



1 and Marine, which shall be held in advance of any additional modifications to City-owned  
2 Property.

3           3.     Duration of Permit.

4           A.     Permission to enter shall begin on December 6, 2013 and  
5 shall end on November 30, 2016, unless sooner terminated as provided in this  
6 Permit. City shall have the option of extending the Permit for one (1) additional  
7 three (3) year term.

8           B.     City shall reserve the right to revoke this Permit and reserves  
9 the right to remove the permanent and/or seasonal lighting at the City's sole cost  
10 and expense at the discretion of the City Manager or his designee.

11           C.     Within fifteen (15) days after expiration or revocation of this  
12 Permit, Permittee shall cease entry and shall cause all Permittee Parties to cease  
13 entry on the City-owned Property, shall remove all equipment, supplies, and  
14 personal property and shall leave the City-owned Property in a clean, neat and  
15 safe condition. Any supplies, equipment, and personal property which are not  
16 removed within the fifteen (15) day period shall become the property of the City  
17 without payment by or liability of any kind on the part of the City.

18           4.     Plans. City shall have the right to review and approve all final  
19 construction documents and/or plans in its capacity as a party to this Agreement,  
20 separate from and in addition to its right as a municipality acting through its Department  
21 of Public Works to review and approve those plans.

22           5.     Insurance. As a condition precedent to the effectiveness of this  
23 Permit, Permittee shall provide evidence of insurance equal to the following insurance  
24 coverage:

25           (a)    Commercial general liability insurance (equivalent in scope to  
26 ISO form CG 00 01 11 85 or CG 00 01 11 88) in an amount not less than  
27 \$1,000,000 per occurrence or \$2,000,000 general aggregate. The coverage shall  
28 include but not be limited to broad form contractual liability, cross liability,

1 independent contractors liability, and products and completed operations liability.  
2 The City, its officers, employees and agents shall be named as additional insureds  
3 by endorsement (on the City's endorsement form or on an endorsement equivalent  
4 in scope to ISO form CG 200 10 11 85 or CG 20 26 11 85), and this insurance  
5 shall contain no special limitations on the scope of protection given to the City, its  
6 officers, employees and agents.

7 (b) Workers' compensation insurance as required by the  
8 California Labor Code and employer's liability insurance in an amount not less  
9 than \$1,000,000 per accident.

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

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

23 Permittee shall require that all Permittee Parties maintain insurance in  
24 compliance with this Section unless otherwise agreed in writing by City's Risk Manager or  
25 designee.

26 Prior to entry on City-owned Property, Permittee shall deliver to City  
27 certificates of insurance or self-insurance and required endorsements, including any  
28 insurance required by Permittee Parties, for approval as to sufficiency and form. The

1 certificates and endorsements shall contain the original signature of a person authorized  
2 by that insurer to bind coverage on its behalf. In addition, Permittee shall at least thirty  
3 (30) days prior to expiration of this insurance furnish to the City evidence of renewal of  
4 the insurance. City reserves the right to require complete certified copies of all policies of  
5 insurance at any time. Permittee and Permittee Parties shall make available to the City,  
6 during normal business hours, all books, records, and other information relating to the  
7 insurance required in this Permit.

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

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

15 6. Permittee's Indemnification of City. Permittee shall indemnify,  
16 defend and hold the City, its officers and employees harmless from all liability, loss,  
17 damage, claims (including claims under Section 7 for which Permittee has agreed that  
18 the City is not liable), demands, penalties, fines, proceedings, causes of action, taxes,  
19 assessments, costs, and expenses (including attorney's fees and experts' fees) arising  
20 from the right to enter granted by this Permit and the activities of Permittee Parties on the  
21 City-owned Property under this Permit. This indemnity shall survive the expiration or  
22 revocation of this Permit.

23 7. Non-Responsibility of City. City, its officers and employees shall not  
24 be responsible or liable for loss or damage by theft, fire, flood, burglary, vandalism, or  
25 any other cause to the supplies, equipment, or other personal property of Permittee  
26 Parties in or on the City-owned Property, except to the extent caused by the gross  
27 negligence of the City, its officers or employees. By executing this Permit and in  
28 consideration for being allowed entry to the City-owned Property, Permittee waives all

1 claims against the City, its officers or employees for such loss or damage.

2           8.     No Title. Permittee and City acknowledge and agree that, by this  
3 Permit, Permittee does not acquire any right, title or interest of any kind in the City-owned  
4 Property, including but not limited to any leasehold interest. Permittee shall not allow the  
5 City-owned Property to be used by anyone other than a Permittee Party or for any other  
6 purpose than stated in this Permit. Notwithstanding any language to the contrary in this  
7 Permit, if a court of competent jurisdiction deems this Permit to be a lease, then  
8 Permittee waives any right of redemption under any existing or future law in the event  
9 that the City removes it from the City-owned Property and agrees that, if the manner or  
10 method used by the City in ending any right held by Permittee under this Permit gives to  
11 Permittee a cause of action similar to or based on damages that would otherwise arise in  
12 connection with unlawful detainer, then the total amount of damages to which Permittee  
13 would be entitled in such action shall be One Dollar (\$1.00). Permittee agrees that this  
14 Section may be filed in such action and that, when so filed, it shall be a stipulation by  
15 Permittee fixing the total damages to which Permittee is entitled in such action.

16           9.     No Assignment. Permittee shall not assign this Permit or the  
17 permission granted by this Permit. Neither this Permit nor any interest in it shall be  
18 subject to transfer by attachment, execution, proceedings in insolvency or bankruptcy, or  
19 receivership. Any attempted assignment or other transfer that is not approved by the City  
20 Manager shall be void and confer no right of entry on the purported assignee or  
21 transferee.

22           10.    Condition After Entry. After the entry of any Permittee Party on the  
23 City-owned Property, Permittee shall return the City-owned Property in as good condition  
24 or better condition as the City-owned Property was in prior to such entry, reasonable  
25 wear and tear excepted. The Permittee and Permittee Parties are responsible for any  
26 and all damage to La Bella Fontana di Napoli Park caused by their use of the permitted  
27 area.

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1           11. Notice. Any notice or approval given under this Permit shall be in  
2 writing and personally delivered or deposited in the U.S. Postal Service, registered or  
3 certified, return receipt, to City of Long Beach, Department of Parks, Recreation and  
4 Marine at 2760 N. Studebaker Rd., Long Beach, CA 90815 Attn: Director and/or to  
5 Naples Improvement Association at P. O. Box 3687, Long Beach, CA 90803. Notice  
6 shall be deemed given on the date personal delivery is made or on the date shown on the  
7 return receipt, whichever first occurs.

8           12. Consideration. This Permit is granted in consideration for  
9 Permittee's efforts to beautify La Bella Fontana di Napoli Park by providing seasonal  
10 lighting for the enjoyment of the community and no fee will be charged to the Association.

11           13. Improvements. Permittee Parties shall not install, construct, erect, or  
12 maintain any structure or improvements on the City-owned Property except as described  
13 in this Permit. At the expiration or revocation of this Permit, all improvements to City-  
14 owned Property made pursuant to this Permit shall become the sole property of the City,  
15 at no charge.

16           14. No Limitations on City. The Permit shall not limit the City's right or  
17 power to construct, erect, build, demolish, move, or otherwise modify any structures,  
18 buildings, landscaping or any other type of improvement on, over, in, or under the City-  
19 owned Property.

20           15. No Release. The expiration or revocation of this Permit shall not  
21 release either party from any liability or obligation which accrued prior to such expiration  
22 or revocation.

23           16. Utilities and Security. Permittee shall not use any City utilities at any  
24 time during this Permit without prior written authorization from the City Manager or his  
25 designee. The City shall not have any obligation to Permittee to provide utilities, clean-up,  
26 or security on the City-owned Property with respect to the right of entry granted by this  
27 Permit. City shall be responsible for all electrical utility charges, estimated at Five  
28 Hundred Dollars (\$500.00) per year.

1           17. Nondiscrimination. In exercising its right of entry and use of the City-  
2 owned Property, Permittee shall not discriminate on the basis of race, color, religion,  
3 national origin, sex, sexual orientation, age, HIV status, disability or handicap.

4           18. Compliance with Laws. Permittee Parties shall comply with all  
5 applicable laws, rules, regulations and ordinances with respect to their activities on the  
6 City-owned Property.

7           19. Miscellaneous.

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

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

14           C. This Permit may only be amended by a written agreement,  
15 signed by the City and Permittee after authorization by City's City Council.

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

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

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

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

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

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Permittee Party.

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

NAPLES IMPROVEMENT ASSOCIATION

20 May, 2014

By Kathy Slayter  
President

Kathy Frazier  
Type or Print Name

20 May, 2014

By Roger H Powell  
Secretary Treasurer

Roger H. Powell  
Type or Print Name

"Permittee"

CITY OF LONG BEACH, a municipal corporation

7.22, 2014

By [Signature] Assistant City Manager  
City Manager

"City"

EXECUTED PURSUANT TO SECTION 301 OF THE CITY CHARTER.

This Right of Entry Permit is approved as to form on May 21, 2014.

CHARLES PARKIN, City Attorney

By [Signature]  
Deputy



# La Bella Fontana di Napoli Park



**Naples Improvement Association  
Right of Entry Permit**