

FACILITY USE PERMIT

30454

Pursuant to a minute order adopted by the City Council of the City of Long Beach at its meeting on September 18, 2007, the CITY OF LONG BEACH, a municipal corporation ("City") hereby grants to LONG BEACH UNIFIED SCHOOL DISTRICT CHILD DEVELOPMENT CENTER, a California non-profit corporation, ("Permittee"), whose address is 2209 Seabright Avenue, Long Beach, California 90810, permission to use space in the North Facilities Center located at 6335 Myrtle Avenue, Long Beach, California 90805, which space is more particularly shown on Exhibit "A" attached hereto and incorporated herein (the "Permit Area").

Permittee shall use the Permit Area subject to the following terms, conditions and restrictions:

1. A. The Permit Area shall be used solely for the purpose of providing human and social services and for no other purpose without the prior written consent of the Director of City's Department of Health and Human Services ("Director"). During the Permit period of October 1, 2007 through September 30, 2012, Permittee shall use the Permit Area only during the hours of 6:30 a.m. and 6:30 p.m., Monday through Friday, unless otherwise agreed upon. At the end of the initial Permit period, the Permit may be extended annually upon a determination by the City that Permittee has fully complied with the terms and conditions of this Permit and is otherwise in good standing with the City. The City shall notify Permittee within thirty (30) days of the end of the Permit period, and any subsequent extension thereof, if the Permit will be extended.

B. Permittee's use of the North Facilities Center is non-exclusive, but Permittee's use of the Permit Area is reserved solely to Permittee. By executing this Permit, Permittee acknowledges that the City has issued other permits to other non-profit corporations for the use of the North Facilities Center. Permittee shall cooperate with other holders of permits at the North Facilities Center and shall not interfere with the use of the North Facilities Center by other holders of permits there.

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

1 C. There is no reserved parking at the North Facilities Center for
2 Permittee's employees, volunteers, or clients. Parking is "first come, first served."

3 D. Permittee acknowledges and agrees that, by this Permit, Permittee
4 does not acquire any right, title, or interest in the Permit Area or in the North Facilities
5 Center, including the right to possession and control, but acquires only the mere right to
6 use. Permittee acknowledges and agrees that this Permit shall not be deemed a lease
7 for any purpose.

8 2. The City may revoke this Permit for any reason or no reason by
9 giving fifteen (15) days prior notice to Permittee provided, however, that the City may
10 revoke this Permit without notice and immediately if Permittee fails to comply with the
11 terms, conditions and restrictions in this Permit. Permittee may request cancellation of
12 this Permit by giving fifteen (15) days prior notice to the City.

13 On revocation by the City or cancellation by Permittee following notice,
14 Permittee shall remove its personal property from the Permit Area and North Facilities
15 Center within seven (7) days and peaceably surrender use of the Permit Area to the City.
16 If Permittee has not removed said personal property in that time, then the City may
17 remove it and dispose of it as provided by law. Permittee shall pay to the City the cost of
18 removal and disposal.

19 If Permittee abandons the Permit Area without giving notice of cancellation
20 to the City, then title to any personal property left in, on or at the Permit Area forty-five
21 (45) days after abandonment shall be deemed to have been transferred to the City. The
22 City shall thereafter have the right to remove and to dispose of said property without
23 liability to Permittee or to any person claiming under Permittee, and shall have no duty to
24 account therefore. Permittee hereby names the Director as Permittee's attorney in fact to
25 execute and deliver such documents or instruments as may be reasonably required to
26 dispose of such property and transfer title thereto.

27 3. Permittee shall maintain the Permit Area and common areas of the
28 North Facilities Center in a neat, clean, sanitary condition. Permittee shall not use, keep,

1 or allow any offensive or refuse matter, any substance constituting a fire hazard, or any
2 hazardous material or substance on, in, or about the Permit Area or the North Facilities
3 Center.

4 4. Permittee shall not install, erect, or make improvements to the Permit
5 Area or to alter the Permit Area without the prior written approval of the Director, which
6 may be withheld for any or no reason. Permittee shall pay the cost of any approved
7 improvements and, if the improvements are of a permanent nature, they shall become
8 the property of the City at the revocation or cancellation of this Permit.

9 5. The City shall maintain and repair the North Facilities Center and the
10 Permit Area. Notwithstanding the foregoing sentence, if the City fails or refuses to
11 maintain or repair the North Facilities Center or the Permit Area, then Permittee's sole
12 and exclusive remedy by reason of the condition of the Permit Area or the North Facilities
13 Center shall be to cancel this Permit and vacate the Permit Area. The City shall not be
14 liable to Permittee for any loss, cost, or expense resulting from Permittee's inability to use
15 the Permit Area.

16 6. The City shall provide and pay for water, gas, electricity and one
17 telephone line to the Permit Area. In addition, the City shall provide and pay for custodial
18 services for the North Facilities Center, including the Permit Area. The City shall also
19 provide security services to the North Facilities Center during normal business hours.

20 7. During its use of the Permit Area, Permittee shall comply with all
21 laws, ordinances, rules, and regulations of and obtain all permits required by all federal,
22 state, and local governmental authorities having jurisdiction over the Permit Area and
23 Permittee's activities thereon.

24 8. Because a Permit is personal in nature, Permittee shall not assign
25 this Permit or any interest herein nor allow or cause the transfer hereof, whether by law
26 or otherwise. Any attempted assignment or transfer shall be void and confer no rights
27 whatsoever on a purported assignee or transferee.

28 9. The City's authorized representative(s) shall have access to the

1 Permit Area during business hours for any reasonable purpose including but not limited
2 to maintenance and repairs, and, in the event of an emergency, at any other time. The
3 City shall make reasonable efforts to inform Permittee when access will be made.

4 10. This Permit may create a possessory interest subject to property
5 taxation and Permittee may be liable for the payment of property taxes levied on such
6 possessory interest. Permittee shall pay, prior to delinquency, all taxes, assessments,
7 and other governmental or district charges that may be levied or assessed on Permittee's
8 personal property at the Permit Area and on any possessory interest created by this
9 Permit. Permittee shall deliver to the City satisfactory evidence of such payments upon
10 City's request therefore.

11 11. All notices shall be in writing and personally delivered or deposited in
12 the U.S. Postal Service, first class, postage prepaid, addressed to Permittee at the
13 address first shown above and to the City at 2525 Grand Avenue, Long Beach, California
14 90815 Attn: Director, Health and Human Services. Notice of change of address shall be
15 given in the same manner as stated herein for other notices. Notice shall be deemed
16 given on the date personal delivery is made or on the date of deposit in the mail,
17 whichever first occurs.

18 12. This Permit is granted at no fee or charge to Permittee.

19 13. Permittee shall defend, indemnify and hold harmless the City, its
20 commissions, officials, employees and agents (collectively in this Section "City") from and
21 against all claims, demands, damage, causes of action, losses, liability, costs and
22 expenses (including reasonable attorney's fees) which may be asserted against the City
23 and which is connected in any way with this Permit, except for the gross negligence or
24 willful misconduct of the City. Permittee shall give notice to the City of any claim,
25 demand, damage, cause of action, loss, liability, cost, or expense within ten (10) days.

26 14. Subject to applicable laws and regulations, Permittee shall not
27 discriminate on the basis of race, religion, color, ancestry, sex, sexual orientation, AIDS,
28 AIDS related condition, HIV status, age, national origin, handicap or disability in

1 Permittee's use of the Permit Area.

2 15. Permittee shall comply with the insurance requirements stated in
3 Exhibit "B" attached hereto and incorporated herein by this reference.

4 16. This Permit shall not be amended, nor any term, condition or
5 restriction waived, nor any breach thereof waived, except in writing signed by both the
6 City and Permittee. The waiver of any breach hereof shall not constitute a waiver of any
7 other or subsequent breach. The failure or delay of the City to insist on strict compliance
8 with the terms, conditions and restrictions of this Permit shall not be deemed a waiver of
9 any right or remedy that City may have. This Permit shall be governed by the laws of the
10 State of California. This Permit constitutes the entire understanding of the parties and
11 supersedes all other agreements, oral or written, with respect to the subject matter
12 herein. If there is any legal proceeding between the City and Permittee to enforce or
13 interpret this Permit or to protect or establish any rights or remedies hereunder, the
14 prevailing party in that legal proceeding shall be entitled to its costs and expenses,
15 including reasonable attorney's fees and court costs. This Permit is not intended or
16 granted for the purpose of creating any benefit or right for any person or entity other than
17 the City and the Permittee. Revocation or cancellation of this Permit shall not terminate
18 any rights or liabilities of either the City or Permittee which accrued or existed during the
19 time that this Permit was in effect.

20 17. Permittee shall not erect, allow or cause to be erected on the Permit
21 Area any sign that has not received the prior written approval of the City.

22 18. Notwithstanding any language to the contrary herein, if a court of
23 competent jurisdiction deems this Permit to be a lease, then Permittee hereby waives any
24 right of redemption or relocation payment under any existing or future law in the event of
25 removal from the Permit Area. Permittee agrees that, if the manner or method used by
26 the City in revoking this Permit gives to Permittee a cause of action for damages, that the
27 total amount of damages to which Permittee shall be entitled in any such action is One
28 Dollar. Permittee agrees that this Section may be filed in any such action and that, when

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1 filed, it shall be a stipulation by Permittee fixing the total damages to which Permittee is
2 entitled in such action.

3 19. The City shall not be liable for and Permittee hereby waives all
4 claims against the City, its officials and employees for loss or damage to Permittee's
5 personal property, or for injury to or death of persons due to theft, fire, flood, burglary,
6 vandalism, or other insurable cause, which occurs in, on or at the Permit Area except to
7 the extent caused by the City's gross negligence or willful misconduct.

8 By signing below, Permittee accepts and agrees to abide by the terms,
9 conditions and restrictions in this Permit.

10 LONG BEACH UNIFIED SCHOOL
11 DISTRICT CHILD DEVELOPMENT
12 CENTER, a California non-profit
13 corporation

12 Nov. 21, 2007

By *Barrick L. Bartlett*
14 **Barrick L. Bartlett**

Purchasing & Contracts Director
(Type or Print Name)

15 _____, 2007

By _____
(Type or Print Name)

"Permittee"

18 CITY OF LONG BEACH, a municipal
19 corporation

20 12.20., 2007

By *[Signature]* **ASSISTANT**
City Manager

"City"

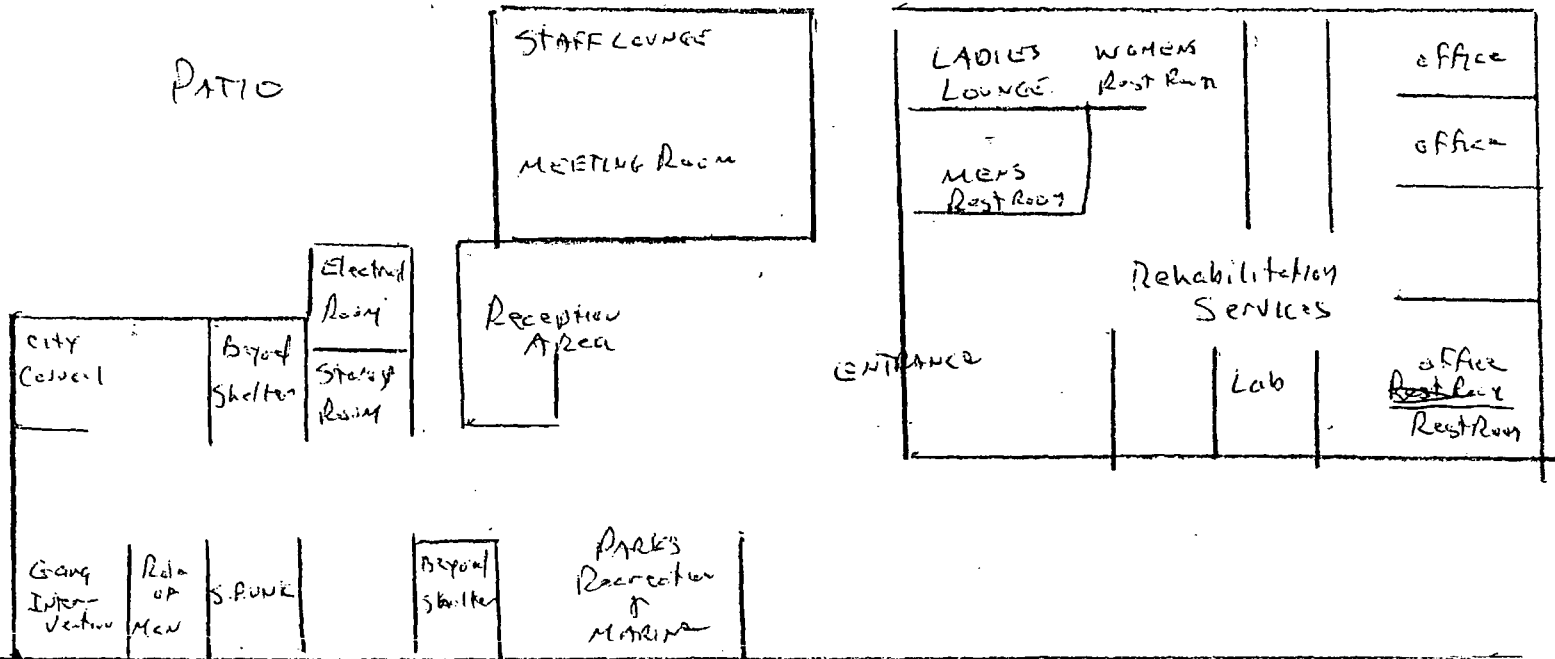
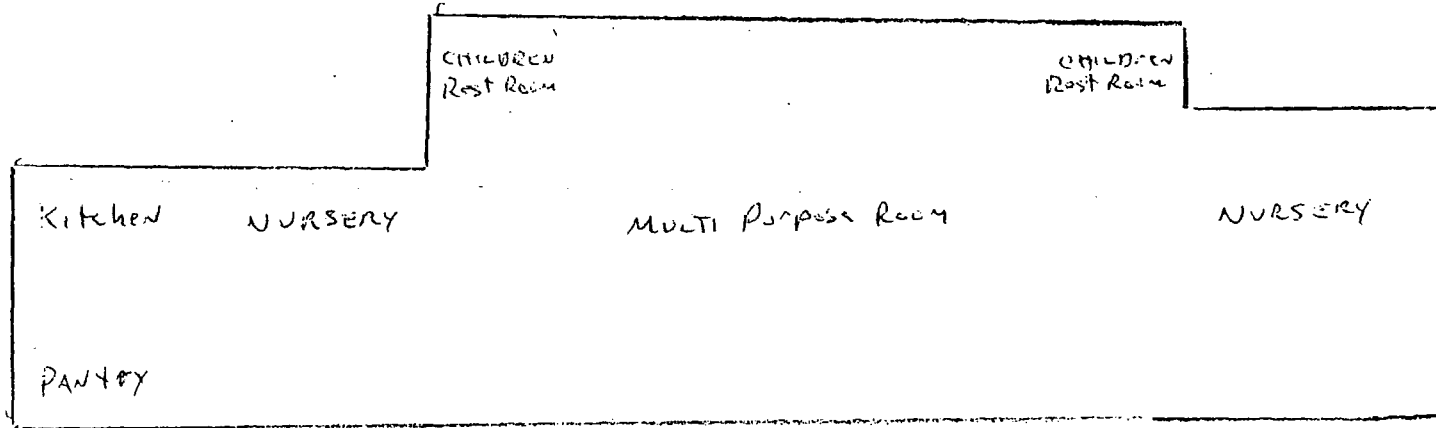
**EXECUTED PURSUANT
TO SECTION 301 OF
THE CITY CHARTER.**

23 This Facility Use Permit is approved as to form on 12/12, 2007.

24 ROBERT E. SHANNON, City Attorney

25 By *[Signature]*
26 Deputy

Enclosed Play ground



"EXHIBIT A"

NORTH Facilities Center

**Revocable Permit—Health Department
Insurance Requirements**

11. Insurance. Concurrent with the effective date of this Permit and in partial performance of Permittee's obligations hereunder, Permittee shall procure and maintain the following insurance coverages at Permittee's sole expense for the duration of this Permit and any extensions, renewals, or holding over thereof, from insurance companies authorized to write insurance in the State of California or from nonadmitted insurers that are on California's List of Eligible Surplus Lines Insurers (LESLI) and that have a current, minimum financial security rating of or equivalent to A:VIII by A.M. Best Company:

- (a) Commercial general liability equivalent in coverage scope to Insurance Services Office, Inc. (ISO) form CG 00 01 11 85 or 10 93 in an amount not less than One Million Dollars (\$1,000,000) per occurrence and Two Million Dollars (\$2,000,000) general aggregate. Such insurance shall include coverage for products and completed operations liability, and shall not exclude or limit coverage for contractual liability, independent contractors liability, abuse and molestation liability, or cross liability protection. This insurance shall be endorsed to include the City of Long Beach, and its officials, employees, and agents as additional insureds by an endorsement equivalent in coverage scope to ISO form CG 20 26 11 85 and to waive the insurer's rights of subrogation against the City, its officials, employees, and agents with respect to the additional insured coverage.
- (b) "All Risk" property covering the full replacement value of Permittee's personal property and equipment on or about the Premises. Permittee and City hereby waive all rights of subrogation, one against the other, but only to the extent that collectible commercial property insurance is available for said damage.
- (c) Workers' Compensation as required by the Labor Code of the State of California and employer's liability insurance in an amount not less than One Million Dollars (\$1,000,000) per accident or occupational illness. The policy shall be endorsed to waive the insurer's rights of subrogation against the City, its officials, employees, and agents.

All insurance required hereunder shall be separately endorsed to require at least thirty (30) days' prior written notice of cancellation (ten (10) days if cancellation is for nonpayment of premium), nonrenewal, or reduction in coverage or limits (other than exhaustion of limits due to claims paid) and to provide that coverage shall be primary and not contributing to any other insurance or self-insurance maintained by the City of Long Beach or its officials, employees, and agents.

"EXHIBIT B"

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

Permittee shall require its contractors and subcontractors to maintain the insurance required hereunder unless otherwise agreed in writing by City's Risk Manager or designee.

Upon the execution of this Permit, Permittee shall deliver to City certificates of insurance and the required endorsements evidencing the coverage required by this Permit, including the certificates and endorsements of any of Permittee's contractors, subcontractors, and subpermittees, for approval as to sufficiency and form. The certificates and endorsements for each insurance policy shall contain the original signatures of persons authorized by that insurer to bind coverage on its behalf. Permittee shall provide City with copies of certificates of insurance and endorsements for renewal policies within thirty (30) days of policy expiration. City reserves the right to require complete certified copies of all said policies at any time.

Such insurance as required herein shall not be deemed to limit Permittee's liability relating to performance under this Permit. The procuring of insurance shall not be construed as a limitation on liability or as full performance of the indemnification and hold harmless provisions of this Permit.

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