

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

1 REVOCABLE FACILITY USE PERMIT

2 **31382**

3 THIS REVOCABLE FACILITY USE PERMIT is issued by the City of Long
4 Beach ("City"), in duplicate, as of August 19, 2009, pursuant to a minute order adopted by
5 the City Council of the City of Long Beach at its meeting on August 18, 2009, to the
6 ANTIOCH CHURCH OF LONG BEACH ("Permittee"), subject to and on the terms and
7 conditions stated herein.

8 1. Permission. Subject to and on the terms and conditions of this
9 Permit, the City hereby grants permission to Permittee for the non-exclusive use of City
10 facility located at 1401 East Anaheim Street, Long Beach, CA 90813, shown on Exhibit
11 "A" attached hereto (the "Permit Area"), and Permittee accepts the Permit Area "as is"
12 without any warranty regarding the condition of the Permit Area.

13 2. Use.

14 A. Permittee shall use the Permit Area only for the parking of
15 regular automobiles, motorcycles and bicycles, and for no other purpose.
16 Automobiles, motorcycles and bicycles shall be parked in designated spaces.
17 Space is limited to fifty-seven (57) standard parking stalls. Three (3) additional
18 stalls shall be reserved at all times (twenty-four (24) hours per day, seven (7) days
19 per week) for the City's use. Permittee shall use the Permit Area for church
20 parking only. Permittee shall not allow the Permit Area to be used by any other
21 person or entity or for any other use than that use which is described above.

22 B. Permittee shall use the Permit Area in a manner that will not
23 create a nuisance and in compliance with all applicable laws, ordinances, rules
24 and regulations relating to its use.

25 C. Notwithstanding Permittee's use of the Permit Area, the City
26 retains full and absolute control of the Permit Area and the right of access to the
27 Permit Area at all times.

28 D. In its use of the Permit Area, Permittee shall not discriminate

1 on the basis of race, religion, national origin, color, age, sex, sexual orientation,
2 gender identity, AIDS, HIV status, handicap or disability.

3 3. Hours and Days of Use. Permittee is granted use of the Permit Area
4 on Sundays, between the hours of 8:30 a.m. and 4:00 p.m. The express permission of
5 the Director of the Long Beach Public Library ("Director") or her designee shall be
6 required prior to any other use of the Permit Area by Permittee.

7 4. Term and Revocation.

8 A. This Permit shall be effective on upon the date this permit is
9 fully executed and notarized by both parties (the "Commencement Date") and shall
10 continue on a month-to-month basis unless revoked or terminated as provided
11 herein.

12 B. Notwithstanding anything to the contrary herein, the Director
13 may revoke this Permit with thirty (30) days prior notice (1) if the Director has
14 knowledge that Permittee has violated or failed to comply with any provision of this
15 Permit; or (2) if the Director has a need for the use of the Permit Area.

16 C. In an issue involving public safety, health or welfare or in an
17 emergency, the Director may revoke this Permit immediately. City will endeavor to
18 give as much advance notice as possible. On revocation, Permittee shall
19 immediately stop its use of the Permit Area and remove any of its property from
20 the Permit Area.

21 5. Maintenance and Alteration of Permit Area.

22 A. City shall maintain the Permit Area provided, however, that if
23 City fails to maintain the Permit Area, then Permittee's sole and exclusive remedy
24 for such failure or by reason of any condition of the Permit Area shall be the right
25 to terminate this Permit and vacate the Permit Area. City shall not be liable to
26 Permittee for any loss, cost, expense, liability, or damage resulting from its failure
27 to maintain the Permit Area or from Permittee's inability to use the Permit Area.

28 B. Notwithstanding City's duty to maintain the Permit Area,

1 Permittee shall keep the Permit Area in a clean, safe, sanitary condition, free of
2 rubbish, debris, graffiti, garbage, and litter. Permittee shall immediately correct
3 any health or safety problem at the Permit Area after receipt of notice of same
4 from City.

5 C. Permittee shall be responsible for posting and maintaining
6 signs relative to its use of the Permit Area, including permitted day/time of usage.
7 Permittee shall be responsible for the cost of any signs, including fabrication,
8 installation or maintenance costs. City shall have the right to review and approve
9 any signage prior to posting.

10 D. Permittee shall be responsible for the removal or towing, if
11 necessary, of any automobiles, motorcycles or bicycles parked during its day/time
12 of usage.

13 E. Permittee shall not alter, improve or repair the Permit Area.

14 6. Possessory Interest. Permittee acknowledges that use of the Permit
15 Area may create a possessory interest subject to possessory interest taxes and agrees to
16 and shall pay such taxes prior to delinquency.

17 7. No Title. This Permit only grants to Permittee the privilege to use the
18 Permit Area. By this Permit, Permittee does not acquire any right, title or interest of any
19 kind in the Permit Area, including but not limited to a leasehold interest.

20 8. Loss of Property. The City is not and shall not be responsible or
21 liable for the loss by theft, fire, flood, burglary, vandalism or any other cause of
22 Permittee's property or the property of Permittee's invitees on the Permit Area. Permittee
23 hereby waives any claim against the City related to such loss.

24 9. No Assignment. Permittee shall not assign this Permit or any
25 interest in this Permit nor allow the transfer of this Permit, whether by operation of law or
26 otherwise. Any attempted assignment or transfer shall be void and confer no rights or
27 privileges on a purported assignee or transferee.

28 10. No Signs. Permittee shall not erect or install or allow to be erected

1 or installed any signs of any kind in, on or around the Permit Area without the prior written
2 approval of the Director.

3 11. Insurance.

4 A. As a condition precedent to the effectiveness of this Permit,
5 Permittee shall procure and maintain at Permittee's expense during Permittee's
6 use of the Permit Area from an insurance company that is admitted to write
7 insurance in California or from authorized non-admitted insurance companies that
8 have ratings or of equivalent to A:VIII by A.M. Best Company:

9 i. Commercial general liability insurance equivalent in
10 scope to ISO form CG 00 01 11 85 or CG 00 01 10 93 in an amount not
11 less than \$1,000,000 per each occurrence and \$2,000,000 general
12 aggregate. This coverage shall include but not be limited to broad form
13 contractual liability, cross liability, independent contractors liability, and
14 products and completed operations liability. City, its boards and
15 commissions, and their officials, employees and agents shall be named as
16 additional insureds by endorsement on City's endorsement form or on an
17 endorsement equivalent in scope to ISO form CG 20 26 11 85) and this
18 insurance shall contain no special limitations on the scope of protection
19 given to City, its boards and commissions, and their officials, employees
20 and agents. This policy shall be endorsed to state that the insurer waives
21 its right of subrogation against City, its boards and commissions, and their
22 officials, employees and agents.

23 ii. Workers' Compensation insurance as required by the
24 California Labor Code and employer's liability insurance in an amount not
25 less than \$1,000,000. This policy shall be endorsed to state that the insurer
26 waives its right of subrogation against City, its boards and commissions,
27 and their officials, employees and agents.

28 iii. Commercial automobile liability insurance equivalent in

1 scope to ISO form CA 00 01 06 92 covering Auto Symbol 1 (Any Auto) in an
2 amount not less than \$500,000 combined single limit per accident.

3 iv. "All Risk" property insurance in an amount sufficient to
4 cover the full replacement value of Permittee's personal property,
5 improvements and equipment on the Permit Area.

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

11 C. Each insurance policy shall be endorsed to state that
12 coverage shall not be reduced, non-renewed or canceled except after thirty (30)
13 days prior written notice to City, shall be primary and not contributing to any other
14 insurance or self-insurance maintained by City, and shall be endorsed to state that
15 coverage maintained by City shall be excess to and shall not contribute to
16 insurance or self-insurance maintained by Permittee. Permittee shall notify City in
17 writing within five (5) days after any insurance has been voided by the insurer or
18 cancelled by the insured.

19 D. If this coverage is written on a "claims made" basis, it must
20 provide for an extended reporting period of not less than one hundred eighty (180)
21 days, commencing on the date this Permit expires or is terminated, unless
22 Permittee guarantees that Permittee will provide to City evidence of uninterrupted,
23 continuing coverage for a period of not less than three (3) years, commencing on
24 the date this Permit expires or is terminated.

25 E. Permittee shall require that all contractors which Permittee
26 uses in connection with this Permit maintain insurance in compliance with this
27 Section unless otherwise agreed in writing by City's Risk Manager or designee.

28 F. Prior to the start of the term of this Permit, Permittee shall

1 deliver to City certificates of insurance and the endorsements for approval as to
2 sufficiency and form. In addition, Permittee shall, within thirty (30) days prior to
3 expiration of the insurance, furnish to City certificates of insurance and
4 endorsements evidencing renewal of the insurance. City reserves the right to
5 require complete certified copies of all policies of Permittee and Permittee's
6 contractors, at any time. Permittee shall make available to City's Risk Manager or
7 designee all books, records and other information relating to this insurance, during
8 normal business hours.

9 G. Any modification or waiver of these insurance requirements
10 shall only be made with the approval of City's Risk Manager or designee. Not
11 more frequently than once a year, City's Risk Manager or designee may require
12 that Permittee, Permittee's contractors change the amount, scope or types of
13 coverages required in this Section if, in his or her sole opinion, the amount, scope
14 or types of coverages are not adequate.

15 H. The procuring or existence of insurance shall not be
16 construed or deemed as a limitation on liability relating to Permittee's performance
17 or as full performance of or compliance with the indemnification provisions of this
18 Permit.

19 I. Notwithstanding anything to the contrary herein, Permittee
20 acknowledges and agrees that this Permit shall not be effective until proof of
21 insurance has been delivered to the Director.

22 12. Indemnification. Permittee shall defend, indemnify and hold
23 harmless the City, its commissions, officials, employees and agents (collectively in this
24 Section "City") from and against all claims, demands, damage, causes of action, losses,
25 liability, costs and expenses (including reasonable attorney's fees) which may be
26 asserted against the City and which is connected in any way with this Permit, except for
27 the gross negligence or willful misconduct of the City. Permittee shall give notice to the
28 City of any claim, demand, damage, cause of action, loss, liability, cost, or expense within

1 ten (10) days.

2 13. Permit Fee. Permittee shall pay the sum of Two Hundred Fifty
3 Dollars (\$250) per month for the use of the Permit Area in consideration of the cost of
4 permit administration costs, utilities and LEED-required certification of parking lot drains.

5 The permit fee shall be adjusted annually according to the Consumer Price
6 Index ("CPI") effective on the anniversary of the Commencement Date. The permit fee
7 represents the minimum monthly rent. The CPI adjustment shall not operate to decrease
8 the permit fee and the adjusted permit fee shall never be less than the previous month's
9 permit fee paid.

10 14. No Hazardous Materials. Permittee shall not bring to or keep at or
11 allow to be brought to or kept at the Permit Area any goods, merchandise, supplies,
12 personal property, materials or items which are in any way hazardous or explosive.

13 15. Miscellaneous.

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

18 B. Title to any personal property belonging to Permittee and left
19 on the Permit Area forty-five (45) days after the expiration or revocation of this
20 Permit shall be deemed to have been transferred to the City. The City shall
21 thereafter have the right to remove and to dispose of said property without liability
22 to Permittee or to any person claiming under Permittee, and shall have no duty to
23 account therefore.

24 C. In any action or proceeding relating to this Permit, the
25 prevailing party shall be entitled to its costs, including reasonable attorney's fees.

26 D. This Permit shall be governed by and construed in
27 accordance with the laws of the State of California excluding the provisions
28 relating to conflicts of laws. This Permit constitutes the entire understanding

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between Permittee and the City and supersedes all other agreements, oral or written, with respect to the subject matter herein. Revocation or expiration of this Permit shall not affect rights or liability that accrued prior to such revocation or expiration. This Permit shall not be construed or interpreted against either the City or Permittee as drafter. This Permit is not intended or entered for the purpose of creating any benefit or right for any person or entity other than Permittee.

E. Notwithstanding any language to the contrary herein, if a court of competent jurisdiction deems this Permit to be a lease, then Permittee waives any right of redemption under the law in the event of removal from the Permit Area. Permittee agrees that if the manner or method used by the City in revoking this Permit gives to Permittee a cause of action similar to or based on damages that would otherwise arise in connection with unlawful detainer, then the total amount of damages to which Permittee shall be entitled in any such action shall be One Dollar (\$1.00). Permittee agrees that this Section of the Permit may be filed in any such action and that, when so filed, it shall be a stipulation by Permittee fixing the total damages to which Permittee is entitled in such action and Permittee waives Section 15.C. as the prevailing party.

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Permittee hereby accepts and agrees to abide by the terms and conditions of this Permit.

8/23/09, 2009

ANTIOCH CHURCH OF LONG BEACH

By Alex Hall

Alex Hall
Type or Print Name

8/23/09, 2009

By Wayne Chaney Jr.

Wayne Chaney Jr.
Type or Print Name



"Permittee"

CITY OF LONG BEACH, a municipal corporation

Assistant City Manager

U.J., 2009

By [Signature]

City Manager
EXECUTED PURSUANT TO SECTION 301 OF THE CITY CHARTER.

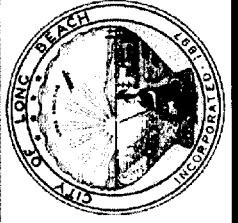
"City"

This Facility Use Permit is approved as to form on Sept 4, 2009.

ROBERT E. SHANNON, City Attorney

By [Signature]
Deputy

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



SITE MAP MARK TWAIN LIBRARY

CITY OF LONG BEACH - CALIFORNIA
COMMUNITY DEVELOPMENT DEPARTMENT

