

OFFICE OF THE CITY ATTORNEY  
ROBERT E. SHANNON, City Attorney  
333 West Ocean Boulevard, 11th Floor  
Long Beach, CA 90802-4664

1 RIGHT OF ENTRY PERMIT

2 **32505**

3 THIS RIGHT OF ENTRY PERMIT is issued and granted as of April 1, 2012  
4 for reference purposes only, pursuant to a minute order adopted by the City Council of  
5 the City of Long Beach, a municipal corporation ("City") at its meeting on February 14,  
6 2012, to the EAST ANAHEIM STREET BUSINESS ALLIANCE ("Permittee").

7 1. Access. City grants to Permittee, its contractors, agents and  
8 employees (collectively, the "Permittee Parties"; individually, a "Permittee Party") a  
9 nonexclusive right to enter the City-owned property described in Exhibit "A" attached to  
10 this Permit and incorporated by reference ("City-owned Property") for the purpose and to  
11 the extent reasonably necessary for Permittee to install and maintain surveillance  
12 cameras. City acknowledges that the permission granted by this Permit may include  
13 placing, using and leaving equipment and materials provided, however, that the location  
14 of equipment and materials shall first be approved by the City Manager or his designee.  
15 Permittee shall use its best efforts to limit the entry of Permittee Parties to the space and  
16 to the extent necessary to meet the purposes stated in this Permit. Entry by Permittee  
17 Parties and storage of equipment and supplies shall not create a nuisance or  
18 unnecessarily impede the use of city streets and intersections.

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

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1                   3.     Duration of Permit.

2                   A.     Permission to enter shall begin on April 1, 2012 and shall end  
3 on March 31, 2017 unless sooner terminated as provided in this Permit, unless the  
4 services to be performed hereunder or the project is completed sooner.

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

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

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

19                  (a)     Commercial general liability insurance (equivalent in scope to ISO  
20 form CG 00 01 11 85 or CG 00 01 11 88) in an amount not less than \$1,000,000 per  
21 occurrence or \$2,000,000 general aggregate. The coverage shall include but not be  
22 limited to broad form contractual liability, cross liability, independent contractors liability,  
23 and products and completed operations liability. The City, its officers, employees and  
24 agents shall be named as additional insureds by endorsement (on the City's  
25 endorsement form or on an endorsement equivalent in scope to ISO form CG 200 10 11  
26 85 or CG 20 26 11 85), and this insurance shall contain no special limitations on the  
27 scope of protection given to the City, its officers, employees and agents.

28                  (b)     Workers' compensation insurance as required by the California

1 Labor Code and employer's liability insurance in an amount not less than \$1,000,000 per  
2 accident.

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

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

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

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

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

5 Notwithstanding any other provision of this Permit, if Permittee or an  
6 Permittee Party fails to comply with this Section, the City may immediately revoke this  
7 Permit and the permission granted by this Permit.

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

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

23 8. No Title. Permittee and City acknowledge and agree that, by this  
24 Permit, Permittee does not acquire any right, title or interest of any kind in the City-owned  
25 Property, including but not limited to any leasehold interest. Permittee shall not allow the  
26 City-owned Property to be used by anyone other than a Permittee Party or for any other  
27 purpose than stated in this Permit. Notwithstanding any language to the contrary in this  
28 Permit, if a court of competent jurisdiction deems this Permit to be a lease, then

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

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

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

19           11.   Notice. Any notice or approval given under this Permit shall be in  
20 writing and personally delivered or deposited in the U.S. Postal Service, registered or  
21 certified, return receipt, to the City of Long Beach, Department of Public Works at 333 W.  
22 Ocean Blvd., Long Beach, CA 90802 Attn: Traffic Engineer. Notice shall be deemed  
23 given on the date personal delivery is made or on the date shown on the return receipt,  
24 whichever first occurs.

25           12.   Consideration. This Permit is granted in consideration for  
26 Permittee's installation of surveillance cameras at no cost to the City.

27           13.   Improvements. Permittee Parties shall not install, construct, erect or  
28 maintain any structure or improvements on the City-owned Property except as described

1 in this Permit. At the expiration or revocation of this Permit, all improvements to City-  
2 owned Property made pursuant to this Permit shall become the sole property of the City,  
3 at no charge.

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

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

11 16. Utilities and Security. Permittee shall not use any City utilities at any  
12 time during this Permit without prior written authorization from the City Manager or his  
13 designee. The City shall not have any obligation to Permittee to provide utilities, clean-up,  
14 or security on the City-owned Property with respect to the right of entry granted by this  
15 Permit. Permittee shall remove all graffiti, trash, and debris from the site within forty-eight  
16 (48) hours.

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

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

23 19. Miscellaneous.  
24 A. This Permit shall be governed by and construed in  
25 accordance with the laws of the State of California.  
26 B. If any part of this Permit shall be held by a court of competent  
27 jurisdiction to be invalid, void or unenforceable, then the remainder of the Permit  
28 shall remain in full force and effect and shall not be affected, impaired or

1           invalidated.

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

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

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

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

13                      G.     The failure or delay of the City to insist on strict compliance  
14 with the provisions of this Permit shall not be deemed a waiver of any right or  
15 remedy that City may have and shall not be deemed a waiver of any subsequent  
16 or other failure to comply with any provision of this Permit.

17                      H.     This Permit is not intended or entered for the purpose of  
18 creating any benefit or right for any person or entity that is not a signatory or an  
19 Permittee Party.

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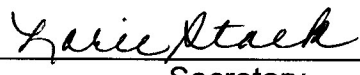
1 IN WITNESS WHEREOF, the parties have executed this Permit on the  
2 respective dates set forth opposite their signatures.

3  
4 EAST ANAHEIM STREET BUSINESS  
ALLIANCE

5 MARCH 5, 2012

6 By   
7 President  
8 Paul Wilson  
9 Type or Print Name

10 March 5, 2012

11 By   
12 Secretary  
13 LORIE STACK  
14 Type or Print Name

15 "Permittee"

16 CITY OF LONG BEACH, a municipal  
17 corporation

18 3.27, 2012

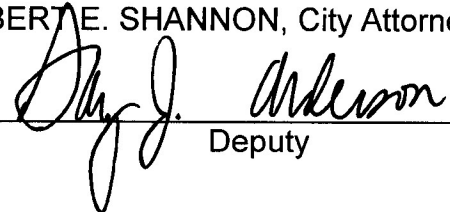
19 By   
20 Assistant City Manager  
21 City Manager

22 "City"

23 EXECUTED PURSUANT  
24 TO SECTION 301 OF  
25 THE CITY CHARTER.

26 This Right of Entry Permit is approved as to form on  
27 March 7, 2012.

28 ROBERT E. SHANNON, City Attorney

By   
Deputy



# Exhibit "A"

## Right of Entry Permit Locations

Access to City traffic signal infrastructure at:

1. Anaheim Street and Temple Avenue
2. Anaheim Street and Redondo Avenue