

30999

PUBLIC WALKWAYS OCCUPANCY PERMIT

1
2 This Public Walkways Occupancy Permit ("Permit") is granted this 6th day of
3 January, 2009, pursuant to minute order adopted by the City Council of the
4 City of Long Beach at its meeting held on December 2, 2008, to **ITABO**
5 **PARTNERSHIP**, whose address is 247 Pine Avenue, Long Beach, California 90802, as
6 the operator of **IT'S A GRIND COFFEE HOUSE** and lessee of premises at 247 Pine
7 Avenue, Long Beach, California 90802.

8 Permission is granted to Permittee to occupy the public right-of-way with the
9 following obstruction: **low barrier, four (4) tables and eight (8) chairs** at 247 Pine
10 Avenue, Long Beach, California 90802. Dimensions and location of the area to be
11 occupied are as shown on Exhibit "A", incorporated by reference and made a part of this
12 Permit; provided that all obstructions are placed only within the permit area shown on
13 Exhibit "A".

14 This Permit is granted with reference to the following facts:

- 15 1. Permittee proposes to occupy the public right-of-way as shown on
16 Exhibit "A"; and
- 17 2. The proposed occupancy will not now or at any time interfere with
18 continued public use of the public street right-of-way; and
- 19 3. That there is no present or foreseeable conflicting public need for the
20 proposed use of the public street right-of-way area and its temporary withdrawal from
21 public use will not be injurious or detrimental to the public; and
- 22 4. That this use of a portion of the public street right-of-way is consistent
23 with proper and lawful street uses and the use is approved; and
- 24 5. The City Engineer has determined that this use is in compliance with
25 Chapter 14.14 of the Long Beach Municipal Code, all related to temporary use of the public
26 rights-of-way.

27 The use of the public street right-of-way is granted upon and subject to the
28 following terms and conditions:

1 1. The minimum width of the public walkway shall be ten feet, or as
2 otherwise approved by the City Council pursuant to Chapter 14.14 of the Long Beach
3 Municipal Code, and any obstruction must permit at least five feet of unobstructed area of
4 public walkway.

5 2. The obstruction shall abut the property and not be located in a manner
6 which interferes with the flow of pedestrian or other traffic.

7 3. The maximum height of any such obstruction shall be six feet and all
8 such obstructions shall be entirely portable, except as specifically authorized by the City
9 Engineer.

10 4. This permit may be immediately suspended for a designated time
11 period at any time in the event that, in the discretion of the City Council or City Manager,
12 such obstruction would interfere with street improvement activities, construction activities,
13 cleaning efforts or other similar activities.

14 5. The obstruction shall be kept in a good state of repair and in a safe,
15 sanitary, and attractive condition.

16 6. Such obstruction may not be located within twenty feet from an
17 intersection (measured to the prolongation of the near curb of the intersecting street) or
18 within ten feet from a driveway or alley (measured to the near end of the fully depressed
19 portion of an apron-type driveway or to the prolongation of the near curb of the driveway)
20 unless otherwise approved by the City Council pursuant to the considerations specified in
21 Chapter 14.14 of the Municipal Code.

22 7. The public street right-of-way shall be used by Permittee only for the
23 obstruction described above and in the area shown on Exhibit "A".

24 8. The area in front of the entrance to the business shall not be
25 obstructed by barricades, chairs, tables or other furniture.

26 9. The Permittee shall place all obstructions, and any accessories or
27 equipment located within a dining or entertainment area, in strict accordance with Fire
28 Department and Health and Human Services Department standards and contained within

1 Chapter 14.14 of the City of Long Beach Municipal Code.

2 10. No surface improvements, included but not limited to special paving
3 surfaces, may be removed or altered by the Permittee unless approved in advance in
4 writing by the City Engineer.

5 11. The Permittee shall not allow cleaning chemicals, or other foreign
6 matter to flow into the parkway tree well, and shall otherwise protect the health of adjacent
7 street trees, and shall likewise prevent the discharge of litter, cleaning chemicals and all
8 other foreign matter to the storm drain system.

9 12. The Permittee shall protect any parkway trees in the immediate vicinity
10 of the permit area from damage due to the Permittee's cleaning or other activities on the
11 public walkway. The Permittee shall not interfere with City's access to parkway trees for
12 maintenance purposes. Any special maintenance of the parkway trees is the responsibility
13 of the Permittee and must be performed by a qualified landscape contractor acting under a
14 permit from City's Street Landscaping Division. City shall not be held financially
15 responsible for damage to Permittee's sidewalk furniture or awnings occurring in the
16 course of regular street tree maintenance.

17 13. Upon any termination of this Permit, whether by revocation or
18 otherwise, Permittee shall remove the obstructions authorized by this Permit at the sole
19 discretion of the City Engineer and shall otherwise restore the public street right-of-way to
20 a condition substantially the same as existed immediately prior to the occupancy provided
21 for by this Permit. Should Permittee fail or refuse to remove the obstructions, City may do
22 so and, in such event, the security deposit paid by Permittee shall be applied to City's
23 costs. Permittee shall reimburse City for any costs in excess of the security deposit. In the
24 event of removal by City of all or any portion of the obstructions, City shall not be liable for
25 any damage to or loss of any property of Permittee.

26 14. The following additional conditions shall apply to public walkway
27 occupancy permits for dining or entertainment areas:

28 A. Any dining or entertainment area shall be defined by placement

1 of sturdy fencing or other suitable barriers, not to exceed 48 inches in height, as approved
2 by the City Engineer. Such barriers may only be affixed to public property with the prior
3 approval of the City Engineer.

4 B. All accessories to dining or entertainment uses such as plants
5 or planter boxes, umbrellas, podiums, menu boards, musical equipment and heaters may
6 not exceed those enumerated on Exhibit "A", and must be located inside the barrier, as
7 shown on Exhibit "A".

8 C. All dining and entertainment which takes place on the public
9 right-of-way shall conform to the requirements of Chapter 8.80 of the municipal code
10 regarding noise. Complaints regarding noise shall be logged by city staff and may be the
11 basis for suspension, cancellation, or non-renewal of a permit.

12 D. The Permittee shall be responsible for cleaning the public
13 walkway occupied by a dining or entertainment area.

14 15. Any permit issued within the downtown area as defined on Exhibit "B"
15 and made a part of this permit shall comply with all of the foregoing requirements and the
16 following additional requirements:

17 A. No tents or windbreaks may be used in, over, or around dining
18 or entertainment areas.

19 B. Temporary banners, not exceeding the height of the barrier and
20 attached to the barrier are permitted for a two-week period no more than four times per
21 year.

22 C. Menu boards must be portable, located within the dining area,
23 and must not exceed five feet, six inches tall. Menu boards may be either a single pole
24 pedestal of painted metal or a board attached to the inside of the barrier, parallel to the
25 barrier.

26 D. The following are prohibited on the public walkway in the
27 downtown area: television monitors, canopies and A-frame signs.

28 Upon expiration, a new permit must be obtained on the basis of a new

1 application and payment of a new fee and any security deposit amount due. Renewal of
2 the permit is not automatic and there is no right or entitlement to any use of the public right-
3 of-way. Security deposits may be adjusted from year to year based on permit compliance
4 and enforcement cost history. This Permit shall never be construed as the grant by City of
5 any right to permanently use or occupy all or any portion of the public right-of-way; nor
6 shall it ever be construed as a waiver on the part of City, or as an estoppel against it, which
7 would in any manner whatsoever bar or limit, or otherwise prejudice, its right to at any time
8 whatsoever require a discontinuance of the use or occupancy of all or any part of the public
9 street right-of-way, the removal therefrom of all or any obstructions erected or maintained
10 under this Permit and the restoration of such public street right-of-way to a clean condition,
11 all at the sole cost and expense of Permittee.

12 Notices of violation of any of the terms and conditions of this permit may be
13 issued by the City of Long Beach. Within the downtown area as defined on Exhibit "B",
14 preliminary informal notices may be issued by Downtown Long Beach Associates. The
15 enforcement process is set forth on Exhibit "C", attached hereto, and made a part of this
16 permit. Notwithstanding the above, City may revoke this Permit at any time by giving thirty
17 (30) days written notice to Permittee or cancel the permit for noncompliance with its terms.
18 Such notice shall be signed by the City Manager, postage pre-paid, and addressed to
19 Permittee at its address provided above.

20 Permittee accepts this public right-of-way in its present condition and agrees
21 to maintain the same in a safe, clean, and orderly condition. Any and all uses made of the
22 public right-of-way shall be at the sole risk, cost, and expense of Permittee. Permittee, by
23 its acceptance of this Permit, agrees to indemnify, defend, save and keep City, its officers,
24 agents, and employees free and harmless from and against any and all liability as well as
25 from and against any and all loss, claims, demands, damages, expenses and costs of
26 whatsoever nature arising out of or in any manner resulting, directly or indirectly, from
27 Permittee's operations on or the condition, use or misuse of the public street right-of-way,
28 including liability, claims or damages to or as a result of any structures or fixtures on the

1 public street right-of-way or appurtenances to it.

2 In partial performance of this obligation, Permittee shall obtain and keep in
3 full force and effect such public liability insurance and property damage insurance as
4 required by the Long Beach Municipal Code.

5 Nothing in this Permit shall be construed to excuse compliance by Permittee
6 with any and all of the laws and ordinances of City and State; neither shall this Permit be
7 deemed to obviate the necessity of Permittee's obtaining such other permits or licenses as
8 are required to conduct specific activities within the area, including but not limited to
9 entertainment or the sale, service or consumption of alcoholic beverages.

10 16. The terms of this permit shall be enforced by the procedure set forth
11 on Exhibit "C", attached and made a part of this permit.

12 In case suit shall be brought for the recovery of possession of all or any
13 portion of the public right-of-way or because of the breach of any covenant contained in
14 this Permit to be kept and performed on the part of Permittee, Permittee shall pay to City
15 reasonable attorneys' fees which shall be fixed by the court.

16 Permittee shall not assign this Permit, or any interest in it, nor shall this
17 Permit, or any interest in it, be subject to transfer or assignment by order of any court. Any
18 such transfer or assignment shall not create any right whatsoever in the transferee or
19 assignees and shall entitle the City Manager, at his discretion, to terminate this Permit.

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1 The acceptance of this Permit by Permittee shall be endorsed on this Permit
2 and shall be an acceptance by Permittee of all of the terms and conditions of this Permit
3 and an agreement to abide and comply with it. Permittee further acknowledges that
4 Permittee is aware of the requirements of Long Beach Municipal Code Chapter 14.14, and
5 that Permittee shall conduct all activities hereunder in compliance with such chapter.

ITABO PARTNERSHIP

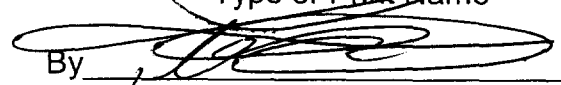
6
7 September 19, 2008

By 

Wilfred Diaz

Type or Print Name

8
9
10 September 19, 2008

By 

Lazara Diaz

Type or Print Name

"PERMITTEE"

CITY OF LONG BEACH, a municipal corporation

11
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14
15 Jan 8, 2008

By  Assistant City Manager


City Manager

"CITY"

RECORDED PERMITTEE
TO SECTION 501 OF
THE CITY CHARTER.

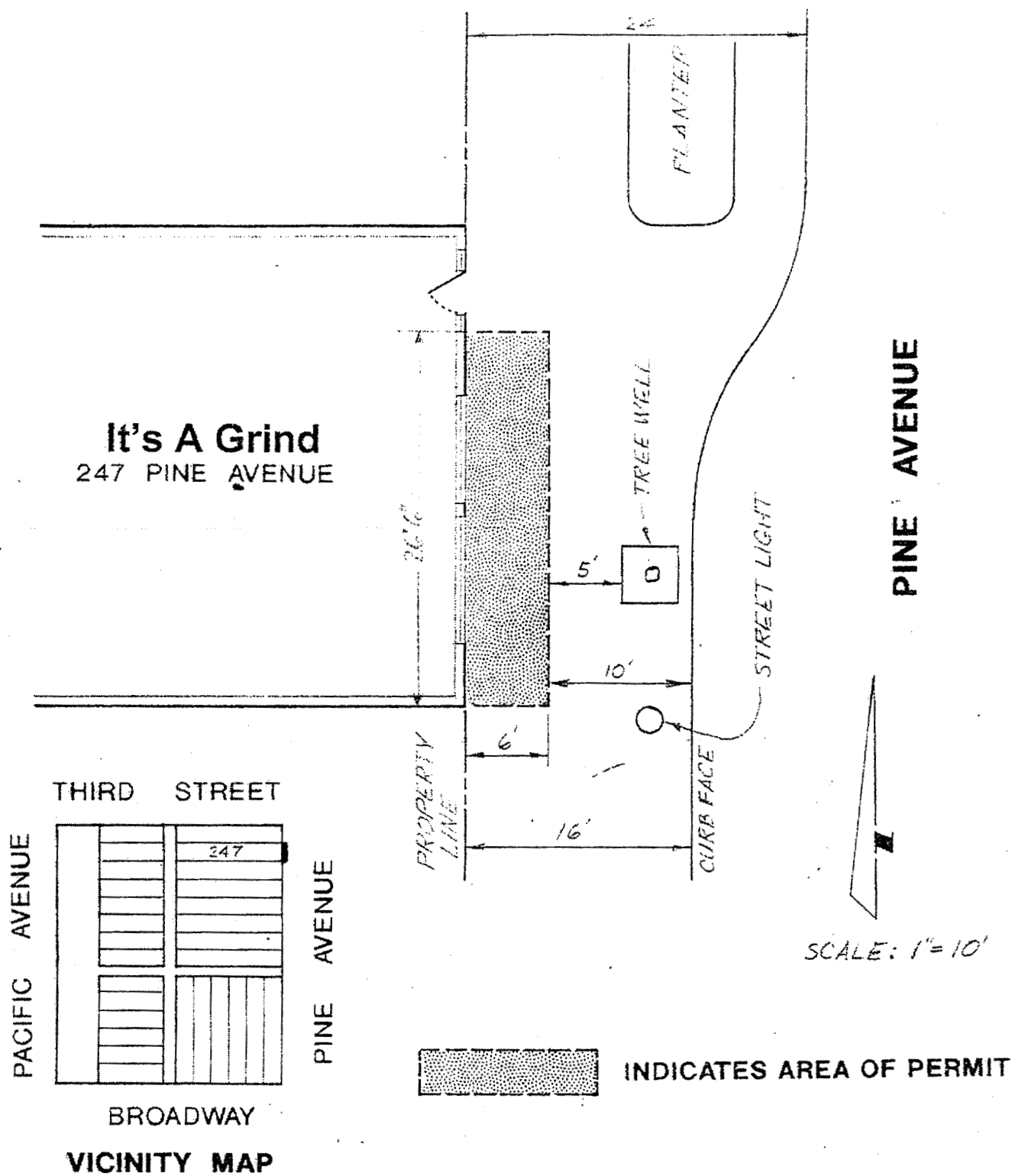
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19 Approved as to form this 22nd day of December, 2008.

ROBERT E. SHANNON, City Attorney

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23 By 

Deputy City Attorney

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



CITY OF LONG BEACH - CALIFORNIA
DEPARTMENT OF PUBLIC WORKS, ENGINEERING BUREAU

PUBLIC WALKWAYS OCCUPANCY PERMIT

It's A Grind
247 PINE AVE

EXHIBIT A

List of Approved Furnishings and Accessories
(Attachment to Public Walkways Occupancy Permit for Sidewalk Dining Purposes)

Restaurant: It's a Food Permittee: Wilford Diaz + Lazara Diaz
Address: 247 Pine Ave Telephone: (213) 399-7052

Tables number: X 4

Chairs number: X 8

Umbrella(s) height & number: _____

Heater(s) height & number: _____

Menu board
note: maximum height of 5 ft 6 in, maximum width of 2 ft & none permitted in the coastal zone

Waiter station size: _____

Planters for trees or other greenscaping describe: _____

Other: _____

We intend to make occasional use of the permit area for live or recorded entertainment (Note: A separate entertainment permit is required).

The following are prohibited:

- canopies (ground supported)
- television monitors

Permittee signature: Wilford Diaz Date: 4/10/08

Print name here: Wilford Diaz

This list of furnishings and accessories is effective only when attached to a completed Public Walkways Occupancy Permit.

EXHIBIT "B"

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"Downtown area" means the area bounded northerly by the centerline of Tenth Street; westerly by the centerline of Maine Avenue north of First Street, and the centerline of Golden Avenue south of First Street and the centerline of Golden Shore and its southerly prolongation; easterly by the centerline of Lime Avenue north of First Street and the centerline of Alamitos Avenue and its southerly prolongation south of First Street; southerly by the mean high tide line of the Pacific Ocean and its prolongation across the entrance to Pacific Terrace Harbor and Queen's Way Landing Boat Basin.

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

EXHIBIT "C"

PUBLIC WALKWAYS OCCUPANCY PERMITS
ENFORCEMENT PROCESS

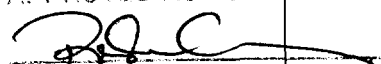
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1. Letter of information sent to permittee regarding Municipal Code requirements and requested to correct an observed violation of permit conditions.
 - If not remedied in 10 working days, send official Notice of Violation.
2. Notice of Violation
 - Indicates that permittee can be found in default for failure to comply with permit conditions per Municipal Code Section 14.14.090.
 - Notes that uncorrected violations will be reported to the City Council at the next permit application.
 - Alerts permittee that the Alcoholic Beverage Control (ABC) will be notified of all permits declared in default.
 - If violation of permit conditions is not corrected within 10 working days, send Second Notice of Violation by certified mail.
 - Copies of Notice of Violation to be sent to the City Manager, Downtown Long Beach Associates (DLBA) and the Redevelopment Agency.
3. Second Notice of Violation
 - Inform permittee that "On (date 10 working days hence) you will receive a Notice of Default if permit violations not corrected."
 - If permit violations not corrected within 10 working days, send Notice of Default by certified mail.
 - Copies of Second Notice of Violation to be sent to the City Manager, DLBA and the Redevelopment Agency.
4. Notice of Default by Department of Public Work
 - Provides permittee 10 working days to remedy violation.
 - "If permittee fails or refuses to remedy the default within the time specified, the right of the permittee to use the public walkway shall cease and City shall have the right to remove the public walkway obstruction at permittee's expense" (LBMC 14.14.090).
 - If a Notice of Default is issued, the security deposit that was paid with the permit application will be forfeited.
 - Second ABC notice of permit status upon actual default.
 - City Manager, DLBA and Redevelopment Agency informed when final default occurs.
5. City pick-up of obstructions at permittee's expense and/or possible legal action to restrain use of sidewalk by the City Prosecutor.
6. Prior to New Permit Issuance
 - Payment of new permit processing fee and security deposit.
 - Payment of any fees, damages, or City costs assessed for prior code enforcement actions.

ACORD CERTIFICATE OF LIABILITY INSURANCE		DATE (MM/DD/YY) 08/13/2008
PRODUCER The Kelly Agency 201 covina ave ste#3 Long Beach CA 90803 562-434-0441	THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.	
INSURED ITABO PARTNERSHIP DBA: IT'S A GRIND 247 PINE AVE. LONG BEACH, CA 90802	INSURERS AFFORDING COVERAGE	
	INSURER A: FARMERS INSURANCE CO. INSURER B: _____ INSURER C: _____ INSURER D: _____ INSURER E: _____	

COVERAGES


THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. AGGREGATE LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YY)	POLICY EXPIRATION DATE (MM/DD/YY)	LIMITS
A	GENERAL LIABILITY <input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS MADE <input type="checkbox"/> OCCUR <input checked="" type="checkbox"/> \$275,000 PP <input checked="" type="checkbox"/> LOSS OF INC. A GEN'L AGGREGATE LIMIT APPLIES PER: <input checked="" type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC	604666317	07/16/08	07/16/09	CASH OCCURRENCE \$ 1,000,000
					FIRE DAMAGE (Any one fire) \$ _____
					MED EXP (Any one person) \$ 5,000
					PERSONAL & ADV INJURY \$ _____
					GENERAL AGGREGATE \$ 2,000,000
					PRODUCTS - COM/OP AGG \$ 2,000,000
	AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> SCHEDULED AUTOM <input type="checkbox"/> HIRED AUTOS <input type="checkbox"/> NON OWNED AUTOS	APPROVED AS TO SUFFICIENCY  RISK MANAGER CITY OF LONG BEACH			COMBINED SINGLE LIMIT (Ea accident) \$ _____
					BODILY INJURY (Per person) \$ _____
					BODILY INJURY (Per accident) \$ _____
					PROPERTY DAMAGE (Per accident) \$ _____
	GARAGE LIABILITY <input type="checkbox"/> ANY AUTO				AUTO ONLY - EA ACCIDENT \$ _____
					OTHER THAN AUTO ONLY EA ACC \$ _____
					AGG \$ _____
	EXCESS LIABILITY <input type="checkbox"/> OCCUR <input type="checkbox"/> CLAIMS MADE <input type="checkbox"/> DEDUCTIBLE RETENTION \$ _____				FACH OCCURRENCE \$ _____
					AGGREGATE \$ _____
					\$ _____
					\$ _____
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY				WC STATUTORY LIMITS OTH-ER \$ _____
					E.L. FACH ACCIDENT \$ _____
					E.L. DISEASE - EA EMPLOYEE \$ _____
					E.L. DISEASE POLICY LIMIT \$ _____
	OTHER				

DESCRIPTION OF OPERATIONS/LOCATIONS/VEHICLES/EXCLUSIONS ADDED BY ENDORSEMENT/SPECIAL PROVISIONS

ADDITIONAL INSURED: CITY OF LONG BEACH, ITS BOARDS AND COMMISSIONS, AND THEIR OFFICIALS, EMPLOYEES AND AGENTS.

PERSONAL CONTENTS DEDUCTIBLE: \$1,000

CERTIFICATE HOLDER CITY OF LONG BEACH OFFICE OF THE CITY ENGINEER 333 WEST OCEAN BLVD., 10TH FLOOR LONG BEACH, CA 90802 ATTN: SHERBERT JONES	ADDITIONAL INSURED, INSURER LETTER: _____
CANCELLATION	
SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING INSURER WILL ENDEAVOR TO MAIL <u>30</u> DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, BUT FAILURE TO DO SO SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE INSURER, ITS AGENTS OR REPRESENTATIVES.	
AUTHORIZED REPRESENTATIVE 	

August 22, 20 08
ROBERT E. SHANNON, City Attorney
By _____
LINDA TRANG
DEPUTY CITY ATTORNEY

APPROVED AS TO SUFFICIENCY
Michael Alio
RISK MANAGER

CITY OF LONG BEACH

DEPARTMENT OF PUBLIC WORKS ATTN: RIGHT-OF-WAY COORDINATOR

DATE: 7/30/08

333 West Ocean Boulevard, 10th Floor • Long Beach, California 90802 • (562) 570-6075 FAX (562) 570-3176

General Liability Endorsement – Public Walkways Occupancy Permits

Minimum Limits: \$1,000,000 per occurrence, \$2,000,000 general aggregate

A. GENERAL LIABILITY POLICY INFORMATION

- Insurance Company Farmers Insurance
- Policy No. 604666317 Policy Term (from) 7-16-08 (to) 7-16-09
- Endorsement effective date 7-16-08 Endorsement expiration date 7-16-09
- Name of Insured I tabo Partnership
- Address of Named Insured 247 Pine Av. L.B. CA 90802
- Address of Permitted Operations Same
- Deductible or Self-insured Retention (nil unless otherwise specified) \$ NA
- Policy Limits: Occurrence \$ 1,000,000 General Aggregate: \$ 2,000,000
- Policy Form equivalent to: CG 00 01 _____ CG 00 02 _____ GL 00 02 _____

B. POLICY AMENDMENTS

This endorsement is issued in consideration of the policy premium. Notwithstanding any inconsistent statement in the policy to which this endorsement is attached or any other endorsement attached thereto, it is agreed as follows:

- ADDITIONAL INSURED.** The City of Long Beach, its boards and commissions, and their officials, employees, and agents are included as additional insured with respect to all loss, liability, claims, demands causes of action, damages, settlement, expenses, and costs (including but not limited to attorney's fees and defense and investigation expenses) arising out of, or in any manner incident to, operations performed by or on behalf of the Named Insured related to the permit issued by the City.
- PRIMARY AND NONCONTRIBUTORY COVERAGE.** The coverage afforded by this policy to the City, its boards and commissions, and their officials, employees and agents shall be primary insurance. Any other insurance or self-insurance maintained by the City, its boards, officials, employees, and agents shall be in excess of this insurance and not contribute to it.
- SEVERABILITY OF INTERESTS.** The insurance afforded by this policy applies separately to each insured that is seeking coverage or against whom a claim is made or a suit is brought, except with respect to the insurer's limit of liability.
- CROSS LIABILITY.** The naming of more than one insured under this policy shall not, for that reason alone, extinguish any rights of one insured against another, subject to the insurer's limit of liability.
- CANCELLATION NOTICE:** This insurance shall not be cancelled, nonrenewed, or reduced in coverage or limits except after thirty (30) days prior written notice has been given to the City (ten (10) days prior written notice if the policy is cancelled for nonpayment of premium). Such notice shall be addressed to the City of Long Beach at the address above.

C. INCIDENT AND CLAIM REPORTING PROCEDURES

Incident and claims are reported to the insurer at:

ATTENTION: Troy A. Kelly - Agent Kelly Agency
(Name) (Title) (Company)
ADDRESS: 201 Covina Ave. #3 L.B. CA 90803
TELEPHONE: (562) 434-0441 FAX: (562) 434-1782

D. SIGNATURE OF INSURER OR AUTHORIZED REPRESENTATIVE OF THE INSURER

I, (print name) Troy A. Kelly, warrant that I have authority to bind the insurance company listed above in item A.1. and by my signature hereon do so bind this company.

SIGNATURE OF AUTHORIZED REPRESENTATIVE (original signature required) _____ DATE 7-25-08

TITLE: Agent ORGANIZATION: Farmers Ins.

ADDRESS 201 Covina Av.

TELEPHONE: (562) 434-0441 FAX NO. (562) 434-1782