

1 of any kind on the part of the City.

2 4. COSTS. Permittee shall provide and pay for all costs associated with
3 the Project.

4 5. PERMIT FEE. As the Project is beneficial to the health of Alamitos
5 Bay, no Permit fee shall be charged to Permittee.

6 6. INSURANCE. As a condition precedent to the effectiveness of this
7 Permit, Permittee shall provide evidence of insurance equal to the following insurance
8 coverage:

9 A. Commercial general liability insurance equivalent in scope to
10 ISO form CG 00 01 10 93 in an amount not less than \$1,000,000 per occurrence or
11 \$2,000,000 general aggregate. The coverage shall include but not be limited to
12 broad form contractual liability, cross liability, independent contractors liability, and
13 products and completed operations liability. The City, its officers, employees and
14 agents shall be named as additional insureds by endorsement on the City's
15 endorsement form or on an endorsement equivalent in scope to ISO form CG 20 26
16 11 85, and this insurance shall contain no special limitations on the scope of
17 protection given to the City, its officers, employees and agents.

18 B. Workers' compensation insurance as required by the California
19 Labor Code and employer's liability insurance in an amount not less than
20 \$1,000,000 per accident.

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

24 D. Any self-insurance program, self-insured retention, or
25 deductible must be separately approved in writing by City's Risk Manager or
26 designee and shall protect the City, its officials, employees and agents in the same
27 manner and to the same extent as they would have been protected had the policy
28 or policies not contained retention or deductible provisions. Each insurance policy

1 shall be endorsed to state that coverage shall not be reduced, non-renewed, or
2 canceled except after thirty (30) days prior written notice to City, and shall be primary
3 and not contributing to any other insurance or self-insurance maintained by the City.
4 Permittee shall notify the City within five (5) days after any insurance required in this
5 Permit has been voided by the insurer or canceled by Permittee.

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

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

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

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

26 7. PERMITTEE'S INDEMNIFICATION OF CITY. Permittee shall
27 indemnify, defend and hold the City, its Commissions and Boards, or their officials,
28 employees, or agents harmless from all liability, loss, damage, claims, demands, penalties,

1 fines, proceedings, causes of action, taxes, assessments, costs, and expenses (including
2 attorney's fees and experts' fees) arising from the right to enter granted by this Permit and
3 the activities of Permittee Parties on the City-owned Property under this Permit. This
4 indemnity shall survive the expiration or revocation of this Permit. The foregoing shall not
5 apply to claims or causes of action caused by the sole negligence or willful misconduct of
6 the City, its Commissions and Boards, or their officials, employees, or agents.

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

14 9. NO TITLE. Permittee and City acknowledge and agree that, by this
15 Permit, Permittee does not acquire any right, title or interest of any kind in the City-owned
16 Property, including but not limited to any leasehold interest. Permittee shall not allow the
17 City-owned Property to be used by anyone other than a Permittee Party or for any other
18 purpose than stated in this Permit. Notwithstanding any language to the contrary in this
19 Permit, if a court of competent jurisdiction deems this Permit to be a lease, then Permittee
20 waives any right of redemption under any existing or future law in the event that the City
21 removes it from the City-owned Property and agrees that, if the manner or method used
22 by the City in ending any right held by Permittee under this Permit gives to Permittee a
23 cause of action similar to or based on damages that would otherwise arise in connection
24 with unlawful detainer, then the total amount of damages to which Permittee would be
25 entitled in such action shall be One Dollar. Permittee agrees that this Section may be filed
26 in such action and that, when so filed, it shall be a stipulation by Permittee fixing the total
27 damages to which Permittee is entitled in such action.

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

6 11. CONDITIONS OF PERMIT. Permittee shall obtain all necessary
7 certificates, permits and approvals as required by federal, state, and local authority prior to
8 project commencement, and will provide copies to the Marine Bureau of the City's
9 Department of Parks, Recreation and Marine.

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

16 13. CONSIDERATION. This Permit is granted in consideration of
17 Permittee's restoration and expansion of the oyster bed which will allow the oysters to more
18 efficiently respond to changing natural conditions, increase the resiliency of the existing
19 bed, and improve the area's ecosystem including the water quality in Alamitos Bay.

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

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

27 16. NONDISCRIMINATION. In exercising its right of entry and use of the
28 City-owned Property, Permittee shall not discriminate on the basis of race, religion, national

1 origin, color, age, sex, sexual orientation, gender identity, AIDS, HIV status, handicap, or
2 disability.

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

6 18. MISCELLANEOUS.

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

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

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

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

17 E. On the expiration or revocation of this Permit, Permittee agrees
18 to and shall execute such documents, in recordable form if so requested, as the City
19 deems reasonably necessary to end the Permit and remove the Permit as an
20 encumbrance on the City-owned Property.

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

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

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

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

ORANGE COUNTY COASTKEEPER, a
California nonprofit corporation

December 11, 2018

By [Signature]
Name GABRY BROWN
Title PRES + CEO

December 11, 2018

By [Signature]
Name Colin Kelly
Title Staff Attorney

Tom Modica
Assistant City Manager

"Permittee"

EXECUTED PURSUANT
TO SECTION 301 OF
THE CITY CHARTER

CITY OF LONG BEACH, a municipal
corporation

1/23, 2018⁹

By [Signature]
City Manager

"City"

This Right of Entry Permit is approved as to form on

12/17, 2018.

CHARLES PARKIN, City Attorney

By [Signature]
Deputy

JACK DUNSTER MARINE BIOLOGICAL RESERVE

