest

SDRM shall timely disclose to LIA any relationship with any third party creating an actual or potential conflict of interest, including contracts, employment relationships, family and business associations by which SDRM benefits, directly or indirectly, or has an interest, financial or otherwise. SDRM represents that there is no actual conflict of interest between SDRM's other relationships with third parties and LIA.

12. Governing Law

This agreement shall be governed according to the laws of the State of California.

13. Attorneys' Fees

In any legal action to enforce the terms of this Agreement, the prevailing party shall be entitled to their reasonable attorneys' fees and costs of suit.

14. Entire Agreement

This agreement constitutes the entire understanding between the parties hereto and supercedes all previous agreements, promises, representations, understanding and negotiations, whether written or oral, including without limitation any previous draft version of this or any other document, including correspondence and emails. This Agreement shall not be modified except as in writing, executed and dated by both parties hereto.

15. Severability

If one or more provisions of this Agreement are held to be unenforceable under applicable law, then (i) such provision will be excluded from this Agreement, (ii) the balance of the Agreement will be interpreted as if such provision were so excluded and (iii) the balance of the Agreement will be enforceable in accordance with its terms.

16. Notices

Written notice by either party to the other shall be effective upon the date of personal delivery or five (5) business days after mailing by registered mail to:

LIA:
Marco Li Mandri

Chief Executive Administrator
marco@newcityamerica.com

and

Vice President of Programs
PO Box 80427 San Diego CA 92138
parmstrong@sdrescue.org

Christopher Gomez
District Manager
chris@littleitalysd.com

SDRM:
Paul Armstrong

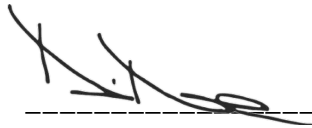
17. Counterparts and Copies. This Agreement may be executed in counterparts, each of which will be deemed an original, but all of which together will constitute one and the same instrument. Electronically transmitted or reproduced copies of signed documents are valid to the same extent as though bearing original signatures.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the date(s) below written:

LIA:

SDRM:

By:  _____

By:  _____

Name: Steven J. Galasso

Name: Donnie Dee

Title: President

Title: President/Chief Executive Officer

Date: 9/30/2022 _____

Date: 9/30/2022 _____