

1 RIGHT OF ENTRY PERMIT

2 P - 00403

3 THIS RIGHT OF ENTRY PERMIT is made and entered, in duplicate, as of
4 July 1, 2022, for reference purposes only, pursuant to authorization by the PARKS AND
5 RECREATION COMMISSION of the City of Long Beach ("Commission") at its meeting on
6 June 16, 2022, by and between SOUTH BAY CENTER FOR COUNSELING DBA
7 STRENGTH BASED COMMUNITY CHANGE ("Permittee"), whose address is 540 N.
8 Marine Avenue, Wilmington, CA 90744, and the CITY OF LONG BEACH, a municipal
9 corporation ("City").p

10 1. ACCESS. City grants to Permittee, its contractors, agents, and
11 employees (collectively, the "Permittee Parties"; individually, a "Permittee Party") the non-
12 exclusive right to enter City-owned property described in Exhibit "A" attached to this Permit
13 and incorporated by reference ("City-owned Property") solely for the purpose of for the
14 development, management, and operation of a community garden at McBride Park.

15 2. LOCATION. McBride Park, 1550 Martin Luther King, Jr. Avenue, Long
16 Beach, CA 90813 (Exhibit A).

17 3. TIME OF USE. Permittee Parties shall enter City-owned Property in
18 accordance with this Permit solely during normal business hours and City-approved
19 weekends.

20 4. DURATION OF PERMIT.

21 A. Permission to enter shall begin on July 1, 2022, and continue
22 through June 30, 2025.

23 B. Within fifteen (15) days of revocation of this Permit, Permittee
24 shall cease entry and shall cause all Permittee Parties to cease entry on the City-
25 owned Property, shall remove all equipment, supplies, and personal property and
26 shall leave the City-owned Property in a clean, neat, and safe condition. Any
27 supplies, equipment, and personal property which are not removed within the fifteen
28 (15) day period shall become the property of the City without payment by or liability

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Lona Beach, CA 90802-4664

1 of any kind on the part of the City.

2 5. INSURANCE. As a condition precedent to the effectiveness of this
3 Permit, Permittee shall provide evidence of insurance equal to the following insurance
4 coverage:

5 A. Commercial general liability insurance equivalent in scope to
6 ISO form CG 00 01 10 93 in an amount not less than \$1,000,000 per occurrence or
7 \$2,000,000 general aggregate. The coverage shall include but not be limited to
8 broad form contractual liability, cross liability, independent contractors liability, and
9 products and completed operations liability. The City, its officers, employees and
10 agents shall be named as additional insureds by endorsement on the City's
11 endorsement form or on an endorsement equivalent in scope to ISO form CG 20 26
12 11 85, and this insurance shall contain no special limitations on the scope of
13 protection given to the City, its officers, employees and agents.

14 B. Workers' compensation insurance as required by the California
15 Labor Code and employer's liability insurance in an amount not less than
16 \$1,000,000 per accident.

17 C. Commercial automobile liability insurance (equivalent in scope
18 to ISO form CA 00 01 06 92), covering Auto Symbol 1 (Any Auto), in an amount not
19 less than \$500,000 combined single limit per accident.

20 D. Any self-insurance program, self-insured retention, or
21 deductible must be separately approved in writing by City's Risk Manager or
22 designee and shall protect the City, its officials, employees and agents in the same
23 manner and to the same extent as they would have been protected had the policy
24 or policies not contained retention or deductible provisions. Each insurance policy
25 shall be endorsed to state that coverage shall not be reduced, non-renewed, or
26 canceled except after thirty (30) days prior written notice to City, and shall be primary
27 and not contributing to any other insurance or self-insurance maintained by the City.
28 Permittee shall notify the City within five (5) days after any insurance required in this

1 Permit has been voided by the insurer or canceled by Permittee.

2 E. Permittee shall require that all Permittee Parties maintain
3 insurance in compliance with this Section unless otherwise agreed in writing by
4 City's Risk Manager or designee.

5 F. Prior to entry on City-owned Property, Permittee shall deliver to
6 City certificates of insurance or self-insurance and required endorsements, including
7 any insurance required by Permittee Parties, for approval as to sufficiency and form.
8 The certificates and endorsements shall contain the original signature of a person
9 authorized by that insurer to bind coverage on its behalf. In addition, Permittee shall
10 at least thirty (30) days prior to expiration of this insurance furnish to the City
11 evidence of renewal of the insurance. City reserves the right to require complete
12 certified copies of all policies of insurance at any time. Permittee and Permittee
13 Parties shall make available to the City, during normal business hours, all books,
14 records and other information relating to the insurance required in this Permit.

15 G. Any modification or waiver of these insurance requirements
16 shall only be made by the City's Risk Manager or designee, in writing. The procuring
17 or existence of insurance shall not be construed or deemed as a limitation on liability
18 or as full performance with the indemnification provisions of this Permit.

19 H. Notwithstanding any other provision of this Permit, if Permittee
20 or a Permittee Party fails to comply with this Section, the City may immediately
21 revoke this Permit and the permission granted by this Permit.

22 6. PERMITTEE'S INDEMNIFICATION OF CITY.

23 A. Permittee shall indemnify, protect and hold harmless City, its
24 Boards, Commissions, and their officials, employees and agents ("Indemnified
25 Parties"), from and against any and all liability, claims, demands, damage, loss,
26 obligations, causes of action, proceedings, awards, fines, judgments, penalties,
27 costs and expenses, arising or alleged to have arisen, in whole or in part, out of or
28 in connection with (1) Permittee's breach or failure to comply with any of its

1 obligations contained in this Permit, or (2) negligent or willful acts, errors, omissions
2 or misrepresentations committed by Permittee, its officers, employees, agents,
3 subcontractors, or anyone under Permittee's control, in the performance of work or
4 services under this Permit (collectively "Claims" or individually "Claim").

5 B. In addition to Permittee's duty to indemnify, Permittee shall
6 have a separate and wholly independent duty to defend Indemnified Parties at
7 Permittee's expense by legal counsel approved by City, from and against all Claims,
8 and shall continue this defense until the Claims are resolved, whether by settlement,
9 judgment or otherwise. No finding or judgment of negligence, fault, breach, or the
10 like on the part of Permittee shall be required for the duty to defend to arise. City
11 shall notify Permittee of any Claim, shall tender the defense of the Claim to
12 Permittee, and shall assist Permittee, as may be reasonably requested, in the
13 defense.

14 7. NON-RESPONSIBILITY OF CITY. City, its officers and employees
15 shall not be responsible or liable for loss or damage by theft, fire, flood, burglary, vandalism
16 or any other cause to the supplies, equipment or other personal property of Permittee
17 Parties in or on the City-owned Property, except to the extent caused by the gross
18 negligence of the City, its officers or employees. By executing this Permit and in
19 consideration for being allowed entry to the City-owned Property, Permittee waives all
20 claims against the City, its officers or employees for such loss or damage.

21 8. NO TITLE. Permittee and City acknowledge and agree that, by this
22 Permit, Permittee does not acquire any right, title or interest of any kind in the City-owned
23 Property, including but not limited to any leasehold interest. Permittee shall not allow the
24 City-owned Property to be used by anyone other than a Permittee Party or for any other
25 purpose than stated in this Permit. Notwithstanding any language to the contrary in this
26 Permit, if a court of competent jurisdiction deems this Permit to be a lease, then Permittee
27 waives any right of redemption under any existing or future law in the event that the City
28 removes it from the City-owned Property and agrees that, if the manner or method used

1 by the City in ending any right held by Permittee under this Permit gives to Permittee a
2 cause of action similar to or based on damages that would otherwise arise in connection
3 with unlawful detainer, then the total amount of damages to which Permittee would be
4 entitled in such action shall be One Dollar. Permittee agrees that this Section may be filed
5 in such action and that, when so filed, it shall be a stipulation by Permittee fixing the total
6 damages to which Permittee is entitled in such action.

7 9. NO ASSIGNMENT. Permittee shall not assign this Permit or the
8 permission granted by this Permit. Neither this Permit nor any interest in it shall be subject
9 to transfer by attachment, execution, proceedings in insolvency or bankruptcy, or
10 receivership. Any attempted assignment or other transfer that is not approved by the
11 Director shall be void and confer no right of entry on the purported assignee or transferee.

12 10. CONDITIONS OF PERMIT. Permittee shall obtain all necessary
13 certificates, permits and approvals as required by federal, state, and local authority and
14 must meet any and all Americans with Disabilities Act (ADA) requirements prior to entry to
15 City-owned Property.

16 11. NOTICE. Any notice or approval given under this Permit shall be in
17 writing and personally delivered or deposited in the U.S. Postal Service, registered or
18 certified, return receipt, to the City of Long Beach, Department of Parks, Recreation and
19 Marine at 2760 Studebaker Road, Long Beach, CA 90815, Attn: Contract Management
20 Division. Notice shall be deemed given on the date personal delivery is made or on the
21 date shown on the return receipt, whichever first occurs.

22 12. CONDITION AFTER ENTRY. After the entry of any Permittee Party
23 on the City-owned property, Permittee shall return the City-owned property in as good
24 condition or better condition as the City-owned property was in prior to such entry,
25 reasonable wear and tear excepted.

26 13. IMPROVEMENTS. Permittee shall not install, construct, erect or
27 maintain any structure or improvements on the City-owned property except as described
28 in this Permit and any attachments.

1 14. NO LIMITATIONS ON CITY. The Permit shall not limit the City's right
2 or power to construct, erect, build, demolish, move or otherwise modify any structures,
3 buildings, landscaping or any other type of improvement on, over, in, or under the City-
4 owned Property.

5 15. NO RELEASE. The expiration or revocation of this Permit shall not
6 release either party from any liability or obligation, which accrued prior to such expiration
7 or revocation.

8 16. NONDISCRIMINATION. In exercising its right of entry and use of the
9 City-owned Property, Permittee shall not discriminate on the basis of race, religion, national
10 origin, color, age, sex, sexual orientation, gender identity, AIDS, HIV status, handicap, or
11 disability.

12 17. COMPLIANCE WITH LAWS. Permittee Parties shall comply with all
13 applicable laws, rules, regulations and ordinances with respect to their activities on the
14 City-owned Property.

15 18. MISCELLANEOUS.

16 A. This Permit shall be governed by and construed in accordance
17 with the laws of the State of California.

18 B. If any part of this Permit shall be held by a court of competent
19 jurisdiction to be invalid, void or unenforceable, then the remainder of the Permit
20 shall remain in full force and effect and shall not be affected, impaired or invalidated.

21 C. This Permit may only be amended by a written agreement,
22 signed by the City and Permittee.

23 D. This Permit contains the entire understanding of the City and
24 Permittee and supersedes all other agreements, oral or written, with respect to the
25 subject matter of this Permit.

26 E. On the expiration or revocation of this Permit, Permittee agrees
27 to and shall execute such documents, in recordable form if so requested, as the City
28 deems reasonably necessary to end the Permit and remove the Permit as an

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encumbrance on the City-owned Property.

F. The failure or delay of the City to insist on strict compliance with the provisions of this Permit shall not be deemed a waiver of any right or remedy that City may have and shall not be deemed a waiver of any subsequent or other failure to comply with any provision of this Permit.

G. This Permit is not intended or entered for the purpose of creating any benefit or right for any person or entity that is not a signatory or a Permittee Party.

IN WITNESS WHEREOF, the parties have executed this Permit on the respective dates set forth opposite their signatures.

SOUTH BAY CENTER FOR
COUNSELING DBA STRENGTH BASED
COMMUNITY CHANGE, a California
nonprofit corporation

October 13, 2022

By Colleen Mooney
Name Colleen Mooney
Title Ex Director

_____, 2022

By _____
Name _____
Title _____

"Permittee"

PARKS AND RECREATION
COMMISSION OF THE CITY OF LONG
BEACH, CALIFORNIA

Dec. 17th, 2022

By Brent Dennis
Director

"City"

This Right of Entry Permit is approved as to form on
October 18th, 2022.

CHARLES PARKIN, City Attorney

By Charles Parkin
Deputy

ATTACHMENT A

McBride Park

1550 Martin Luther King Jr Ave

