

1 RIGHT OF ENTRY PERMIT

2 **32381**

3 THIS RIGHT OF ENTRY PERMIT is issued and granted as of
4 SEP. 13 2011, ^{AK} 2014, for reference purposes only, pursuant to a minute order of
5 the City Council of the City of Long Beach at its meeting on July 5, 2011 by the CITY OF
6 LONG BEACH, a municipal corporation ("City") to the WRIGLEY AREA
7 NEIGHBORHOOD ALLIANCE, INC., a California corporation for public benefit
8 ("Permittee").

9 1. Access. City grants to Permittee, its contractors, agents and
10 employees (collectively, the "Permittee Parties"; individually, a "Permittee Party") a
11 nonexclusive right to enter the City-owned property described in Exhibit "A" attached to
12 this Permit and incorporated by reference ("City-owned Property") for the purpose of
13 ongoing improvements and third-party maintenance of Cressa Park, located at 19th Street
14 and DeForest Avenue. City acknowledges that the permission granted by this Permit
15 may include placing, using and leaving equipment and materials provided, however, that
16 the location and placement of equipment and materials shall first be approved by the City
17 Manager or his designee. Permittee shall use its best efforts to limit entry of Permittee
18 Parties to Cressa Park to the extent necessary to meet the purposes stated in this
19 Permit.

20 2. Time of Use. Permittee Parties shall enter City-owned Property in
21 accordance with this Permit during normal business hours of City and on forty-eight (48)
22 hours prior notice to the City, which notice may be oral and shall be given to the Manager
23 of Planning and Development Bureau for the City's Department of Parks, Recreation and
24 Marine.

25 3. Duration of Permit.

26 A. Permission to enter shall begin on August 1, 2011 and shall end
27 on July 31, 2016 unless sooner terminated as provided in this Permit, unless the
28 services to be performed hereunder or the project are completed sooner. The

1 Director, in his sole discretion, may renew this Permit for one (1) additional five (5)
2 year term, if Permittee gives notice of Permittee's desire to renew at least sixty
3 (60) days' prior to the expiration date herein and the Director approves the renewal
4 in writing. However, the terms of this Permit may be subject to modification if
5 renewed.

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

13 4. Plans. City shall have the right to review and approve all final
14 construction documents as a party to this Agreement. Permittee shall also provide City
15 with keys to any gate used for access to the City-owned Property while under
16 construction. In the alternative, Permittee's plans shall include a separate entrance with
17 access controlled solely by the City.

18 5. Insurance. As a condition precedent to the effectiveness of this
19 Permit, Permittee shall provide evidence of insurance equal to the following insurance
20 coverage:

21 (a) Commercial general liability insurance (equivalent in scope to ISO
22 form CG 00 01 11 85 or CG 00 01 11 88) in an amount not less than \$1,000,000
23 per occurrence or \$2,000,000 general aggregate. The coverage shall include but
24 not be limited to broad form contractual liability, cross liability, independent
25 contractors liability, and products and completed operations liability. The City, its
26 officers, employees and agents shall be named as additional insureds by
27 endorsement (on the City's endorsement form or on an endorsement equivalent in
28 scope to ISO form CG 200 10 11 85 or CG 20 26 11 85), and this insurance shall

1 contain no special limitations on the scope of protection given to the City, its
2 officers, employees and agents.

3 (b) Workers' compensation insurance as required by the California
4 Labor Code and employer's liability insurance in an amount not less than
5 \$1,000,000 per accident.

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

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

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

22 Prior to entry on City-owned Property, Permittee shall deliver to City
23 certificates of insurance or self-insurance and required endorsements, including any
24 insurance required by Permittee Parties, for approval as to sufficiency and form. The
25 certificates and endorsements shall contain the original signature of a person authorized
26 by that insurer to bind coverage on its behalf. In addition, Permittee shall at least thirty
27 (30) days prior to expiration of this insurance furnish to the City evidence of renewal of
28 the insurance. City reserves the right to require complete certified copies of all policies of

1 insurance at any time. Permittee and Permittee Parties shall make available to the City,
2 during normal business hours, all books, records and other information relating to the
3 insurance required in this Permit.

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

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

11 6. Permittee's Indemnification of City. Permittee shall indemnify,
12 defend and hold the City, its officers and employees harmless from all liability, loss,
13 damage, claims, demands, penalties, fines, proceedings, causes of action, taxes,
14 assessments, costs, and expenses (including attorney's fees and experts' fees) arising
15 from the right to enter granted by this Permit and the activities of Permittee Parties on the
16 City-owned Property under this Permit. This indemnity shall survive the expiration or
17 revocation of this Permit.

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

25 8. No Title. Permittee and City acknowledge and agree that, by this
26 Permit, Permittee does not acquire any right, title or interest of any kind in the City-owned
27 Property, including but not limited to any leasehold interest. Permittee shall not allow the
28 City-owned Property to be used by anyone other than a Permittee Party or for any other

1 purpose than stated in this Permit. Notwithstanding any language to the contrary in this
2 Permit, if a court of competent jurisdiction deems this Permit to be a lease, then
3 Permittee waives any right of redemption under any existing or future law in the event
4 that the City removes it from the City-owned Property and agrees that, if the manner or
5 method used by the City in ending any right held by Permittee under this Permit gives to
6 Permittee a cause of action similar to or based on damages that would otherwise arise in
7 connection with unlawful detainer, then the total amount of damages to which Permittee
8 would be entitled in such action shall be One Dollar. Permittee agrees that this Section
9 may be filed in such action and that, when so filed, it shall be a stipulation by Permittee
10 fixing the total damages to which Permittee is entitled in such action.

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

17 10. Condition After Entry. After the entry of any Permittee Party on the
18 City-owned Property, Permittee shall return the City-owned Property in as good condition
19 or better condition as the City-owned Property was in prior to such entry, reasonable
20 wear and tear excepted.

21 11. Notice. Any notice or approval given under this Permit shall be in
22 writing and personally delivered or deposited in the U.S. Postal Service, registered or
23 certified, return receipt, to the City of Long Beach, Department of Parks, Recreation and
24 Marine at 2760 Studebaker Road, Long Beach, CA 90815 Attn: Planning and
25 Development Bureau and to WRIGLEY AREA NEIGHBORHOOD ALLIANCE, INC.,
26 P. O. Box 6370, Long Beach, CA 90806, Attn: Maria Norvell, President. Notice shall be
27 deemed given on the date personal delivery is made or on the date shown on the return
28 receipt, whichever first occurs.

1 12. Consideration. This Permit is granted in consideration for
2 Permittee's maintenance of Cressa Park at no cost to the City.

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

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

12 15. No Release. The expiration or revocation of this Permit shall not
13 release either party from any liability or obligation, which accrued prior to such expiration
14 or revocation.

15 16. Utilities and Security. Permittee shall not use any City utilities at any
16 time during this Permit without prior written authorization from the Director of the Parks
17 Department or his designee. The City shall not have any obligation to Permittee to
18 provide utilities, clean up, or security on the City-owned Property with respect to the right
19 of entry granted by this Permit. Permittee shall provide continuous access to Cressa
20 Park, with the exception of the area under construction, for public use, for the duration of
21 this Permit. Permittee shall remove all graffiti, trash, and debris from the site within forty-
22 eight (48) hours.

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

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

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19. Miscellaneous.

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

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

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

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

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

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OFFICE OF THE CITY ATTORNEY
ROBERT E. SHANNON, City Attorney
333 West Ocean Boulevard, 11th Floor
Long 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.

WRIGLEY AREA NEIGHBORHOOD
ALLIANCE, INC., a California corporation
for public benefit

10-7, 2011

By Maria Norvell
President

Maria Norvell
Type or Print Name

10-7-, 2011

By Jill Hill
Secretary

Jill Hill
Type or Print Name

"Permittee"

CITY OF LONG BEACH, a municipal
corporation
Assistant City Manager

10.27, 2011

By [Signature]
City Manager

"City"

EXECUTED PURSUANT
TO SECTION 301 OF
THE CITY CHARTER.

This Right of Entry Permit is approved as to form on OCT. 17, 2011.

ROBERT E. SHANNON, City Attorney

By [Signature]
Deputy



Cressa Park Exhibit A

0 10 20 30 40 50 60 70 Feet



Aerial courtesy of ESRI
contracts-cressa right of entry.mxd teh 7/21/11