

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

PERMIT
30621

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

THIS PERMIT is made and entered, in duplicate, as of April 7, 2008

~~2008~~ for reference purposes only, pursuant to a minute order adopted by the City Council of the City of Long Beach at its meeting on March 4, 2008, by and between the CITY OF LONG BEACH, a municipal corporation ("Permittor"), and NORTH LONG BEACH COMMUNITY GARDEN ASSOCIATION, a California nonprofit corporation ("Permittee").

Whereas, Permittor leases property from Southern California Edison, a California Corporation, (Lessor), which allows Permittor to use Edison's right-of- way property located between Atlantic Avenue and Myrtle Avenue, north of 65th Street;

NOW THEREFORE, in consideration of the mutual terms, covenants, and conditions contained herein, the parties agree as follows:

1. Permit. Permittor grants permission to Permittee to occupy and use the area depicted on Exhibit "A" attached hereto and incorporated herein by this reference ("Property"). Permittee acknowledges that Permittee has not received and Permittor has not made any warranty, express or implied, as to the condition of the Property or fitness for its intended or actual use.

2. Term. The term of this Permit shall commence at midnight on ^{April}~~March~~ 7 2008, and shall end on September 30, 2011.

3. Use. The Property shall be used exclusively by Permittee and solely for growing garden products to be used by Permittee's individual organization members. Permittee agrees that garden products will not be offered for sale or for any other commercial use. No other use of the Property is authorized or permitted. Permittee shall not use the Property in any manner that will create a nuisance or unreasonable annoyance, or constitute waste. Permittee shall use the Property in such a manner as to comply with all laws pertaining to wages and hours of employment, occupational safety, and fire, health, and sanitation.

4. Rent. Permittee shall pay to Permittor as rent the sum of One Dollar

1 (\$1.00) per year, in advance, without deduction, setoff, notice or demand, on the first day
2 of each month of the term hereof.

3 5. Improvements.

4 A. All of Permittee's proposed plans for improvement shall be submitted to
5 and receive the written approval of the Director of the Department of Parks,
6 Recreation and Marine. Before commencing any work on the Property, Permittee
7 shall obtain and deliver to Permittor evidence of compliance with all applicable
8 codes, ordinances, regulations, and requirements for permits. Permittee shall
9 perform all work on the Property in accordance with all applicable laws, regulations
10 and ordinances, including but not limited to the Americans with Disabilities Act of
11 1990.

12 B. No improvements except those approved as provided in Subsection (A)
13 above shall be made to the Property.

14 C. Permittee shall pay for all permits, inspections and the like relating to
15 the improvement of the Property.

16 D. Permittee shall keep the Property free of any mechanic's, materialman's
17 or similar lien for any work done, labor performed or material furnished by or for
18 Permittee, and Permittee shall defend, indemnify and hold Permittor, its officials
19 and employees harmless from and against all claims, liens, demands, causes of
20 action, liability, loss, costs and expenses, including reasonable attorneys' fees, of
21 whatsoever kind or nature for any such work done, labor performed or materials
22 furnished on the Property or for the Permittee. In addition, if a lien is imposed on
23 the Property, Permittee shall notify Permittor, record a valid release of lien within
24 thirty (30) days after the date of filing of said lien or deposit with Permittor cash in
25 an amount equal to 125% of the amount of said lien and authorize payment to the
26 extent of said deposit to any subsequent judgment holder with regard to said lien.

27 E. Permittee shall bear all costs and expenses incurred in making
28 improvements to the Property.

1 F. Upon expiration or sooner termination of this Permit, all improvements to
2 the Property shall become the property of Permittor (at no cost to Permittor) unless
3 Permittor requires Permittee to remove said improvements. If Permittor requires
4 Permittee to remove said improvements, Permittee shall do so within sixty (60) days
5 following the date of expiration or sooner termination.

6 6. Nondiscrimination. Subject to applicable laws, rules, and
7 regulations, Permittee shall not discriminate against any person or group on the basis of
8 age, sex, sexual orientation, AIDS, AIDS related condition, marital status, race, religion,
9 creed, ancestry, national origin, disability, handicap, or Vietnam Era veteran status in the
10 performance of its obligations hereunder.

11 7. Subsurface Use Restrictions. The parties agree that this Permit
12 covers only the surface of the Property and only so much of the subsurface as is
13 reasonably necessary for Permittee's use of the Property as permitted in this Permit.
14 Permittee shall not drill any wells on the Property.

15 8. Utilities. The City shall subsidize the cost of water services and trash
16 collection up to Five Thousand Dollars (\$5,000) per year. Any costs in excess of
17 (\$5,000) shall be the responsibility of Permittee.

18 9. Maintenance. Permittee shall, at Permittee's sole cost and to the
19 satisfaction of Permittor, maintain the Property and all improvements thereon in good
20 condition, in substantial repair, in a safe, clean, and sanitary condition, and in compliance
21 with applicable laws. Permittee's duty to maintain shall include the duty to repair and
22 replace the improvements as needed. Permittee shall keep the Property free of trash,
23 garbage and litter. Permittor shall be responsible for extraordinary maintenance of the
24 property, including but limited to structural repairs. Permittee hereby waives to the
25 extent permitted by law any right to make repairs at the expense of Permittor.

26 10. Taxes. Permittee acknowledges that this Permit may create a
27 possessory interest subject to property taxation and that Permittee may be liable for
28 payment of taxes levied on such interest. Permittee shall promptly pay, prior to

1 delinquency, all taxes, assessments and other governmental fees that may be levied
2 against the Property, and any improvements or personal property located on the Property
3 and on any possessory interest created by this Permit, and provide proof of payment to
4 Permittor on demand.

5 11. Relocation. Permittee agrees that nothing contained in this Permit
6 shall create any right in Permittee for any relocation assistance or payment pursuant to
7 the provisions of Title 1, Division 7, Chapter 16 of the California Government Code from
8 Permittor on the expiration or termination of this Permit.

9 12. Notice. Any notice required hereunder shall be in writing and
10 personally delivered or deposited in the U.S. Postal Service, first class, postage prepaid
11 to Permittor at 333 W. Ocean Blvd., Long Beach, California 90802 Attn: City Manager,
12 and to the Permittee at 1336 Gladys Ave., Long Beach, California 90804. Notice shall
13 be deemed effective on the date of mailing or on the date personal delivery is obtained,
14 whichever first occurs. Change of address shall be given as provided herein for notices.

15 13. Hazardous Materials. Permittee shall not cause or permit any
16 hazardous or toxic material to be brought on, treated, kept, used, stored, disposed of,
17 discharged, released, produced, or generated in, on, under or about the Property by
18 Permittee, its members, employees, contractors, assignees, or invitees. Permittee shall
19 comply with California Health and Safety Code Section 25359.7 or its successor statute
20 regarding notice to Permittor on discovery by Permittee of the presence or suspected
21 presence of any hazardous materials on the Property.

22 14. Indemnity. Permittee shall defend, indemnify and hold Permittor, its
23 officials, employees, and agents harmless from all claims, demands, damages, causes of
24 action, losses, liability, costs, or expenses, including reasonable attorneys fees, of any
25 kind or nature whatsoever (collectively referred to in this Section and Section 17 as
26 "claims") arising from the occupancy, use, or misuse of the Property by Permittee,
27 Permittee's members, employees, agents, subtenants, licensees, patrons,
28 concessionaires, or visitors, or any breach of this Permit, from the condition of the

1 Property, the alleged negligent acts or omissions of Permittee, Permittee's employees or
2 agents, or any breach or default in the performance of any obligations on Permittee's part
3 to be performed under this Permit.

4 15. Assignment. Permittee shall not assign or transfer this Permit or any
5 interest herein, nor sublease the Property or any part thereof (collectively referred to as
6 "transfer"). Permittee shall not grant any franchises, easements, rights of way, or permits
7 in, on, or across the Property. In the event of transfer without the prior written consent of
8 Permittor, such transfer shall be voidable at Permittor's election and, if voided by
9 Permittor, shall convey no interest. Any transfer without Permittor's prior written consent
10 shall constitute a default of this Permit.

11 16. Attorney's Fees. In any action or proceeding relating to this Permit,
12 the prevailing party shall be entitled to its reasonable costs, including attorney's fees.

13 17. Waiver of Claims. Permittor shall not be liable for and Permittee
14 hereby waives all claims against Permittor, its officials, employees and agents for loss,
15 theft, or damage to equipment, furniture, trade fixtures, records, plants, and other
16 property on or about the Property, or injury to or death of persons on or about the
17 Property from any cause except to the extent caused by the gross negligence or willful
18 misconduct of Permittor.

19 18. Default. If Permittee does not comply with any term, covenant, or
20 condition of this Permit, whether material or not, and Permittee's failure to comply is not
21 cured within ten (10) days after Permittor notifies Permittee of such failure, then Permittor
22 may terminate this Permit by giving to Permittee notice of termination, and Permittee
23 shall immediately surrender possession of the Property.

24 19. Right of Entry. Permittor shall have the right of access to the
25 Property at all reasonable times and, in the case of emergency, at any time, and if
26 Permittee is not present to give access in emergencies, then Permittor may forcibly enter
27 and such entry shall not in any way be construed or deemed a forcible or unlawful entry.
28 Permittee shall not be entitled to compensation for any inconvenience, nuisance, or

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

1 discomfort occasioned by Permittor's entry.

2 20. Signs. Permittee shall not place, affix, maintain, or permit any sign,
3 advertisement, name, insignia, logo, descriptive material, or similar item (collectively
4 "sign") on the Property without the prior written approval of Permittor. Any sign so
5 approved shall be maintained by Permittee, at its cost, in good condition. Any sign not
6 approved by Permittor may be removed by Permittor at Permittee's cost. The cost of
7 removal shall be additional rent.

8 21. Governing Law. The Permit shall be governed by and construed in
9 accordance with the laws of the State of California.

10 IN WITNESS WHEREOF, the parties have executed this Permit with all
11 formalities required by law as of the date first written above.

NORTH LONG BEACH COMMUNITY GARDEN
ASSOCIATION, a California nonprofit
corporation

12
13
14 4/6/08, 2008

By: Jean Chies
President

15
16 4/6/08, 2008

By: Deanna Old
Secretary

"Permittee"

CITY OF LONG BEACH, a municipal
corporation

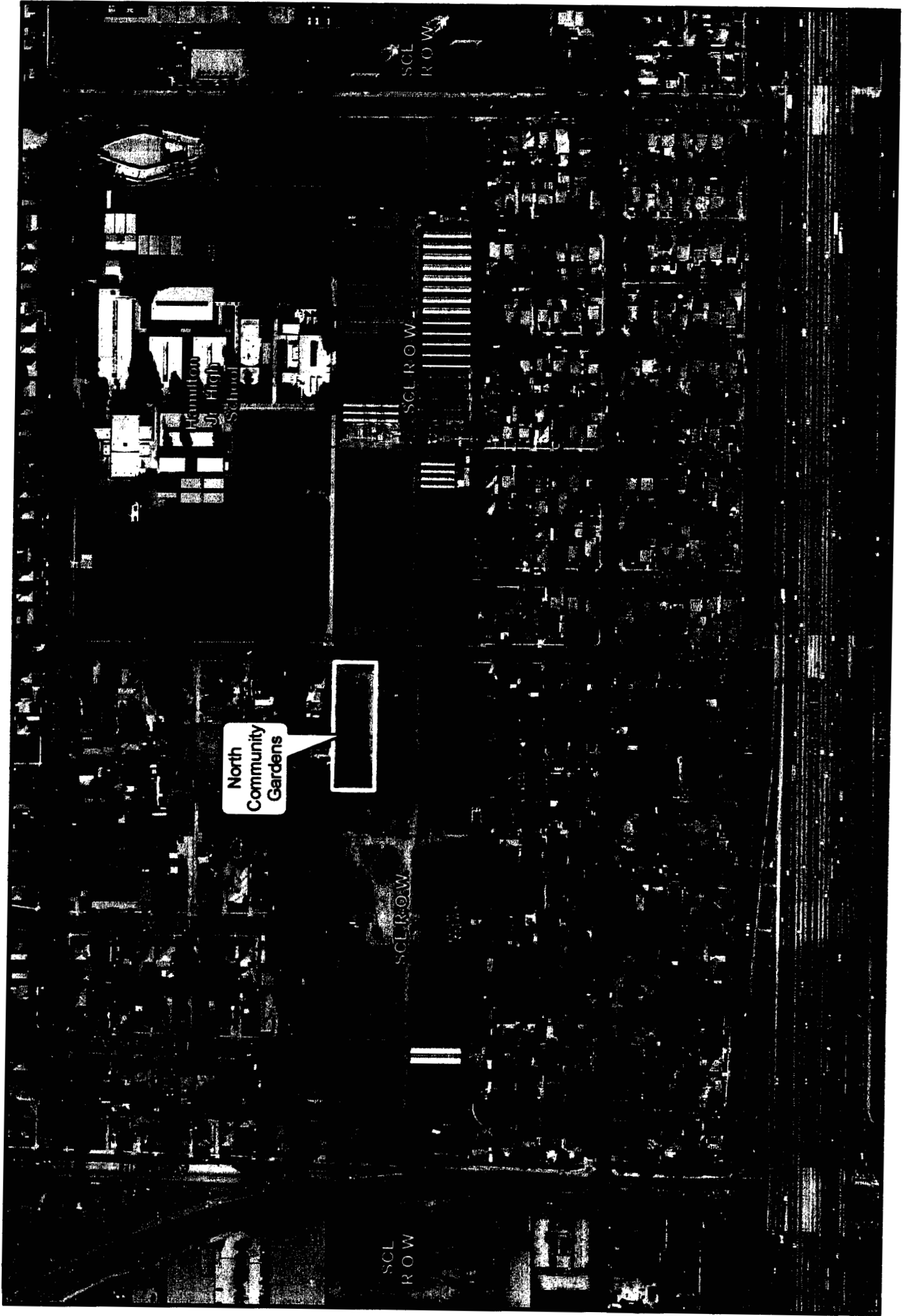
17
18
19
20 March 21, 2008, 2008

By: [Signature] Assistant City Manager
City Manager
"Permittor" APPROVED AND SUBMITTED
TO THE BOARD OF THE CITY CHARTER.

21
22
23 This Permit is approved as to form on 4/15, 2008.

24 ROBERT E. SHANNON, City Attorney
25 By: [Signature]
26 Deputy
27
28

GA:lkM #07-01446



North Long Beach Community Gardens

EXHIBIT A