

1 RIGHT OF ENTRY PERMIT

2 **31854**

3 THIS RIGHT OF ENTRY PERMIT ("Permit") is issued and granted as of
4 July 14, 2010 for reference purposes only, pursuant to a minute order of the City Council
5 of the City of Long Beach at its meeting on March 16, 2010, by the CITY OF LONG
6 BEACH, a municipal corporation ("City") to the YOUNG MEN'S CHRISTIAN
7 ASSOCIATION OF GREATER LONG BEACH, a 501(c)(3) California nonprofit
8 corporation for public benefit ("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 and to
13 the extent reasonably necessary for Permittee to comply with its work ("Work") described
14 in the Joint Use Agreement. City acknowledges that the permission granted by this
15 Permit may include placing, using and leaving equipment and materials provided,
16 however, the location of equipment and materials shall first be approved by the City
17 Manager or his designee.

18 2. Time of Use. Permittee Parties shall enter City-owned Property in
19 accordance with this Permit during the normal business hours of Permittee and on forty-
20 eight (48) hours prior notice to the City, which notice may be oral and shall be given to
21 the Manager of Maintenance Operations for the City's Department of Parks, Recreation
22 and Marine. Within Thirty (30) days after the commencement of this Permit, Permittee
23 shall schedule, or caused to be scheduled, a pre- construction meeting with the Manager
24 of Planning and Development for the City's Department of Parks, Recreation and Marine,
25 which shall be held in advance of any modifications to City-owned Property.

26 3. Duration of Permit.

27 3.1 Permission to enter shall begin on May 1, 2010 and, unless
28 expanded in writing, shall end on April 30, 2012, unless sooner terminated as

1 provided in this Permit, unless the services to be performed hereunder or the
2 project is completed sooner.

3 3.2 Within fifteen (15) days after written notice to Permittee
4 following expiration or revocation of this Permit, Permittee shall cease entry and
5 shall cause all Permittee Parties to cease entry on the City-owned Property, shall
6 remove all equipment, supplies, and personal property and shall leave the City-
7 owned Property in a clean, neat and safe condition. Any supplies, equipment, and
8 personal property which are not removed ^{within 24H} ~~with~~ the fifteen (15) day period shall
9 become the property of the City without payment by or liability of any kind on the
10 part of the City.

11 4. The Provisions of Paragraphs 7 (Indemnification), 8 (Plans), 13
12 (Insurance), and 9 (Non-Discrimination) of the Joint Use Agreement No. 31634 are
13 incorporated in the Permit as though fully set forth.

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

21 6. No Title. Except as provided in the Joint Use Agreement, Permittee
22 and City acknowledge and agree that, by this Permit, Permittee does not acquire any
23 right, title or interest of any kind in the City-owned Property, including but not limited to
24 any leasehold interest. Permittee shall not allow the City-owned Property to be used by
25 anyone other than a Permittee Party or for any other purpose than stated in this Permit.

26 7. No Assignment. Permittee shall not assign this Permit or the
27 permission granted by this Permit. Neither this Permit nor any interest in it shall be
28 subject to transfer by attachment, execution, proceedings in insolvency or bankruptcy, or

1 receivership. Any attempted assignment or other transfer that is not approved by the City
2 Manager shall be void and confer no right of entry on the purported assignee or
3 transferee.

4 8. Condition After Entry. After the entry of any Permittee Party on the
5 City-owned Property, Permittee shall return the City-owned Property in as good condition
6 or better condition as the City-owned Property was in prior to such entry, reasonable
7 wear and tear excepted.

8 9. Notice. Any notice or approval given under this Permit shall be in
9 writing and personally delivered or deposited in the U.S. Postal Service, registered or
10 certified, return receipt, to the City of Long Beach, Department of Parks, Recreation and
11 Marine at 2760 Studebaker Road, Long Beach, CA 90815 Attn: Contract Management
12 Division and to 3605 Long Beach Boulevard, Suite 210, Long Beach, CA 90807 Attn:
13 Chief Operating Officer. Notice shall be deemed given on the date personal delivery is
14 made or on the date shown on the return receipt, whichever first occurs.

15 10. Consideration. This Permit is granted in consideration for
16 Permittee's work under the Joint Use Agreement.

17 11. Improvements. Permittee Parties shall not install, construct, erect or
18 maintain any structure or improvements on the City-owned Property except as described
19 in the Joint Use Agreement.

20 12. No Limitations on City. The Permit shall not limit the City's right or
21 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. Any actions of City under this paragraph shall not interfere with
24 Permittee's use under this Permit or the Joint Use Agreement.

25 13. No Release. The expiration or revocation of this Permit shall not
26 release either party from any liability or obligation which accrued prior to such expiration
27 or revocation.

28 14. Utilities and Security. Except as may be provided in the Joint Use

1 Agreement, Permittee shall not use any City utilities at any time during this Permit without
2 prior written authorization from the City Manager or his designee. The City shall not have
3 any obligation to Permittee to provide utilities, clean-up, or security on the City-owned
4 Property with respect to the right of entry granted by this Permit. Permittee shall secure
5 the Site perimeter with fencing while providing continuous access to the Whaley Park
6 Community Center and Parking Lot, for public use, for the duration of this Permit.
7 Permittee shall remove all graffiti, trash, and debris from the site within forty-eight (48)
8 hours.

9 15. Compliance with Laws. Permittee Parties shall comply with all
10 applicable laws, rules, regulations and ordinances with respect to their activities on the
11 City-owned Property.

12 16. Miscellaneous.

13 16.1 This Permit shall be governed by and construed in
14 accordance with the laws of the State of California.

15 16.2 If any part of this Permit shall be held by a court of competent
16 jurisdiction to be invalid, void or unenforceable, then the remainder of the Permit
17 shall remain in full force and effect and shall not be affected, impaired or
18 invalidated.

19 16.3 This Permit may only be amended by a written agreement,
20 signed by the City and Permittee after authorization by City's City Council.

21 16.4 This Permit contains the entire understanding of the City and
22 Permittee and supersedes all other agreements, oral or written, with respect to the
23 subject matter of this Permit.

24 16.5 On the expiration or revocation of this Permit, Permittee
25 agrees to and shall execute such documents, in recordable form if so requested,
26 as the City deems reasonably necessary to end the Permit and remove the Permit
27 as an encumbrance on the City-owned Property.

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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

1 16.6 In any action or proceeding to enforce or interpret or revoke
2 this Permit, the prevailing party shall be entitled to attorney's fees and costs.

3 16.7 The failure or delay of the City to insist on strict compliance
4 with the provisions of this Permit shall not be deemed a waiver of any right or
5 remedy that City may have and shall not be deemed a waiver of any subsequent
6 or other failure to comply with any provision of this Permit.

7 16.8 This Permit is not intended or entered for the purpose of
8 creating any benefit or right for any person or entity that is not a signatory or a
9 Permittee Party.

10 YOUNG MEN'S CHRISTIAN
11 ASSOCIATION OF GREATER LONG
12 BEACH, a 501(c)(3) California nonprofit
13 corporation for public benefit

13 August 31, 2010

13 By Alan Hostrup
14 President & CEO

14 Alan Hostrup
15 Type or Print Name

16
17 AUGUST 31, 2010

17 By Jack E Hirsch
18 Secretary CHAIRMAN

18 JACK E HIRSCH
19 Type or Print Name

20 "Permittee"

21
22 CITY OF LONG BEACH, a municipal
23 corporation . Assistant City Manager

24 10-8, 2010

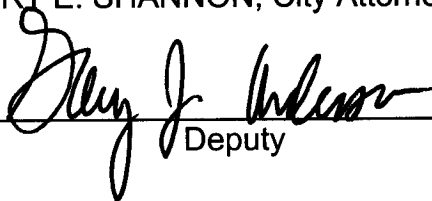
24 By [Signature]
25 EXECUTED PURSUANT
26 TO SECTION 301 OF
27 THE CITY CHARTER.

28 "City"

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This Right of Entry Permit is approved as to form on 9/24, 2010.

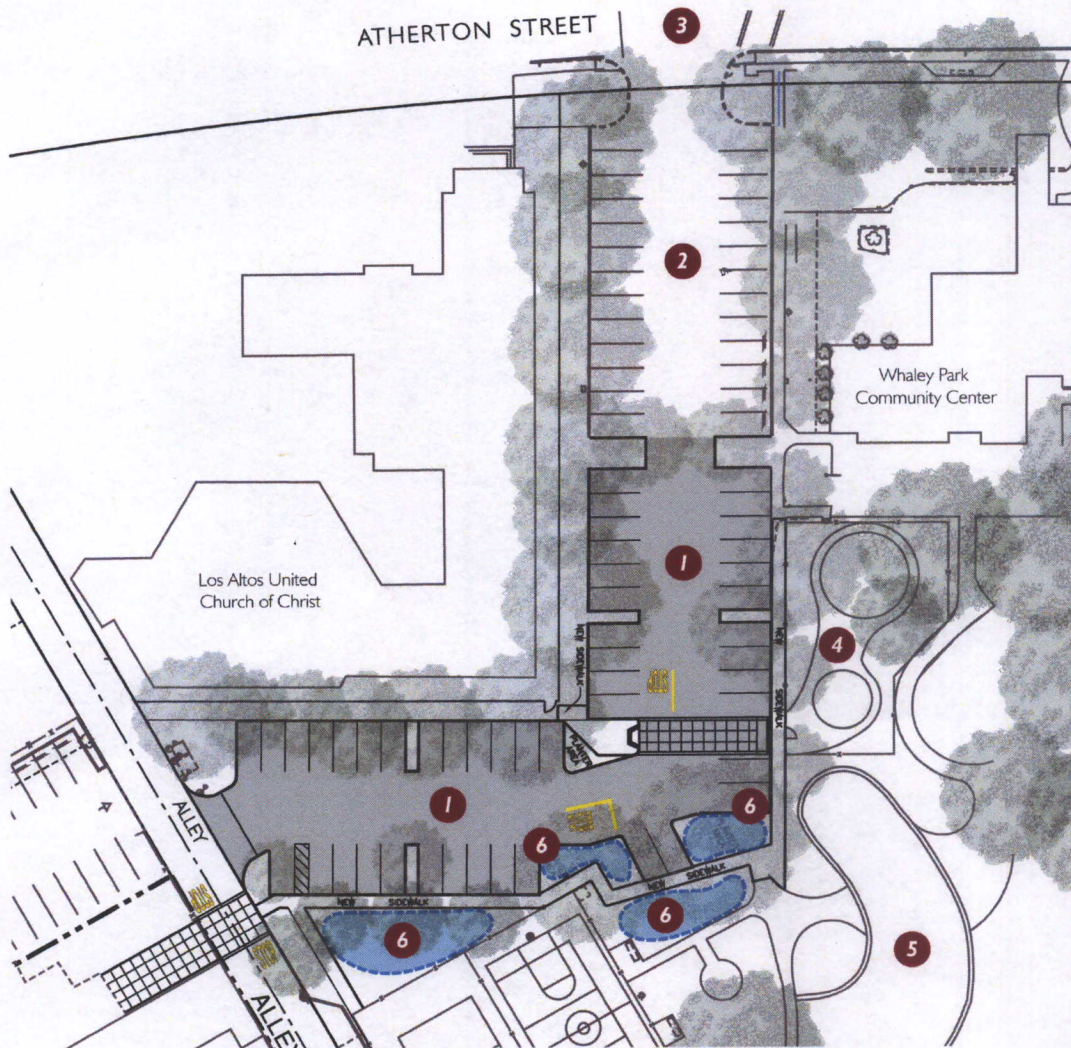
ROBERT E. SHANNON, City Attorney

By 
Deputy

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EXHIBIT A: WHALEY PARK



KEYNOTES

- 1 Proposed parking lot
- 2 Existing parking lot
- 3 Signalized intersection
- 4 Relocated tot lot
- 5 Existing play area
- 6 Potential bioswale location

