

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

FITNESS PROVIDER PERMIT

P - 00062

THIS PERMIT is made and entered, in duplicate, as of October 29, 2015 for reference purposes only, pursuant to a minute order adopted by the City Council of the City of Long Beach at its meeting on October 20, 2015, by and between the CITY OF LONG BEACH, a municipal corporation ("City") and THE BELMONT - A RACQUETBALL & ATHLETIC CLUB, INC., a California corporation doing business as THE BELMONT ATHLETIC CLUB ("Permittee") with a place of business at 4918 E. 2nd Street, Long Beach, California 90803.

1. ATTACHMENT "A". Attachment "A" to this Agreement is incorporated by this reference but shall be replaced during the term of this Permit if the Commission adopts new or different fees. The replacement shall be designated Attachment "A-1" and so forth and shall then be incorporated by this reference.

2. USE. Permittee shall provide and conduct outdoor group exercise classes and personal training sessions within City parks during posted use hours, while adhering to noise and impact abatement conditions consistent with the Long Beach Municipal Code, and/or as directed by the City Manager or his designee.

3. PERMIT AREA. Livingston Drive Park and a portion of the beach adjacent to Granada Avenue ("Permit Area") as specified in Attachment A. Permittee may request use of additional City parks and/or beach sites. Each additional site shall be subject to review and approval, and will be at the discretion of the City Manager or his designee. All Permitted Use of the Permit Area by the Permittee, its employees and invitees shall be at their sole risk, cost and expense.

4. TERM. The term of this Agreement shall begin on June 1, 2015 and end at 11:59 p.m. on May 31, 2020. Either Party may terminate this Permit at any time by providing thirty (30) days prior written notice. On termination or revocation of this Permit, Permittee shall quit and surrender possession of the permit area and remove its personal property from the Permit Area.

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5. PERMIT FEE.

A. On June 1, 2015 ("Payment Due Date"), and every permit year thereafter on June 1 of each Permit year, Permittee shall pay an annual minimum payment to the Department of Parks, Recreation and Marine ("Department"), of Seven Hundred Dollars (\$700). Additional approved sites shall increase the annual Permit Fee by Three Hundred Fifty Dollars (\$350) per site, per year.

B. Permittee shall, within twenty (20) days following the expiration, termination or revocation of this Permit, pay to the Department any and all sums due to the Department without any deductions whatsoever, except any sales tax payable to the State or other governmental agency.

C. City shall have the right to inspect and copy all books, ledgers, accounts and other records of Permittee relating to this Permit, after reasonable notice from City. City shall also have the right to conduct or obtain an audit of Permittee's books, ledgers, accounts and records related to this Agreement. The audit will be at City's expense, but Permittee shall pay its own costs in making the records available.

6. SCHEDULE. Upon execution of this Permit and/or as requested by the Director, Permittee shall submit a comprehensive schedule of use of the Permit Area for approval by the Director or his designee. The submission shall be in writing and shall include all of the dates, times and locations of use of the permit area and additional sites. Permittee shall not deviate from the submitted schedule of use, or add additional dates, times or locations of use of the permit area, without the written consent of the Director or his designee. Any deviation from the submitted schedule of use shall be submitted in writing no later than thirty (30) days prior to the anticipated deviation. This Permit may be revoked if Permittee is found to have deviated from the submitted schedule of use, without the approval of the Director or his designee.

7. RELEASE FORMS. Permittee shall have all of its invitees, or legal guardians of invitees if under the age of 18, complete and sign a release (waiver) form

1 before participating in Permitted Use at the Permit Area, incorporated herein as Attachment
2 B: Adult Participant Waiver and Attachment C: Youth Participant Waiver. Permittee shall
3 retain each completed and signed waiver for one (1) year from the initial date of each of
4 the invitees' participation in Permitted Use at the Permit Area and shall be able to provide
5 them to the Department upon demand by the Director or designee.

6 8. CLEANLINESS. Permittee, during their Permitted use of the Permit
7 Area, shall place all waste of any kind in containers provided by the City and restore the
8 Permit Area to its original state after each use. If the Permittee fails to maintain the Permit
9 Area as required, the City will notify Permittee of such failure and, if Permittee fails to
10 correct the situation within thirty (30) days after notice, then the City may make the
11 necessary correction and Permittee shall pay the cost of correction within thirty (30) days
12 after receipt of an invoice from the City. Permittee hereby waives to the extent permitted
13 by law any right to make repairs at the expense of the City.

14 9. COMPLIANCE WITH LAWS. Permittee during their Permitted Use of
15 the Permit Area shall at all times comply with all laws, ordinances, rules and regulations
16 and obtain permits from all federal, state or local government authorities having jurisdiction
17 over the permit area and Permittee's activities on the permit area. In addition, Permittee
18 shall at all times comply with the directives of the Director or his designee, as they pertain
19 to Permitted Use of the Permit Area.

20 10. NO ASSIGNMENT. Permittee shall not assign this Permit or any
21 interest in it or allow the transfer of the Permit, whether by operation of law or otherwise,
22 nor delegate its duties hereunder. Any attempted assignment, transfer, or delegation shall
23 be void and confer no rights whatsoever upon an assignee, transferee or delegate. If
24 Permittee is adjudicated a bankrupt or becomes insolvent or any interest in this Permit is
25 taken by virtue of attachment, execution, or receivership, the City may terminate this Permit
26 on five (5) days notice to Permittee.

27 11. SIGNS AND ADVERTISING. All signs, advertising and/or promotional
28 material placed in, on or at the Permit Area shall be approved, in advance, in writing by the

1 Director or designee. Permittee shall pay all costs related to such signs, advertising or
2 promotional material. If Permittee places any sign, advertising or promotional material that
3 does not have the prior approval of the Director or designee, then the City may remove
4 same without penalty or claim against the City, and Permittee shall immediately pay the
5 cost of such removal on receipt of an invoice from the City, as an additional permit fee.

6 12. CONTROL OF PERMIT AREAS. The Director shall have absolute
7 and full control of the Permit Area. If necessary for the health, welfare or safety of the
8 public or as a result of the termination or revocation of this Permit, the Director shall have
9 the right to take possession thereof immediately. The City reserves the right to enter the
10 Permit Area at any and all times including the times and days of Permittee's Permitted Use.
11 City reserves the right to do any work at the Permit Area for the preservation, operation
12 and maintenance of the Permit Area that it deems necessary. The Director or designee,
13 whenever possible, will inform Permittee when such work will be done if it impacts
14 Permittee's Permitted Use.

15 13. INDEMNITY. Except for the City's gross negligence or willful
16 misconduct and to the fullest extent permitted by law, Permittee shall indemnify and hold
17 harmless the City, its boards, commissions, and their officials, employees and agents
18 (collectively in this Section "City") from and against any and all liability, claims, demands,
19 damage, loss, causes of action, proceedings, penalties, costs and expenses (including
20 reasonable attorney's fees, court costs, and expert and witness fees)(collectively "Claims"
21 or individually "Claim"). Claims include by way of example but are not limited to: Claims
22 for property damage, personal injury or death arising in whole or in part from any negligent
23 act or omission of Permittee, its officers, employees or anyone under Permittee's control
24 (collectively "Indemnitor"); Permittee's breach of this Permit; misrepresentation, willful
25 misconduct; and Claims by any employee of Indemnitor relating to workers' compensation.
26 Independent of the duty to indemnify and as a free-standing duty on the part of Permittee,
27 Permittee shall defend City and shall continue such defense until the Claim (including
28 allegations in a Claim) is resolved, whether by settlement, judgment or otherwise. No

1 finding or judgment of negligence, fault, breach, or the like on the part of Indemnitor shall
2 be required for the duty to defend to arise. Each party shall promptly notify the other party
3 of any Claim.

4 14. INSURANCE. Concurrent with the execution of this Permit and in
5 partial performance of Permittee's obligations hereunder, Permittee shall procure and
6 maintain the following insurance at Permittee's sole expense for the duration of this Permit,
7 including any extensions or renewals thereof, from insurance companies that are
8 authorized to write insurance in the State of California or from insurers listed on the CDI's
9 List of Eligible Surplus Lines' Insurers (LESLI) that have a current rating of or equivalent to
10 A:VIII by A.M. Best Company:

11 A. Commercial general liability insurance equivalent in coverage
12 scope to ISO form CG 00 01 11 85 or 11 88 in an amount not less than One Million
13 Dollars (\$1,000,000.00) per occurrence and Two Million Dollars (\$2,000,000.00)
14 general aggregate. Such insurance shall include but is not limited to broad form
15 contractual liability, personal and bodily injury, independent contractors liability,
16 sexual molestation liability, and products and completed operations liability. The
17 City of Long Beach, its officials, employees, and agents shall be added as additional
18 insureds by endorsement equivalent in coverage scope to ISO form CG 20 26 11
19 85 and this insurance shall contain no special limitations on the scope of protection
20 afforded to the City, its officials, employees, and agents.

21 B. Personal accident insurance covering all participants in an
22 amount not less than Ten Thousand Dollars (\$10,000.00) per person.

23 C. "All Risk" property insurance in an amount sufficient to cover
24 the full replacement value of Permittee's personal property and equipment on the
25 premises. Such insurance shall be endorsed with a waiver of subrogation of any
26 claims against the City, its officials, employees, and agents.

27 D. Workers' Compensation insurance as required by the State of
28 California and Employer's Liability insurance in an amount not less than One Million

1 Dollars (\$1,000,000.00) per occurrence.

2 In addition to the endorsements specified above, each insurance policy
3 required herein shall provide by endorsement or by policy form: (i) that the insurance shall
4 not be canceled, nonrenewed, or reduced in coverage or limits except after thirty (30) days
5 prior written notice to City, (ii) that the insurance shall be primary and not contributing to
6 any other insurance or self-insurance maintained by City, its official, employees, or agents,
7 (iii) that the insurance shall apply separately to each insured against whom claim is made
8 or suit is brought, except with respect to the limits of the insurer's liability; and (iv) that the
9 naming of more than one insured shall not, for that reason alone, extinguish any rights of
10 one insured against another, subject to the Company's limits of liability.

11 Any self-insurance program, self-insured retention, or deductible must be
12 approved separately in writing by City Risk Manager or designee and shall protect the City
13 of Long Beach, its officials, employees, and agents in the same manner and to the same
14 extent as they would have been protected had the policy or policies not contained such
15 retention or deductible provisions.

16 Permittee shall deliver to City certificates of insurance and the required
17 endorsements for approval as to sufficiency and form prior to commencement of this
18 Permit. The certificates and endorsements for each insurance policy shall contain the
19 original signature of a person authorized by that insurer to bind coverage on its behalf. City
20 reserves the right to require complete certified copies of all said policies at any time.

21 Such insurance as required herein shall not be deemed to limit Permittee's
22 liability relating to performance under this Permit. The procuring of insurance shall not be
23 construed as a limitation on liability or as full performance of the indemnification and hold
24 harmless provisions of this Permit.

25 Any modification or waiver of the insurance requirements herein shall be
26 made only with the written approval of the City's Risk Manager or designee.

27 15. POSSESSORY INTEREST. This Permit may create a possessory
28 interest subject to property taxation and Permittee may be liable for the payment of property

1 taxes levied on such possessory interest. Permittee shall pay or cause to be paid, prior to
2 delinquency, all taxes, assessments and other governmental and district charges that may
3 be levied or assessed for buildings, improvements or property located on the Permit Area
4 and upon possessory interests created by this Permit. Satisfactory evidence of such
5 payments shall be delivered by Permittee upon demand therefore.

6 16. NOTICE. Any notice, demand, request, consent, or communication
7 that either party desires or is required to give to the other party or any other person shall
8 be in writing and either personally delivered or deposited in the U.S. Postal Service, first
9 class, postage prepaid, addressed to Permittee at the address first stated above and to the
10 City at 2760 Studebaker Road, Long Beach, CA 90815 Attn: Director. Notice of change of
11 address shall be given in the same manner as stated herein for other notices. Notice shall
12 be deemed given on the date personal delivery is made or forty-eight (48) hours after
13 deposit in the mail.

14 17. DEFAULT. Except where this Permit expressly states that the City
15 may immediately revoke this Permit, the City may revoke this Permit if Permittee fails or
16 refuses to comply with any term, condition or provision of this Permit after notice of such
17 failure or refusal from the Director or designee. The acceptance of all or part of the
18 payment of any permit fee after default shall not be deemed a waiver of any right to revoke
19 this Permit on account of such default. Any waiver by the City or Director of a default shall
20 be in writing and shall not be construed as or constitute a waiver of any subsequent default
21 of the same or any other term, condition or provision of this Permit.

22 If this Permit is deemed a lease by a court of competent jurisdiction, then
23 Permittee hereby waives any right of redemption under any existing or future laws in the
24 event of removal from the permit areas. Permittee agrees that if the manner or method
25 used by the City in revoking this Permit and removing Permittee from the permit areas
26 gives to Permittee a cause of action for damages or in forcible entry and detainer, then the
27 total amount of damages to which Permittee shall be entitled in any such action shall be
28 One Dollar (\$1.00). Permittee agrees that this Section may be filed in any such action and

1 that when filed it shall be a stipulation by Permittee fixing the total damages to which
2 Permittee is entitled in such action.

3 18. NONDISCRIMINATION. During its Permitted Use of the Permit Area,
4 Permittee and its employees shall not discriminate on the basis of race, religion, color,
5 ancestry, sex, sexual orientation, sexual identity, gender identity, AIDS, AIDS relation
6 condition, HIV status, age, national origin, handicap or disability.

7 19. HEALTH AND SAFETY. Permittee shall correct health and safety
8 deficiencies and violations of health and safety practices immediately and shall cooperate
9 fully with the Director or designee in the investigation of accidents or incidents occurring
10 in, on or at the Permit Area. In the event of injury to an invitee, Permittee shall see that the
11 injured person receives prompt and qualified medical attention. If Permittee fails to correct
12 unsafe or unhealthy conditions, which have led or, in the opinion of the City, could lead to
13 injury, then the Director may immediately revoke this Permit.

14 20. NO WAIVER. The failure or delay by the City to insist on strict
15 compliance with any term, condition or provision of this Permit shall not be deemed a
16 waiver of any right or remedy that the City may have and shall not be deemed a waiver of
17 any subsequent or other failure to comply with any term, condition, or provision of this
18 Permit. The receipt and acceptance of all or a part of the payment of a delinquent permit
19 fee shall constitute only a waiver of timely payment for the particular payment involved and
20 shall not constitute waiver of any other failure to comply.

21 21. CLAIMS. The City, its officials, employees, boards, and commissions
22 shall not be liable for and Permittee hereby waives all claims against the City, its officials,
23 employees, boards, and commissions for loss, theft, or damage to equipment, furniture,
24 trade fixtures, furnishings, records, and other personal property in, on or at the Permit Area,
25 for loss or damage to Permittee's business, or injury to or death of persons in, on or at the
26 Permit Area from any cause except to the extent caused by the gross negligence or willful
27 misconduct of the City, its officials, employees, boards or commissions.

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1 22. NO RELOCATION. Permittee agrees that nothing contained in this
2 Permit shall create any right in Permittee for any relocation assistance or payment pursuant
3 to the provisions of Title 1, Division 7, Chapter 16 of the California Government Code from
4 the City on the expiration or revocation of this Permit.

5 23. RESTORATION. Permittee shall promptly notify the City of damage
6 or destruction to the Permit Area and the date of same. Permittee shall promptly make
7 proof of loss and proceed to collect all valid claims that Permittee may have against
8 insurers or others based on such damage or destruction. All amounts recovered as a result
9 of said claims shall be used first for the restoration of the Permit Area. If existing laws do
10 not permit restoration, then the City may revoke this Permit.

11 24. MISCELLANEOUS. This Permit shall be governed by and construed
12 in accordance with the laws of the State of California. This Permit constitutes the entire
13 understanding between the City and Permittee and supersedes all other agreements, oral
14 or written, with respect to the subject matter herein. Revocation or termination of this
15 Permit shall not affect rights or liability that accrued hereunder prior to such revocation or
16 termination. This Permit shall not be construed or interpreted against either party as the
17 drafter. This Permit is not intended or entered for the purpose of creating any benefit or
18 right for any person or entity that is not a signatory to this Permit. If any term, condition or
19 provision of this Permit is held by a court of competent jurisdiction to be invalid, void or
20 unenforceable, the remainder of the Permit shall remain in full force and effect and shall in
21 no way be affected, impaired, or invalidated. The various headings and numbers herein
22 and the grouping of the provisions of this Permit into separate sections, paragraphs and
23 clauses are for convenience only and shall not be considered a party hereof, and shall
24 have no effect on the construction or interpretation of this Permit.

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

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

ACCEPTED this 26, day of January, 2016.

THE BELMONT - A RACQUETBALL & ATHLETIC CLUB, a California corporation doing business as THE BELMONT ATHLETIC CLUB, INC.

November 10, 2015

By [Signature]
Name Joshua Tims
Title General Manager

November 10, 2015

By [Signature]
Name Joshua Tims
Title General Manager

"Permittee"

CITY OF LONG BEACH, a municipal corporation

Jan. 26, 2016

By [Signature]
City Manager
EXECUTED PURSUANT TO SECTION 301 OF THE CITY CHARTER.

"City" Assistant City Manager

This Permit is approved as to form on 1/5, 2016.

CHARLES PARKIN, City Attorney

By [Signature]
Deputy

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



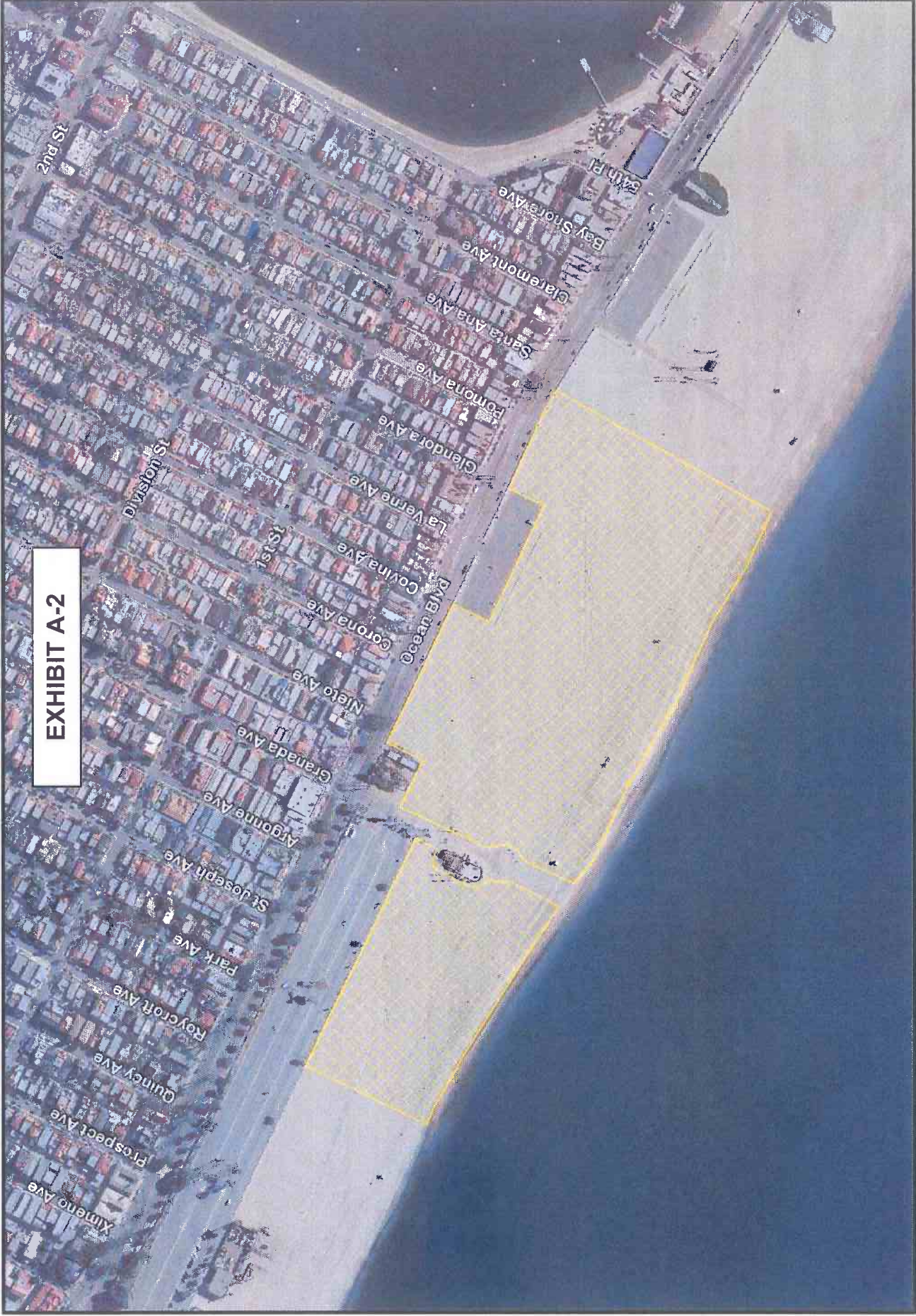
EXHIBIT A-1



Livingston Drive Park

0 25 50 75 100 125 150 Feet

EXHIBIT A-2



Beach (Granada Avenue)



City of Long Beach
Department of Parks, Recreation and Marine
Release and Waiver of All Liability
and Assumption of Risk Agreement

FOR GOOD AND VALUABLE CONSIDERATION, including permission to participate in

and related activities ("ACTIVITY"), I, for myself, my successors, heirs, assigns, executors, administrators, spouse, and next of kin:

- 1. Agree that, prior to participating I will inspect the facilities, equipment, and areas to be used, and, if I believe that any of them are unsafe, I will immediately advise the person supervising the ACTIVITY, facility, or area;
2. Acknowledge that I fully understand that my participation may involve risk of serious injury or death, including economic losses, which may result not only from my own actions, inaction, or negligence, but also from the actions, inaction, or negligence of others, the condition of the facilities, equipment, or areas where the ACTIVITY is being conducted, the rules of play, or this type of ACTIVITY;
3. Assume any and all risk of bodily injuries to myself, including medical or hospital bills, permanent or partial disability, death, and damages to my property, caused by or arising from my participation in the ACTIVITY;
4. Covenant not to sue or present any claim for personal injury, property damage, or wrongful death against the City of Long Beach, its commissions, official, employees, volunteers, and agents for damages attributable to my participation in the ACTIVITY;
5. Release, waive, discharge, and relinquish, to the extent allowable by law, the City of Long Beach, its commissions, boards, officials, employees, volunteers, and agents from any liability, loss, damage, claim, demand, or cause of action against them arising from or attributable to my participation in the ACTIVITY, whether same shall arise by their negligence or otherwise;
6. Agree that photographs, pictures, slides, movies, or videos of me may be taken in connection with my participation in the ACTIVITY without compensation from the City of Long Beach and consent to the use of these photographs, pictures, slides, movies, or videos for any legal purpose, and
7. Warrant that I am in good health and have no physical condition that would prevent me from participating in this ACTIVITY.

THIS DOCUMENT RELIEVES THE CITY AND OTHERS FROM LIABILITY FOR BODILY INJURY, WRONGFUL DEATH, AND PROPERTY DAMAGE BY NEGLIGENCE. I HAVE READ THIS DOCUMENT, UNDERSTAND THAT I GIVE UP SUBSTANTIAL RIGHTS AND ASSUME ALL RISKS BY SIGNING IT, AND SIGN VOLUNTARILY.

PRINTED NAME SIGNATURE DATE

ATTACHMENT C



City of Long Beach / Department of Parks, Recreation and Marine
PARENTAL CONSENT
Release and Waiver of All Liability and Assumption of Risk Agreement

FOR GOOD AND VALUABLE CONSIDERATION, including permission for _____ ("MINOR") to participate in _____ and related activities ("ACTIVITY"), I, the parent/guardian of the MINOR for myself and on behalf of the minor:

- 1. Consent to the MINOR's participating in the ACTIVITY;
2. Agree that, prior to the MINOR's participation in the ACTIVITY, the MINOR and I will inspect the facilities, equipment, and areas to be used, and, if either of us believes that any of them are unsafe, I will immediately advise the person supervising the ACTIVITY;
3. Acknowledge that the MINOR and I fully understand that the MINOR's participation may involve risk of serious injury or death, including economic losses, which may result not only from the MINOR's own actions, inactions, or negligence, but also from the actions, in-actions, or negligence of others, the condition of the facilities, equipment, or areas where the ACTIVITY is being conducted, the rules of play, or this type of ACTIVITY;
4. Assume any and all risk of personal injuries to the MINOR, permanent or partial disability, or death and damages to the MINOR's or my property, caused by or arising from the MINOR's participation in the ACTIVITY and authorize the City of Long Beach to contact or employ a licensed physician to render any medical treatment that may be deemed necessary for the MINOR or to take and admit the MINOR to any hospital. If such medical treatment is required, I agree to pay all medical and hospital bills relating thereto;
5. Covenant not to sue or present any claim for personal injury, property damage, or wrongful death against the City of Long Beach, its boards, commissions, officials, employees, volunteers, and agents for damages attributable to the MINOR's participation in the ACTIVITY;
6. Release, waive, discharge, and relinquish, to the extent allowable by law, the City of Long Beach, its boards, commissions, officials, employees, volunteers, and agents from any liability, loss, damage, claim, demand, or cause of action against them arising from or attributable to the MINOR's participation in ACTIVITY, whether same shall arise by their negligence or otherwise;
7. Agree that photographs, pictures, slides, movies, or videos of the MINOR may be taken in connection with the MINOR's participation in the ACTIVITY without compensation from the City of Long Beach and consent to the use of these photographs, pictures, slides, movies, or videos for any legal purpose;
8. Warrant that the MINOR is in good health and have no physical condition that would prevent the MINOR from participation in the ACTIVITY; and
9. Acknowledge and agree that the City of Long Beach, its officials, employees, and agents shall not be responsible for administering, providing, or assisting in administering medication to the MINOR.

THIS DOCUMENT RELIEVES THE CITY AND OTHERS FROM LIABILITY FOR PERSONAL INJURY, WRONGFUL DEATH, AND PROPERTY DAMAGE CAUSED BY NEGLIGENCE.

BOTH PARENTS MUST SIGN UNLESS ONLY ONE PARENT IS LIVING OR UNLESS ONLY ONE HAS LEGAL CUSTODY. LEGALLY APPOINTED GUARDIANS MUST SIGN AND FURNISH A CERTIFIED COPY OF LETTERS OF GUARDIANSHIP.

I HAVE READ THIS DOCUMENT, UNDERSTAND THAT I GIVE UP SUBSTANTIAL RIGHTS AND ASSUME ALL RISKS BY SIGNING IT, AND SIGN VOLUNTARILY.

PRINT PARENT/GUARDIAN NAME SIGNATURE DATE

PRINT PARENT/GUARDIAN NAME SIGNATURE DATE

I HAVE READ THIS DOCUMENT SIGNED BY MY PARENT(S) OR GUARDIAN(S) AND JOIN THE WAIVER, RELEASE AND ASSUMPTION OF RISK. I AM AWARE OF THE RISKS INVOLVED IN MY PARTICIPATION IN THE ACTIVITY.

PRINT MINOR'S NAME SIGNATURE DATE