

1 PERMIT FOR THE USE OF BELMONT PLAZA POOL

2 **31902**

3 THIS PERMIT is made and entered, in duplicate, as of October 7, 2009 for  
4 reference purposes only, pursuant to a minute order adopted by the City Council of the  
5 City of Long Beach ("City"), at its October 6, 2009 meeting, granting permission to LONG  
6 BEACH SWIM CLUB, a California nonprofit corporation ("Permittee") to use that portion  
7 of the indoor pool at the Belmont Plaza Pool ("permit area") designated by the Manager  
8 of the City's Community Recreation Services Bureau ("Manager"). The permit area shall  
9 be used and occupied by Permittee subject to the following terms, conditions and  
10 limitations:

11 1. PERMITTED USE. Permittee shall have non-exclusive use of that  
12 portion of the indoor and outdoor pools at Belmont Plaza Pool as designated on Exhibit  
13 "A", including use of the locker rooms, for the purpose of providing competitive swim  
14 training to its members, conducting swimming competitions, storage of equipment and  
15 supplies, and for no other purpose.

16 A. Indoor Pool.

17 i. Scheduled Use: Mid-September through Mid-June, as determined  
18 by the City's Aquatics Supervisor.

19 a. Use of Deep End Lanes Four (4) through Seven (7), as  
20 illustrated on Exhibit "A". Monday through Friday from 5:30 a.m. to 7:00 a.m. for  
21 practices.

22 b. Use of Deep End Lanes Three (3) through Seven (7),  
23 as illustrated on Exhibit "A". Monday through Friday from 4:00 p.m. to 7:00 p.m.  
24 for practices.

25 c. Practice is defined as single team workouts, which are  
26 closed to the public.

27 d. The City shall provide lifeguard services for the  
28 Scheduled Use of Indoor Pool.

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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B. Outdoor Pool.

i. Scheduled Use: Mid-June through the End of August, as determined by the Aquatics Supervisor.

a. Use of the six (6) lanes in the "Warm-Up Pool" and use of the Shallow Pool as illustrated on Exhibit "A", Monday through Friday 5:30 a.m. to 9:30 a.m. and 5:00 p.m. to 8:00 p.m. for practices.

b. Practice is defined as single team workouts, which are closed to the public.

c. Permittee shall provide and pay for all lifeguard services from certified lifeguards and provide proof of certification to City.

d. Availability of both Outdoor Pools is contingent on City's financial ability to keep the facility open. Should City be unable to keep the Outdoor Pools open, City shall provide Permittee thirty (30) days written notice of closure.

e. Should Permittee wish to use the Outdoor Pool(s) outside of the Scheduled Use period, Permittee shall provide a written request to the Aquatic Supervisor thirty (30) days prior to the requested start date. Pool use is at the discretion of the Aquatic Supervisor.

f. City shall pay all costs to heat the outdoor pool during Permittee's Scheduled Use. Permittee shall pay all costs to heat the outdoor pool during all other permitted uses. City shall provide all chemicals necessary to properly maintain the outdoor pool at all time for all uses.

g. The Permittee shall be authorized to keep Permittee's 10 foot by 10 foot storage container located on the deck in the Outdoor Pool Area for the storage of equipment and supplies. Permittee shall maintain the exterior of the container in a publicly presentable condition as approved by City. The City shall not be held responsible for any loss or damage to property belonging to the Permittee.

1 C. Changes to the Schedule. The Aquatic Supervisor may change the  
2 Permittee's Scheduled Use hours and days to accommodate City-sponsored  
3 special events, other City-sponsored pool activities, and filming. In making such  
4 changes, the Aquatics Supervisor will endeavor to provide a minimum of five (5)  
5 days notice to Permittee.

6 D. Alterations or Improvements. Permittee shall not make any  
7 alterations or improvements to the Permit area or the Belmont Plaza Pool without  
8 obtaining the prior written consent of the City Manager or his designee.

9 E. Assignment. Permittee shall not assign or otherwise transfer  
10 (voluntarily or involuntarily) or sublet any portion of this Permit or any interest  
11 therein.

12 2. USE FEES. Permittee shall pay the City for the use of the permitted  
13 area including the outdoor storage container and shall pay in accordance with the  
14 Schedule of Fees and Charges adopted by the City Council of the City of Long Beach for  
15 non-profit youth organizations unless otherwise designated on this Permit.

16 A. Practice Fee. Permittee shall pay a practice fee of ten dollars  
17 (\$10.00) per hour for the first (1<sup>st</sup>) permit year ("Permit year September 1 through  
18 August 31"). This fee shall be adjusted to twelve dollars (\$12.00) per hour for the  
19 second (2<sup>nd</sup>) permit year, and shall be adjusted to fifteen dollars (\$15.00) per hour  
20 for the third (3<sup>rd</sup>) permit year. Upon execution of the first (1<sup>st</sup>) renewal option, the  
21 practice fee shall be twenty dollars (\$20.00) per hour.

22 B. Pool Entry Fees. City pool entry fees for members are  
23 included in the Practice Fee above. No additional City pool entry fees will be  
24 charged for practices.

25 C. Concession Fees. In consideration for the contributions the  
26 Permittee makes to the City of Long Beach, the City shall waive the standard  
27 concession fee of five percent (5%) of gross sales for all ticket sales, programs  
28 and event t-shirts. The City shall also waive the fifteen percent (15%) of gross

1 sales receipts for all other concession items including food and/or beverage.

2 D. Special Event Fees. In consideration for the contributions the  
3 Permittee makes to the City of Long Beach, the City shall waive the per hour  
4 special event fee for no more than three (3) events per year. Permittee shall  
5 reimburse the City for all City staff costs related to all special events such as diving  
6 meeting, competitions or exhibitions, including special events where the special  
7 event fee was waived.

8 3. TERM. One (1), three (3) year term commencing on September 1,  
9 2009 through August 31, 2012, with one (1), two (2) year option for renewal, at the  
10 discretion of the City Manager or his designee. Permittee must submit a letter of intent to  
11 renew Permit within ninety (90) days of the expiration of the initial term. The Permit shall  
12 commence on the date of last execution and remain in effect until terminated by thirty  
13 (30) days written notice by either party to the other party.

14 4. INDEMNIFICATION.

15 A. General Indemnity. Permittee shall defend and indemnify the  
16 City of Long Beach and its officers and employees while acting within the scope of  
17 their duties from and against any and all actions, suits, proceedings, claims and  
18 demands, costs (including attorneys' fees and court costs), expense and liability of  
19 any kind or nature whatsoever ("claims") for injury to or death of persons or  
20 damage to property (including property owned by or under the control of the City)  
21 which may be brought, made, filed against, imposed upon or sustained by the City,  
22 its officers or employees based upon or arising out of:

23 B. An act or omission of Permittee, its officers, agents,  
24 employees, contractors, licensees or invitees or of any person entering upon the  
25 Permit Area with the express or implied invitation of Permittee;

26 C. A violation by Permittee, its officers, agents, employees,  
27 contractors, licensees or invitees or of any other person entering upon the Permit  
28 Area with the express or implied invitation of Permittee of any law, ordinance or

1 governmental order of any kind;

2 D. The use or occupancy of the Permit Area by Permittee, its  
3 officers, agents, employees, contractors, licensees or invitees or of any other  
4 person entering upon the Permit Area with the express or implied invitation of  
5 Permittee.

6 This indemnity shall not include claims based upon or arising out of the sole  
7 negligence, gross negligence, or willful misconduct of the City, its officers and  
8 employees. Further, this indemnity shall not require payment of a claim by the City or its  
9 officers or employees as a condition precedent to the recovery under the same. The  
10 indemnity obligation of Permittee under this paragraph shall survive the expiration or  
11 termination, for any reason, of this Permit.

12 6. INSURANCE. Concurrent with the execution of this Permit and in  
13 partial performance of Permittee's obligations hereunder, Permittee shall procure and  
14 maintain at Permittee's expense for the duration of this Permit, including any extensions,  
15 renewals, or holding over thereof, the following insurance coverages from insurance  
16 companies that are admitted to write insurance in the State of California or from  
17 authorized nonadmitted insurers that have ratings of or equivalent to an A:VIII by A.M.  
18 Best and Company:

19 A. Commercial General Liability insurance equivalent in  
20 coverage scope to ISO form CG 00 01 11 85 or 10 93 in an amount not less than  
21 One Million Dollars (\$1,000,000.00) per occurrence and Two Million Dollars  
22 (\$2,000,000.00) in aggregate covering the Permittee's operations under or in  
23 connection with this Permit. Such insurance shall include, as may be applicable to  
24 Permittee's operations under or in connection with this Permit, broad form  
25 contractual liability, products and completed operations liability, and liquor liability.  
26 The City of Long Beach, its officials, employees and agents shall be added as  
27 additional insureds by endorsement equivalent in coverage scope to ISO form CG  
28 20 26 11 85. This insurance shall contain no special limitations on the scope of

1 protection afforded to the City, its officials, employees and agents, and shall  
2 provide cross-liability protection.

3 B. Special perils property insurance in an amount to cover the  
4 full replacement value of Permittee's personal property, improvements, and  
5 equipment on the permit area.

6 Any self-insurance program or self-insured retention must be approved  
7 separately in writing by City and shall protect the City of Long Beach, its officials,  
8 employees, and agents in the same manner and to the same extent as they would have  
9 been protected had the policy or policies not contained retention provisions.

10 Each insurance policy shall be endorsed to state that coverage shall not be  
11 suspended, voided, materially changed, or canceled by either party except after thirty  
12 (30) days prior written notice to City, and shall be primary to City. Any insurance or self-  
13 insurance maintained by City shall be excess to and shall not contribute to insurance or  
14 self-insurance maintained by Permittee.

15 Permittee shall deliver to City certificates of insurance and the required  
16 endorsements for approval as to sufficiency and form prior to commencement of this  
17 Permit. The certificates and endorsements for each insurance policy shall contain the  
18 original signature of a person authorized by that insurer to bind coverage on its behalf.  
19 Permittee shall, at least thirty (30) days prior to expiration of such policies, furnish City  
20 with evidence of renewals. City reserves the right to require complete certified copies of  
21 all said policies at any time.

22 Such insurance as required herein shall not be deemed to limit Permittee's  
23 liability relating to performance under this Permit. The procuring of insurance shall not be  
24 construed as a limitation on liability or as full performance of the indemnification and hold  
25 harmless provisions of this Permit. Permittee understands and agrees that,  
26 notwithstanding any insurance, Permittee's obligation to defend, indemnify, and hold City,  
27 its officials, agents, and employees harmless hereunder is for the full and total amount of  
28 any damage, injuries, loss, expense, costs, or liabilities caused by or in any manner

1 connected with the operations of Permittee.

2 Not more frequently than every three (3) years, if in the opinion of City the  
3 amount of the foregoing insurance coverage is not adequate, Permittee shall amend the  
4 insurance coverage as required by City's Risk Manager or designee.

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

7 Any notice, demand, requires, consent, or communication that either party  
8 desires or is required to give to the other party or any other person shall be in writing and  
9 either served personally or sent by prepaid, first-class mail addressed as follows:

10 To City: Department of Parks, Recreation and Marine  
11 Attention: Contract Manager  
12 2760 N. Studebaker Road  
13 Long Beach, California 90815

14 To Permittee: Long Beach Swim Club  
15 5318 East 2<sup>nd</sup> Street, #101  
16 Long Beach, California 90803

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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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Either party may change its address by notifying the other party of the change of address. Notice shall be deemed communicated within forty-eight (48) hours from the time of mailing if mailed as provided in this paragraph.

ACCEPTED this 28 day of October, 2010.

LONG BEACH SWIM CLUB, a California corporation

10/1/2010, 2010

By D. Teresa Pascazz  
President

10/1/2010, 2010

By Clara U...  
Secretary

Secretary  
"Permittee"

CITY OF LONG BEACH, a municipal corporation

10.28, 2010

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

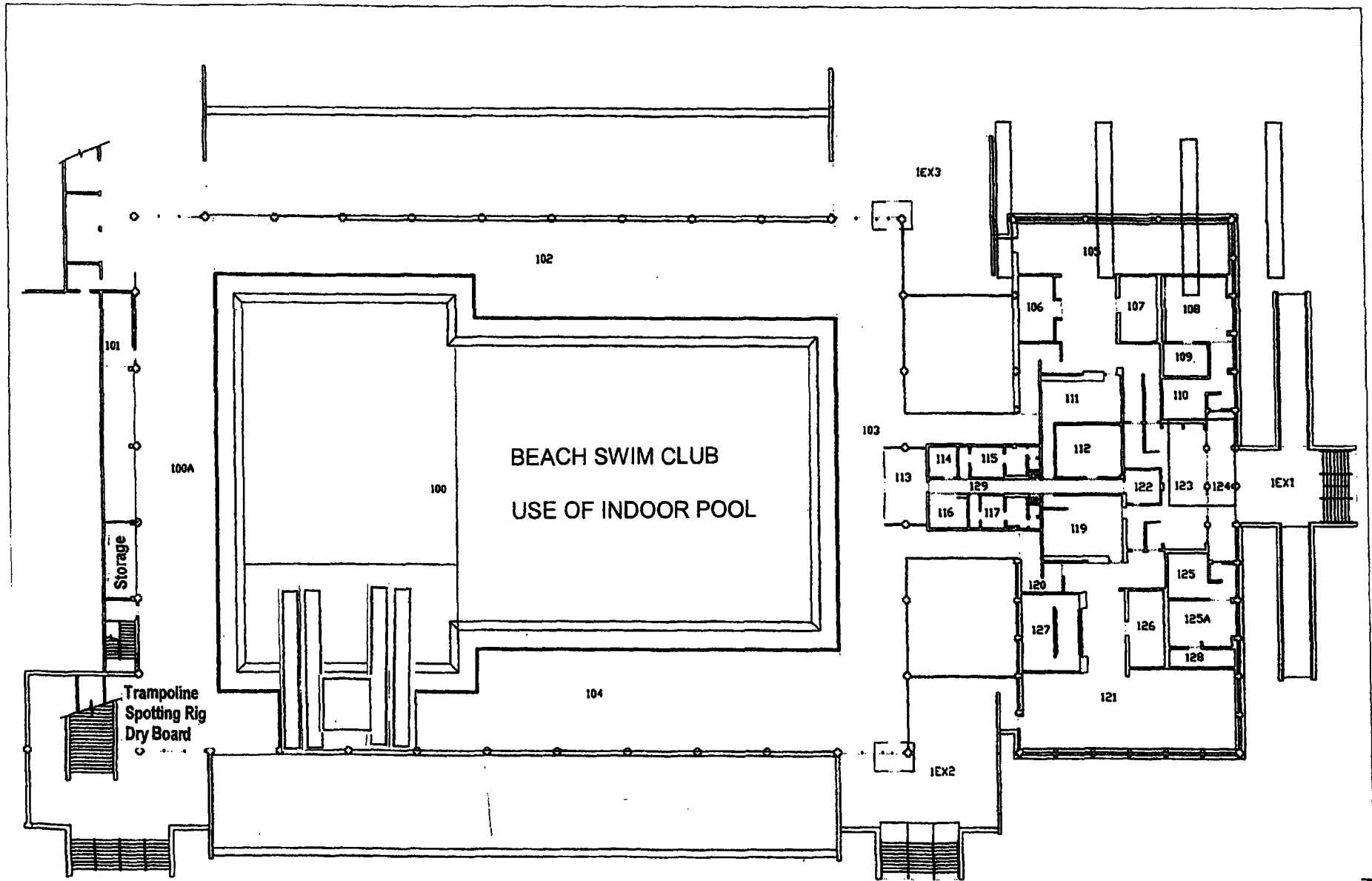
"City"

This Permit is approved as to form on October 13, 2010.

ROBERT E. SHANNON, City Attorney

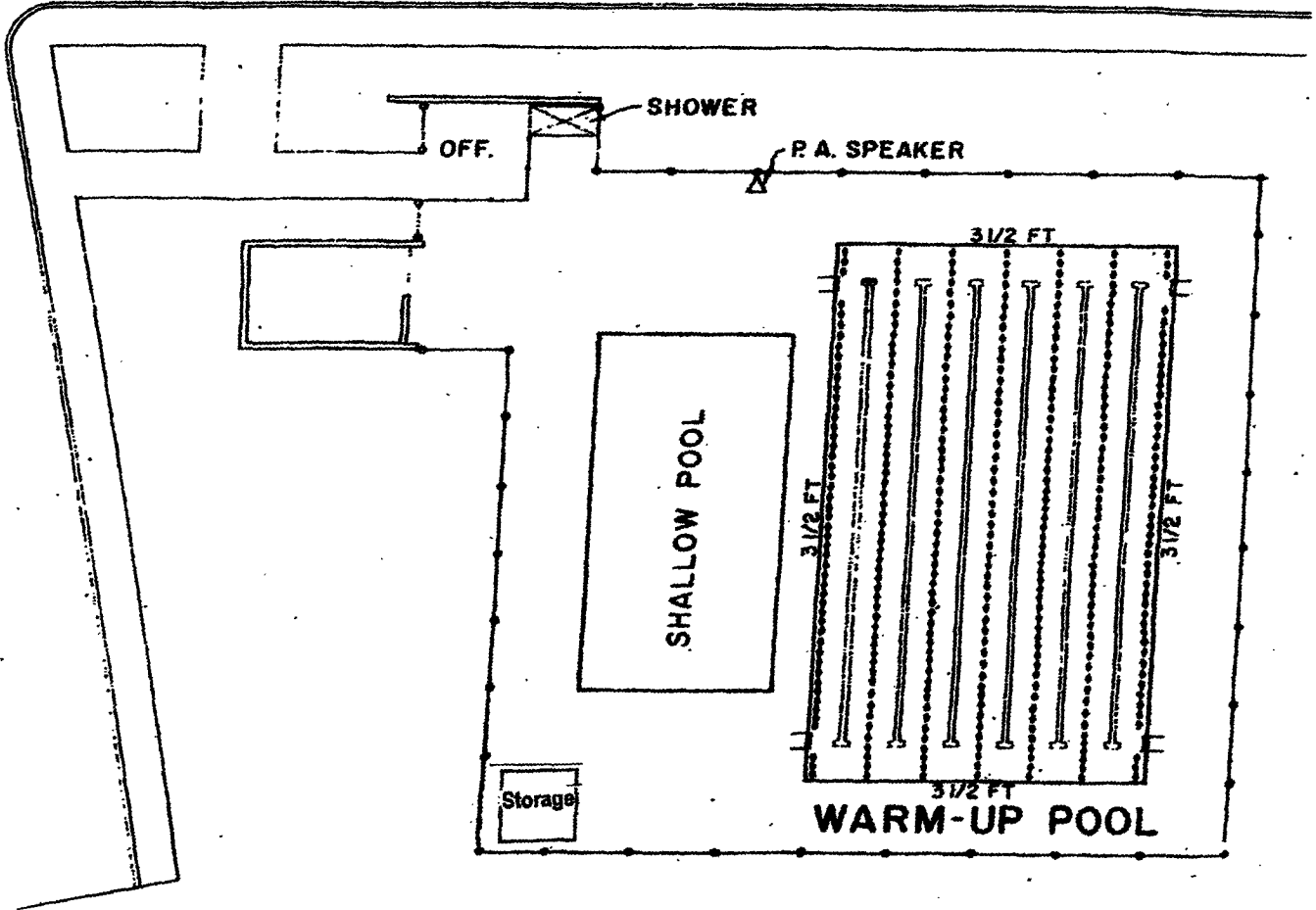
By [Signature]  
Deputy





PARKING

LOT



Beach Swim Club  
Use of Outdoor Pool and Storage