

OFFICE OF THE CITY ATTORNEY  
CHARLES PARKIN, City Attorney  
333 West Ocean Boulevard, 11th Floor  
Long Beach, CA 90802-4664

1 RIGHT OF ENTRY PERMIT

2 P - 00019

3 THIS RIGHT OF ENTRY PERMIT is entered into, in duplicate, effective as  
4 of August 1, 2014, pursuant to a minute order adopted by the City Council of  
5 the City of Long Beach at its meeting held on July 1, 2014 by and between ORANGE  
6 COUNTY COASTKEEPER ("PERMITTEE") and the CITY OF LONG BEACH ("CITY").

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 commonly known as Jack Dunster  
10 Marine Biological Reserve located on the northwesterly side of the Los Cerritos Channel  
11 as illustrated in Exhibit "A" attached to this Permit and incorporated by reference ("City-  
12 owned Property") for the purpose and to the extent reasonably necessary to install one  
13 (1) interpretive sign providing public education about the native Olympia Oyster  
14 restoration project. Permittee shall use its best efforts to limit the entry of Permittee  
15 Parties on City property to the extent necessary to meet the purposes stated in this  
16 Permit.

17 2. Time of Use. Permittee Parties shall have access and enter City-  
18 owned Property in accordance with this Permit beginning on August 1, 2014 through July  
19 31, 2015 with a one (1) year renewal option at the discretion of the City Manager or his or  
20 her designee.

21 3. Conditions of Permit.

22 A. PERMITTEE shall contact the Marine Bureau of the City of  
23 Long Beach twenty-four (24) hours prior to accessing the location.

24 B. PERMITTEE shall obtain all necessary permits and approvals  
25 prior to commencing with the installation of the sign, including submitting the final  
26 sign design and sign structure design to the Department of Parks, Recreation and  
27 Marine for approval prior to installation.

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1 C. Upon exiting the property at the end of a project working day,  
2 PERMITTEE shall ensure that the area is left in a neat, clean and safe condition.

3 D. Upon expiration of the Permit, PERMITTEE shall abandon the  
4 sites in accordance with all applicable laws, rules, regulations and ordinances.

5 E. PERMITTEE shall pay for the sign, sign structure, and  
6 installation of the sign at a location approved by the Director of the Department of  
7 Parks, Recreation and Marine. Due to the educational nature of the sign, the  
8 Department of Parks, Recreation and Marine shall not charge a permit fee.

9 4. Insurance. As a condition precedent to the effectiveness of this  
10 Permit, Permittee shall provide evidence of insurance equal to the following insurance  
11 coverage:

12 A. Commercial general liability insurance (equivalent in scope to  
13 ISO form CG 00 01 11 85 or CG 00 01 11 88) in an amount not less than  
14 \$1,000,000 per occurrence or \$2,000,000 general aggregate. The coverage shall  
15 include but not be limited to broad form contractual liability, cross liability,  
16 independent contractors liability, and products and completed operations liability.  
17 The City, its officers, employees and agents shall be named as additional insureds  
18 by endorsement (on the City's endorsement form or on an endorsement equivalent  
19 in scope to ISO form CG 200 10 11 85 or CG 20 26 11 85), and this insurance  
20 shall contain no special limitations on the scope of protection given to the City, its  
21 officers, employees and agents.

22 B. Workers' compensation insurance as required by the  
23 California Labor Code and employer's liability insurance in an amount not less  
24 than \$1,000,000 per accident.

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

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

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

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

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

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1           Notwithstanding any other provision of this Permit, if Permittee or a  
2 Permittee Party fails to comply with this Section, the City may immediately revoke this  
3 Permit and the permission granted by this Permit.

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

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

19           7.     No Title.     Permittee and City acknowledge and agree that, by this  
20 Permit, Permittee does not acquire any right, title or interest of any kind in the City-owned  
21 Property, including but not limited to any leasehold interest. Permittee shall not allow the  
22 City-owned Property to be used by anyone other than a Permittee Party or for any other  
23 purpose than stated in this Permit. Notwithstanding any language to the contrary in this  
24 Permit, if a court of competent jurisdiction deems this Permit to be a lease, then  
25 Permittee waives any right of redemption under any existing or future law in the event  
26 that the City removes it from the City-owned Property and agrees that, if the manner or  
27 method used by the City in ending any right held by Permittee under this Permit gives to  
28 Permittee a cause of action similar to or based on damages that would otherwise arise in

1 connection with unlawful detainer, then the total amount of damages to which Permittee  
2 would be entitled in such action shall be One Dollar (\$1.00). Permittee agrees that this  
3 Section may be filed in such action and that, when so filed, it shall be a stipulation by  
4 Permittee fixing the total damages to which Permittee is entitled in such action.

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

11           9.     Condition after Entry. After the entry of any Permittee Party on the  
12 City-owned Property, Permittee shall return the City-owned Property in good condition or  
13 better condition as the Property was in prior to such entry, reasonable wear and tear  
14 excepted.

15           10.    Notice. Any notice or approval given under this Permit shall be in  
16 writing and personally delivered or deposited in the U.S. Postal Service, registered or  
17 certified, return receipt, to the City of Long Beach, Department of Parks, Recreation and  
18 Marine, 205 Marina Drive, Long Beach, California, 90803, Attn: Elvira Hallinan. Notice  
19 shall be deemed given on the date personal delivery is made or on the date shown on the  
20 return receipt, whichever first occurs.

21           11.    Possessory Interest Tax. Permittee acknowledges that this Permit  
22 may create a possessory interest subject to possessory interest taxes. Permittee shall  
23 pay, prior to delinquency, all taxes on such possessory interest and deliver satisfactory  
24 evidence of payment to the City on request.

25           12.    Improvements. Permittee Parties shall not install, construct, erect or  
26 maintain any structure or improvements on the City-owned Property except as described  
27 in this Permit. At the expiration or revocation of this Permit, all improvements to City-  
28 owned Property made pursuant to this Permit shall become the sole property of the City,

1 at no charge.

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

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

9 15. Utilities and Security. The City shall not have any obligation to  
10 Permittee to provide utilities, clean-up, or security on the City-owned Property with  
11 respect to the right of entry granted by this Permit.

12 16. Nondiscrimination. In connection with performance of this Permit  
13 and subject to applicable rules and regulations, Permittee shall not discriminate against  
14 any employee or applicant for employment because of race, religion, national origin,  
15 color, age, sex, sexual orientation, gender identify, AIDS, HIV status, handicap, or  
16 disability. Permittee shall ensure that applicants are employed, and that employees are  
17 treated fairly during their employment, without regard to these bases. These actions shall  
18 include, but not be limited to, the following: employment, upgrading, demotion or transfer,  
19 recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of  
20 compensation, and selection for training, including apprenticeship.

21 It is the policy of City to encourage the participation of Disadvantaged,  
22 Minority and Women-owned Business Enterprises in City's procurement process, and  
23 Permittee agrees to use its best efforts to carry out this policy in the hiring of Contractors  
24 to the fullest extent consistent with the efficient performance of this Permit. Permittee  
25 may rely on written representations by consultants and subcontractors regarding their  
26 status. Permittee shall report to City in May or in December or, in the case of short-term  
27 agreements, prior to invoicing for final payment, the names of all sub consultants and  
28 contractors hired by Permittee for this Project and information on whether or not they are

1 a Disadvantaged, Minority or Woman-owned Business Enterprise, as defined in Section 8  
2 of the Small Business Act (15 U.S.C. Section 637).

3 17. Compliance with Laws. Permittee Parties shall comply with all  
4 applicable laws, rules, regulations and ordinances with respect to their activities on the  
5 City-owned Property and with respect to the materials collected from the sites and the  
6 disposal of materials collected, regardless of when these regulations become or became  
7 effective, including, without limitation those relating to construction, signage, health,  
8 safety, noise, environmental protection, waste disposal and water and air quality, and  
9 furnish satisfactory evidence of such compliance on request of the City.

10 18. Miscellaneous.

11 A. This Permit shall be governed by and construed in  
12 accordance with the laws of the State of California.

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

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

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

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

26 F. The failure or delay of the City to insist on strict compliance  
27 with the provisions of this Permit shall not be deemed a waiver of any right or  
28 remedy that City may have and shall not be deemed a waiver of any subsequent

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or other failure to comply with any provision of this Permit.

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

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

ORANGE COUNTY COASTKEEPER  
("Permittee")

August 14, 2014, 2014

By Jerry Brown  
EXECUTIVE DIRECTOR

"Permittee"

CITY OF LONG BEACH, a municipal corporation  
**Assistant City Manager**

November 3, 2014

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

"City"

This Right of Entry Permit is approved as to form on September 22, 2014.

CHARLES PARKIN, City Attorney

By [Signature]  
Deputy



**JACK DUNSTER MARINE BIOLOGICAL RESERVE**  
Olympia Oyster Restoration Project Interpretive Sign

