

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

PUBLIC WALKWAYS OCCUPANCY PERMIT
(With Parklet)

P 7 00040

This Public Walkways Occupancy Permit ("Permit") is granted this 1ST day of July, 2015, pursuant to minute order adopted by the City Council of the City of Long Beach at its meeting held on December 16, 2014, to DISTRICT WINE INC., a California corporation ("Permittee"), whose address is 144 Linden Avenue, as the operator of District Wine and lessee of premises at 144 Linden Avenue, Long Beach, California.

Permission is granted to Permittee to occupy the public right-of-way, including a temporary sidewalk extension ("Parklet"), and the following obstruction: **low barrier, eight (8) tables, thirty-four (34) chairs, two (2) ten-foot (10') umbrellas, three (3) eight-foot (8') heaters, one (1) planter to define the edge of the dining area and parklet, three (3) couches, two (2) bar counters, and a railing to define the edge of the dining area** at 144 Linden Avenue, Long Beach, California. Dimensions and location of the area to be occupied are as shown on Exhibit "A", incorporated by reference and made a part of this Permit; provided that all obstructions are placed only within the permit area shown on Exhibit "A".

This Permit is granted with reference to the following facts:

1. Permittee proposes to occupy the public right-of-way as shown on Exhibit "A"; and
2. The proposed occupancy will not now or at any time interfere with continued public use of the public street right-of-way; and
3. That there is no present or foreseeable conflicting public need for the proposed use of the public street right-of-way area and its temporary withdrawal from public use will not be injurious or detrimental to the public; and
4. That this use of a portion of the public street right-of-way is consistent with proper and lawful street uses and the use is approved; and
5. The City Engineer has determined that this use is in compliance with

1 Chapter 14.14 of the Long Beach Municipal Code, all related to temporary use of the
2 public rights-of-way; and

3 6. The Permittee shall obtain a public works street improvement permit
4 required under Chapter 14.14 of the Long Beach Municipal Code, prior to construction
5 and installation of the proposed Parklet.

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

8 1. The minimum width of the public walkway shall be ten (10) feet, or as
9 otherwise approved by the City Council pursuant to Chapter 14.14 of the Long Beach
10 Municipal Code, and any obstruction must permit at least five (5) feet of unobstructed
11 area of public walkway.

12 2. The obstruction shall not be located in a manner which interferes
13 with the flow of pedestrian or other traffic.

14 3. The maximum height of any such obstruction shall be six (6) feet and
15 all such obstructions shall be entirely portable, except as specifically authorized by the
16 City Engineer.

17 4. This Permit may be immediately suspended for a designated time
18 period at any time in the event that, in the discretion of the City Council or City Manager,
19 such obstruction would interfere with street improvement activities, construction activities,
20 cleaning efforts or other similar activities.

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

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

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

27 8. The Permittee shall place all obstructions, and any accessories or
28 equipment located within a dining or entertainment area, in strict accordance with all

1 standards established by the Fire Department and Health and Human Services
2 Department and contained within Chapter 14.14 of the City of Long Beach Municipal
3 Code.

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

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

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

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

28 13. Additional guidelines and conditions set forth in Exhibit "D", attached

1 hereto and incorporated by reference, shall apply to public walkways occupancy permits
2 that include areas provided by a Parklet.

3 14. The following additional conditions shall apply to public walkways
4 occupancy permits for dining or entertainment areas:

5 A. Any dining or entertainment area shall be defined by
6 placement of sturdy fencing or other suitable barriers, as approved by the City Engineer.
7 Such barriers may only be affixed to public property with the prior approval of the City
8 Engineer.

9 B. All tables and chairs and any other accessories to dining or
10 entertainment uses may not exceed those enumerated on Exhibit "A", and must be
11 located inside the permitted area, as shown on Exhibit "A".

12 C. All dining and entertainment which takes place on the public
13 right-of-way shall conform to the requirements of Chapter 8.80 of the Long Beach
14 Municipal Code regarding noise. Complaints regarding noise shall be logged by city staff
15 and may be the basis for suspension, cancellation, or non-renewal of a permit.

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

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

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

23 B. Temporary banners, not exceeding the height of the barrier
24 and attached to the barrier are permitted for a two (2) week period no more than four (4)
25 times per year.

26 C. Menu boards must be portable, located within the dining area,
27 and must not exceed five (5) feet, six (6) inches tall. Menu boards may be either a single
28 pole pedestal of painted metal or a board attached to the inside of the barrier, parallel to

1 the barrier.

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

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

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

25 18. Permittee accepts this public right-of-way in its present condition and
26 agrees to maintain the same in a safe, clean, and orderly condition. Any and all uses
27 made of the public right-of-way shall be at the sole risk, cost, and expense of Permittee.
28 Permittee, by its acceptance of this Permit, agrees to indemnify, defend, save and keep

1 City, its officers, agents, and employees free and harmless from and against any and all
2 liability as well as from and against any and all loss, claims, demands, damages,
3 expenses and costs of whatsoever nature arising out of or in any manner resulting,
4 directly or indirectly, from Permittee's operations on or the condition, use or misuse of the
5 public street right-of-way, including liability, claims or damages to or as a result of any
6 structures or fixtures on the public street right-of-way or appurtenances to it.

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

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

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

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

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

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CHARLES PARKIN, City Attorney
333 West Ocean Boulevard, 11th Floor
Long Beach, CA 90802-4664

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


DISTRICT WINE INC., a California corporation

By 
Angela Mesna, President

By 
Mark Dunton, Secretary

"PERMITTEE"

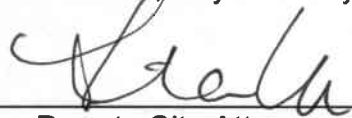
CITY OF LONG BEACH, a municipal corporation

7/1, 2015 By 
City Manager

"CITY"

Approved as to form this 11th day of June, 2015.

CHARLES PARKIN, City Attorney

By 
Deputy City Attorney

DIRECTORS' CONSENT
UNANIMOUS WRITTEN CONSENT OF DIRECTORS
IN LIEU OF ANNUAL MEETING


WAIVER OF NOTICE

WE, THE UNDERSIGNED, constituting the entire Board of Directors of **District Wine Inc.**, a **California Corporation**, DO HEREBY WAIVE NOTICE of the time, place, and purpose of the annual meeting of the Board of Directors of **District Wine Inc.** and hereby unanimously consent in writing to the actions taken as detailed below.

Dated: September 20, 2013



Angela Mesna, Director and Vice Chairman
of the Board



Mark Dunton, Director and Chairman of the
Board

RESOLUTIONS

WE, THE UNDERSIGNED, constituting the entirety of the Board of Directors of **District Wine Inc.**, in lieu of the annual meeting of the Board of Directors, unanimously consent in writing to the following resolutions:

ELECTION OF OFFICERS

RESOLVED, that the following persons, being qualified for the positions, were nominated to and accepted the officer positions affixed next to their names, to serve for one year and until successors are chosen and qualify:

Angela Mesna

President, Chief Executive Officer, and Chief
Financial Officer

Mark Dunton

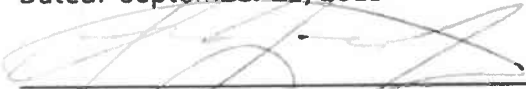
Secretary and Treasurer

APPROVAL OF FURTHER ACTION

RESOLVED, that the appropriate officers of the Corporation shall be, and the same hereby are, authorized, empowered, and directed to take all necessary and appropriate action, including the expenditure of funds, in order to fully and expeditiously effectuate the foregoing resolutions.

WE, THE UNDERSIGNED, constituting the entirety of the Board of Directors of **District Wine Inc.**, unanimously approve and consent to the foregoing resolutions.

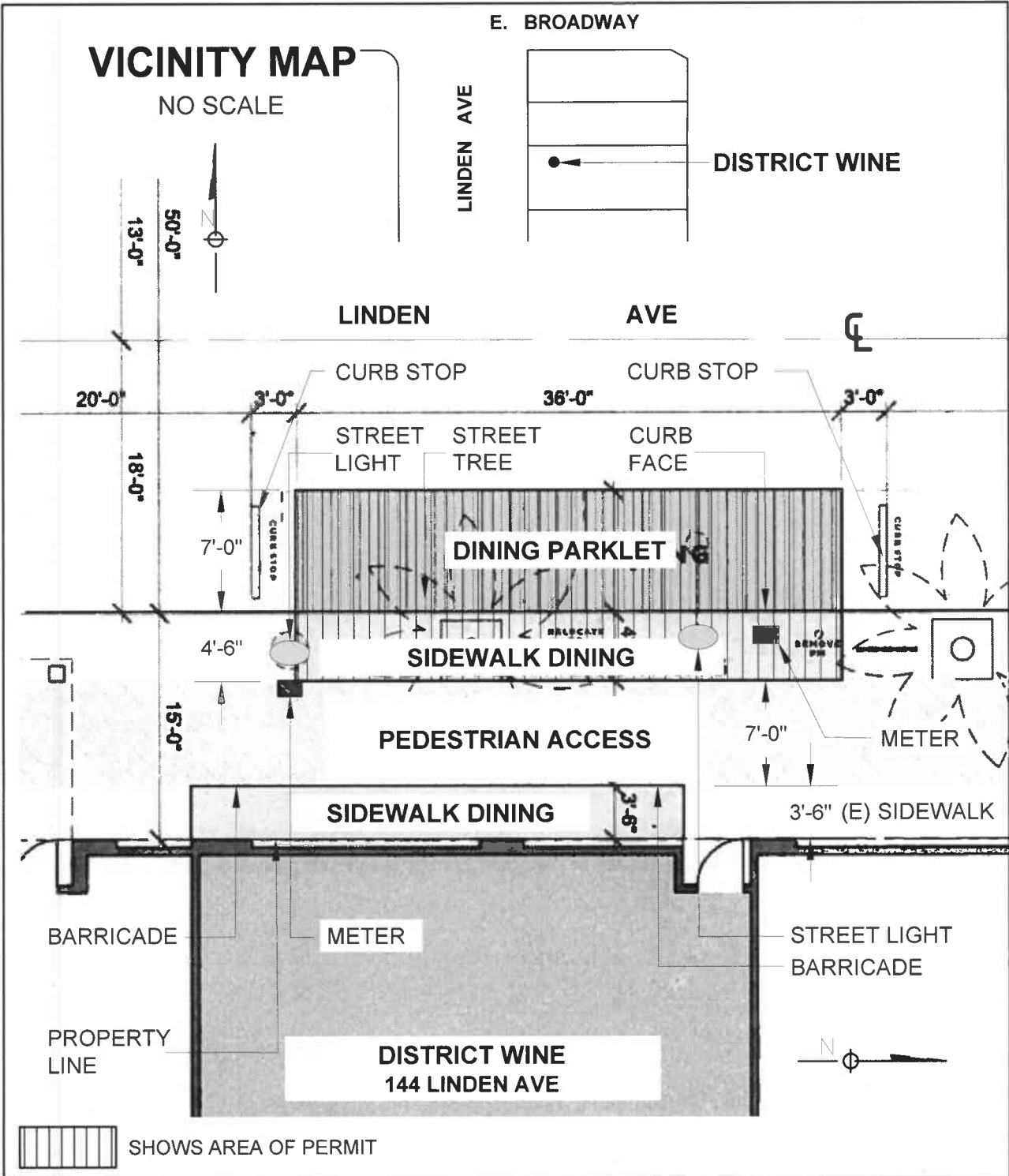
Dated: September 20, 2013



Angela Mesna, Director and Vice Chairman
of the Board



Mark Dunton, Director and Chairman of the
Board



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

PUBLIC WALKWAYS OCCUPANCY

PERMIT
DISTRICT WINE
144 Linden Ave

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

Restaurant: District Wine Permittee: Angela Mesna

Address: 144 Linden Avenue Telephone: [562] 612-0411

X Tables
number: 8

X Chairs
number: 34

X Umbrella(s)
height & number: 2 - 10'

X Heater(s)
height & number: 3 - 8'

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

____ Waiter station
size: _____

~~1~~*

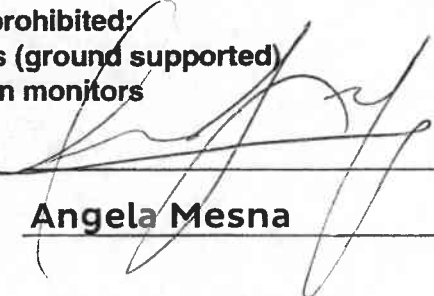
Planters for trees or other greenscaping
describe: Planters to define the edge of the dining area and parklet.
Plants will be drought tolerant and/or native.

~~X~~

Other: 3 Couches, Bar Counters [low and high], and railing to define the
edge of the dining area. The parklet will be designed to insulate
diners from car traffic while limiting vision obstructions.

____ 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: 

Date: 6/11/14

Print name here: Angela Mesna

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 Alamos 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.

EXHIBIT "C"

**PUBLIC WALKWAYS OCCUPANCY PERMITS
ENFORCEMENT PROCESS**

1. Letter of information sent to Permittee regarding Long Beach Municipal Code requirements and requested to correct an observed violation of permit conditions.
 - If not remedied in ten (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 Long Beach 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 ten (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 ten (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 ten (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.

EXHIBIT "D"

GUIDELINES AND CONDITIONS FOR
TEMPORARY SIDEWALK EXTENSION
("PARKLET")

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1. Applicants for a Parklet shall work with the applicable community organization(s) affected by the installation of a Parklet and submit written evidence showing their approval of (or lack of objection to) parklet installation and the loss of parking spaces.
2. Prior to the installation of a Parklet, complete plans specifying the deck and barrier components and their installation details shall be reviewed and approved by the City Engineer, and a public works street improvement permit shall be obtained from the Department of Public Works Construction Services Division in accordance with Chapter 14.08 of the Long Beach Municipal Code.
3. The Permittee shall be responsible for temporary removal and re-installation of the Parklet due to any permitted construction activity, and shall also be responsible for any damage to any facilities of the City, including but not limited to, the Department of Public Works, the Long Beach Water Department, and public utility companies due to this occupancy.
4. The Permittee shall comply with all terms and conditions of the public works street improvement permit issued for construction and installation of the Parklet, including but not limited to the following, subject to change at the City Engineer's discretion:
 - The Parklet permitted herein shall be confined to the area shown on the plan submitted by the Permittee and approved by the Department of Public Works.
 - The Parklet site shall be located at least one (1) parking spot in from a corner or protected by a bollard, sidewalk bulb-out, or other similar feature, if located at the corner.
 - The street has parking lanes that will not become a use lane during morning or afternoon peak hours, and the Parklet may not extend beyond seven feet (7') from the curb line where there is parallel parking, or fifteen feet (15') from the curb line where there is diagonal parking.
 - Parklets shall be required to have solid edging, such as substantial planters, and a vertical element at least five feet (5') tall at the leading edge of the Parklet (with respect to the direction of travel), which may consist of plant material in a planter. Other safety elements, such as reflective tape, soft hit posts, and wheel stops may be required by the City Traffic Engineer.
 - Parklets shall not be allowed in front of a fire hydrant, or over a manhole or public utility valve or cover.
 - All elements of the above mentioned Parklets shall be constructed and/or installed to conform to the applicable provisions, rules, regulations and guidelines of Long Beach Building Code, the Americans with Disabilities Act (ADA) and the Americans with Disabilities Act Accessibility Guidelines (ADAAG), including but not limited to providing and maintaining a minimum four foot (4') clearance between the occupancy permitted herein and any existing street furniture (e.g., utility poles, parking meters, mailboxes, etc.).

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5. The Permittee shall provide maintenance for the Parklet as follows:
- Keep all plants in good health.
 - Keep the Parklet free of graffiti, debris and grime.
 - Adequately maintain the surface.
 - The area under the Parklet shall be maintained in a sanitary condition free from infestation from pests and clear of obstacles to storm water movement along the gutter flow line.
 - As necessary and at the direction of the City Engineer, the Permittee shall remove the Parklet and thoroughly clean under the Parklet area.

DESCRIPTIONS (Continued from Page 1)

which may be afforded within the policies to the certificate holder named below, will provide to such certificate holder notice of such cancellation within thirty (30) days of the cancellation date, except in the event the cancellation is due to non-payment of premium, in which case Hub will provide to such certificate holder notice of such cancellation within ten (10) days of the cancellation date."

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

ADDITIONAL INSURED – DESIGNATED PERSON OR ORGANIZATION

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

SCHEDULE

Name Of Additional Insured Person(s) or Organization(s)
City of Long Beach
Information required to complete this Schedule, if not shown above, will be shown in the Declarations.

Section II – Who Is An Insured is amended to include as an additional insured the person(s) or organization(s) shown in the Schedule, but only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" caused, in whole or in part, by your acts or omissions or the acts or omissions of those acting on your behalf:

- A. In the performance of your ongoing operations; or
- B. In connection with your premises owned by or rented to you.

APPROVED AS TO SUFFICIENCY
Michael Oles
 RISK MANAGER
 CITY OF LONG BEACH
 DATE: 5/4/15

APPROVED AS TO FORM
5/8, 2015
 CHARLES PARKIN, City Attorney
 By *[Signature]*
 LINDA T. VU
 DEPUTY CITY ATTORNEY



APPROVED AS TO FORM

CITY OF LONG BEACH

5/18, 2015
Linda T. Vu
Deputy City Attorney

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

333 West Ocean Boulevard, 10th Floor • Long Beach, California 90802 • (562) 570-6975 FAX (562) 570-5111

General Liability Endorsement – Public Walkways Occupancy Permits

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

DEPUTY CITY ATTORNEY

A. GENERAL LIABILITY POLICY INFORMATION

- Insurance Company Citizens Insurance Company of America
- Policy No. ZB3 A326462 01 Policy Term (from) 04/01/2015 (to) 04/01/2016
- Endorsement effective date 04/01/2015 Endorsement expiration date 04/01/2016
- Name of Insured District Wine, Inc.
- Address of Named Insured 144 Linden Ave., Long Beach, CA 90802
- Address of Permitted Operations 144 Linden Ave., Long Beach, CA 90802
- Deductible or Self-Insured Retention (nil unless otherwise specified) None
- Policy Limits: Occurrence \$ 1,000,000 General Aggregate: \$ 2,000,000
- Policy Form equivalent to: CG 00 01 12/07 CG 00 02 GL 00 02

SUFFICIENCY
Marked Vu
Linda T. Vu
5/18/15

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: Hanover Insurance Company
 (Name) (Title) (Company)

ADDRESS: firstreport@hanover.com

TELEPHONE: (800) 628-0280 FAX: (800) 399-4734

D. SIGNATURE OF INSURER OR AUTHORIZED REPRESENTATIVE OF THE INSURER

I, (print name) Karen Rosati, 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]
SIGNATURE OF AUTHORIZED REPRESENTATIVE (original signature required) DATE 4-29-2015

TITLE: Account Manager ORGANIZATION: HUB International Insurance Services Inc.

ADDRESS: PO Box 5345, Riverside, CA 92517

TELEPHONE: (951) 788-8500 FAX NO. (951) 552-1392

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.
Other Insurance – Primary and Non-Contributory
(Additional Insured)

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

The following is added to **Section IV – Commercial General Liability Conditions**

4. Other Insurance

a. Additional Insureds

If you agree in a written contract, written agreement or permit that the insurance provided to any person or organization included as an Additional Insured under **Section II – Who is An Insured**, is primary and non-contributory, the following applies:

If other valid and collectible insurance is available to the Additional Insured for a loss we cover under Coverages A or B of this Coverage Part, our obligations are limited as follows:

1. Primary Insurance

This insurance is primary to other insurance that is available to the Additional Insured which covers the Additional Insured as a Named Insured. We will not seek contribution from any other insurance available to the Additional Insured except:

- i. For the sole negligence of the Additional Insured;
- ii. when the Additional Insured is an Additional Insured under another primary liability policy; or
- iii. when 2. below applies.

If this insurance is primary, our obligations are not affected unless any of the other insurance is also primary. Then, we will share with all that other insurance by the method described in 3. below.

2. Excess Insurance

This insurance is excess over:

- (1) Any of the other insurance, whether primary, excess, contingent or on any other basis:

(a) That is Fire, Extended Coverage, Builder's Risk, Installation Risk or similar coverage for "your work";

(b) That is Fire insurance for premises rented to the Additional Insured or temporarily occupied by the Additional Insured with permission of the owner;

(c) That is insurance purchased by the Additional Insured to cover the Additional Insured's liability as a tenant for "property damage" to premises rented to the Additional Insured or temporarily occupied by the Additional Insured with permission of the owner; or

(d) If the loss arises out of the maintenance or use of aircraft, "autos" or watercraft to the extent not subject to Exclusion g. of Section I – Coverage A – Bodily Injury And Property Damage Liability.

When this insurance is excess, we will have no duty under Coverages A or B to defend the insured against any "suit" if any other insurer has a duty to defend the insured against that "suit". If no other insurer defends, we will undertake to do so, but we will be entitled to the insured's rights against all those other insurers.

When this insurance is excess over other insurance, we will pay only our share of the amount of the loss, if any, that exceeds the sum of:

- (1) The total amount that all such other insurance would pay for the loss in the absence of this insurance; and
- (2) The total of all deductible and self-insured amounts under all that other insurance.

We will share the remaining loss, if any, with any other insurance that is not described in this Excess Insurance provision and was not bought specifically to apply in excess of the Limits of Insurance shown in the Declarations of this Coverage Part.

3. Method Of Sharing

If all of the other insurance permits contribution by equal shares, we will follow this method also. Under this approach each insurer contributes equal amounts until it has paid its applicable limit of insurance or none of the loss remains, whichever comes first.

If any of the other insurance does not permit contribution by equal shares, we will contribute by limits. Under this method, each insurer's share is based on the ratio of its applicable limit of insurance to the total applicable limits of insurance of all insurers.