

RIGHT OF ENTRY PERMIT

35987

THIS RIGHT OF ENTRY PERMIT is made and entered, in duplicate, as of May 25, 2021 for reference purposes only, pursuant to authorization by the PARKS AND RECREATION COMMISSION of the City of Long Beach ("Commission") at its meeting on May 20, 2021, by and between FOOD FINDERS, INC., a 501 (c) (3) nonprofit ("Permittee"), whose address is 10539 Humboldt St., Los Alamitos, California 90720 and the CITY OF LONG BEACH, a municipal corporation ("City").

1. ACCESS. City grants to Permittee, its contractors, agents, and employees (collectively, the "Permittee Parties"; individually, a "Permittee Party") the non-exclusive right to enter City-owned property described in Exhibit "A" attached to this Permit and incorporated by reference ("City-owned Property") solely for the purpose of placement of a refrigerated container at Admiral Kidd Park to safely store produce, dairy and other perishables along with other food.

2. TIME OF USE. Permittee Parties shall enter City-owned Property in accordance with this Permit solely during Park hours. Monday through Sunday, from dawn to dusk, or after the last permitted activity has ended. Should Permittee hold an event past normal Park hours, depending on the scope of the event, Permittee shall pull a permit through the Department Reservation's Officer or the City's Special Events and Filming Officer, with a request that the fees be waived.

3. DURATION OF PERMIT.

A. Permission to enter shall begin on July 1, 2021, and continue through June 30, 2025. The City shall have the option to renew for one (1) additional (3) year period at the discretion of the Director.

B. Within fifteen (15) days of revocation of this Permit, Permittee shall cease entry and shall cause all Permittee Parties to cease entry on the City-owned Property, shall remove all equipment, supplies, and personal property and shall leave the City-owned Property in a clean, neat, and safe condition. Any

1 supplies, equipment, and personal property which are not removed within the fifteen
2 (15) day period shall become the property of the City without payment by or liability
3 of any kind on the part of the City.

4 4. CONTAINER. The container (Exhibit "B") is 20 feet long, 8.5 feet tall
5 and 8 feet wide. The container may only be used for refrigerated food storage and may not
6 house staff or operate public programs from within the container. The container aesthetic
7 must be well kept and maintained throughout the duration of the permit. The container will
8 be located near an electricity source, cement pad, and will not interrupt walking traffic. The
9 container and anything brought into the container will be the responsibility of Permittee and
10 will be removed upon completion of the improvement and/or at the termination of the
11 agreement.

12 5. FUNDING. Site preparation, installation, and operation of the
13 container shall be provided by Permittee. Any additional funding needed for the completion
14 or the operation of the container shall be secured by Permittee. The Department shall not
15 provide any funding, supplies or staff support, other than the review of the proposed site
16 work, and a liaison for communication purposes, unless approved in advance and in writing
17 by the Department Director.

18 6. PROGRAMMING.

19 A. Food Rescue Program: Keeps good, edible food from being
20 lost to a landfill. The food is donated and distributed free of charge within the same
21 community from which it came. The focus is to rescue perishable and
22 nonperishable foods, from dairy and bakery items to produce, deli, meats, and
23 prepared items, along with canned and packaged goods.

24 B. Food4Kids Program: Developed over the concern for local
25 children often going hungry on weekends. During the school year, Permittee
26 provides bags or cases of non-perishable food items to local Long Beach schools.
27 The program is supported by volunteers who pack groceries and deliver up to 35
28 bags per school every Friday.

1 C. Additional Programming: Permittee will be asked to explore
2 other possible food distribution opportunities that align with park programming
3 including the BeSafe program, WRAP, afterschool programs and summer camps
4 as appropriate.

5 7. NON-EXCLUSIVE USE. Permittees food container is a public benefit.
6 The location of the container does not provide Permittee with any exclusive use of the
7 surrounded areas.

8 8. LIVE SCAN. Prior to providing volunteer or other services on the
9 Premises, Permittee will live Scan fingerprint all employees, volunteers, and contractors
10 who provide services. One-day special event volunteers are excluded from this
11 requirement.

12 9. OPERATIONS OF MAINTENANCE, SUPPLIES AND SECURITY. All
13 operations of the container shall be kept in a neat, safe, and sanitary condition and
14 maintained. If the container is damaged or vandalized, maintenance will be dependent on
15 Permittee. Permittee will provide at its sole cost, all necessary funding to provide for the
16 operation, ongoing maintenance, needed supplies, utilities, and security of the container.
17 Permittee shall be responsible for any and all repairs associated with the container. The
18 Department shall have no maintenance obligations with respect to the container on the
19 premises. Permittee shall keep the premises in a neat, safe and sanitary condition and
20 maintain the storage facilities to the Department's satisfaction.

21 10. INSURANCE. Permittee must maintain a policy of liability insurance,
22 with the City and its respective elected officials, officers, employees, agents, and
23 representatives names as additional insureds, in an amount specified by the City that will
24 protect the City from any potential claims which may arise, Certain projects may require
25 that the applicant also obtain policies of automobile and worker's compensation insurance
26 in an amount specified by the City:

27 A. Commercial general liability insurance equivalent in scope to
28 ISO form CG 00 01 10 93 in an amount not less than \$1,000,000 per occurrence or

1 \$2,000,000 general aggregate. The coverage shall include but not be limited to
2 broad form contractual liability, cross liability, independent contractors' liability, and
3 products and completed operations liability. The City, its officers, employees and
4 agents shall be named as additional insureds by endorsement on the City's
5 endorsement form or on an endorsement equivalent in scope to ISO form CG 20 26
6 11 85, and this insurance shall contain no special limitations on the scope of
7 protection given to the City, its officers, employees and agents.

8 B. Workers' compensation insurance as required by the California
9 Labor Code and employer's liability insurance in an amount not less than
10 \$1,000,000 per accident.

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

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

24 E. Permittee shall require that all Permittee Parties maintain
25 insurance in compliance with this Section unless otherwise agreed in writing by
26 City's Risk Manager or designee.

27 F. Prior to entry on City-owned Property, Permittee shall deliver to
28 City certificates of insurance or self-insurance and required endorsements, including

1 any insurance required by Permittee Parties, for approval as to sufficiency and form.
2 The certificates and endorsements shall contain the original signature of a person
3 authorized by that insurer to bind coverage on its behalf. In addition, Permittee shall
4 at least thirty (30) days prior to expiration of this insurance furnish to the City
5 evidence of renewal of the insurance. City reserves the right to require complete
6 certified copies of all policies of insurance at any time. Permittee and Permittee
7 Parties shall make available to the City, during normal business hours, all books,
8 records, and other information relating to the insurance required in this Permit.

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

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

16 11. PERMITTEE'S INDEMNIFICATION OF CITY.

17 A. Permittee shall indemnify, protect and hold harmless City, its
18 Boards, Commissions, and their officials, employees and agents ("Indemnified
19 Parties"), from and against any and all liability, claims, demands, damage, loss,
20 obligations, causes of action, proceedings, awards, fines, judgments, penalties,
21 costs and expenses, arising or alleged to have arisen, in whole or in part, out of or
22 in connection with (1) Permittee's breach or failure to comply with any of its
23 obligations contained in this Permit, or (2) negligent or willful acts, errors, omissions
24 or misrepresentations committed by Permittee, its officers, employees, agents,
25 subcontractors, or anyone under Permittee's control, in the performance of work or
26 services under this Permit (collectively "Claims" or individually "Claim").

27 B. In addition to Permittee's duty to indemnify, Permittee shall
28 have a separate and wholly independent duty to defend Indemnified Parties at

1 Permittee's expense by legal counsel approved by City, from and against all Claims,
2 and shall continue this defense until the Claims are resolved, whether by settlement,
3 judgment or otherwise. No finding or judgment of negligence, fault, breach, or the
4 like on the part of Permittee shall be required for the duty to defend to arise. City
5 shall notify Permittee of any Claim, shall tender the defense of the Claim to
6 Permittee, and shall assist Permittee, as may be reasonably requested, in the
7 defense.

8 12. PREVAILING WAGE RATES. Permittee is directed to the prevailing
9 wage rates. Permittee shall forfeit, as a penalty to the City, Fifty Dollars (\$50.00) for each
10 laborer, worker or mechanic employed for each calendar day, or portion thereof, that such
11 laborer, worker or mechanic is paid less than the prevailing wage rates for any work done
12 by Permittee or any subcontractor, under this Permit.

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

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

1 cause of action similar to or based on damages that would otherwise arise in connection
2 with unlawful detainer, then the total amount of damages to which Permittee would be
3 entitled in such action shall be One Dollar. Permittee agrees that this Section may be filed
4 in such action and that, when so filed, it shall be a stipulation by Permittee fixing the total
5 damages to which Permittee is entitled in such action.

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

11 16. CONDITIONS OF PERMIT. Permittee shall obtain all necessary
12 certificates, permits and approvals as required by federal, state, and local authority and
13 must meet any and all Americans with Disabilities Act (ADA) requirements prior to entry to
14 City-owned Property.

15 17. 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 at 2760 Studebaker Road, Long Beach, CA 90815, Attn: Contract Management
19 Division. Notice shall be deemed given on the date personal delivery is made or on the
20 date shown on the return receipt, whichever first occurs.

21 18. CONDITION AFTER ENTRY. After the entry of any Permittee Party
22 on the City-owned property, Permittee shall return the City-owned property in as good
23 condition or better condition as the City-owned property was in prior to such entry,
24 reasonable wear and tear excepted.

25 19. IMPROVEMENTS. Permittee shall not install, construct, erect or
26 maintain any structure or improvements on the City-owned property except as described
27 in this Permit and any attachments.

28 20. NO LIMITATIONS ON CITY. The Permit shall not limit the City's right

1 or power to construct, erect, build, demolish, move or otherwise modify any structures,
2 buildings, landscaping or any other type of improvement on, over, in, or under the City-
3 owned Property.

4 21. NO RELEASE. The expiration or revocation of this Permit shall not
5 release either party from any liability or obligation, which accrued prior to such expiration
6 or revocation.

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

16 It is the policy of City to encourage the participation of Disadvantaged,
17 Minority and Women-owned Business Enterprises in City's procurement process, and
18 Permittee agrees to use its best efforts to carry out this policy in the hiring of Contractors
19 to the fullest extent consistent with the efficient performance of this Permit. Permittee may
20 rely on written representations by consultants and subcontractors regarding their status.
21 Permittee shall report to City in May or in December or, in the case of short-term
22 agreements, prior to invoicing for final payment, the names of all sub consultants and
23 contractors hired by Permittee for this Project and information on whether or not they are
24 a Disadvantaged, Minority or Woman-owned Business Enterprise, as defined in Section 8
25 of the Small Business Act (15 U.S.C. Section 637)

26 23. COMPLIANCE WITH LAWS. Permittee Parties shall be responsible
27 to acquire and pay for all necessary City permits and approvals, and pay any and all fees;
28 and shall comply with all applicable laws, rules, regulations and ordinances with respect to

1 their activities on the City-owned property.

2 24. INDEPENDENT CONTRACTOR. Permittee is an independent
3 contractor and not an employee, agent or other representative of the City. Permittee shall
4 have the right to select the means, manner and method of performing the services
5 described herein. Permittee understands and agrees that Permittee is not authorized to
6 incur any expenses or any liability whatsoever on behalf of the City and has no authority,
7 expressed or implied, to obligate or make representations on behalf of the City.

8 25. LIAISON AND COMMUNICATION. Permittee will designate a
9 Department liaison through which Permittee will communicate.

10 26. MISCELLANEOUS.

11 A. This Permit shall be governed by and construed in accordance
12 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 invalidated.

16 C. This Permit may only be amended by a written agreement,
17 signed by the City and Permittee.

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

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

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

OFFICE OF THE CITY ATTORNEY
CHARLES PARKIN, City Attorney
411 West Ocean Boulevard, 9th Floor
Long Beach, CA 90802-4664

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.

FOOD FINDERS, INC., a 501 (c)(3) nonprofit

June 17th, 2021

By Diana Laya
Name Diana Laya
Title Executive Director

_____, 2021

By _____
Name _____
Title _____

"Permittee"

PARKS AND RECREATION
COMMISSION OF THE CITY OF LONG
BEACH, CALIFORNIA

_____, 2021

By _____
Director

"Commission"

This Right of Entry Permit is approved as to form on _____, 2021.

CHARLES PARKIN, City Attorney

By _____
Deputy

OFFICE OF THE CITY ATTORNEY
CHARLES PARKIN, City Attorney
411 West Ocean Boulevard, 9th Floor
Lana Beach, CA 90802-4664

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5 respective dates set forth opposite their signatures.

6 FOOD FINDERS, INC., a 501 (c)(3)
7 nonprofit

8 June 17th, 2021

By Diana Laza
9 Name Diana Laza
10 Title Executive Director

11 _____, 2021

By _____
12 Name _____
13 Title _____

14 "Permittee"

15 PARKS AND RECREATION
16 COMMISSION OF THE CITY OF LONG
17 BEACH, CALIFORNIA

18 _____, 2021

By Brent Dennis
19 Director

20 "Commission"

21 This Right of Entry Permit is approved as to form on
22 August 9, 2021.

23 CHARLES PARKIN, City Attorney

24 By Miki
25 Deputy

EXHIBIT “A”

ATTACHMENT A

ADMIRAL KIDD PARK

Proposed location for container

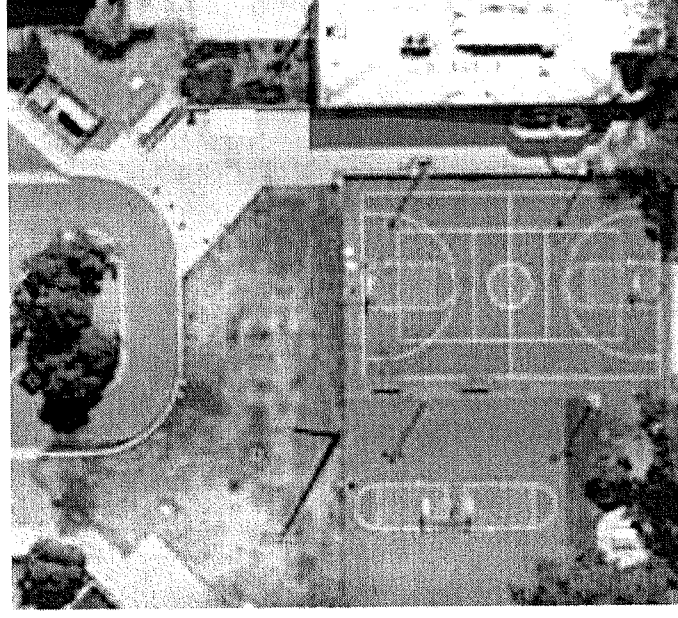
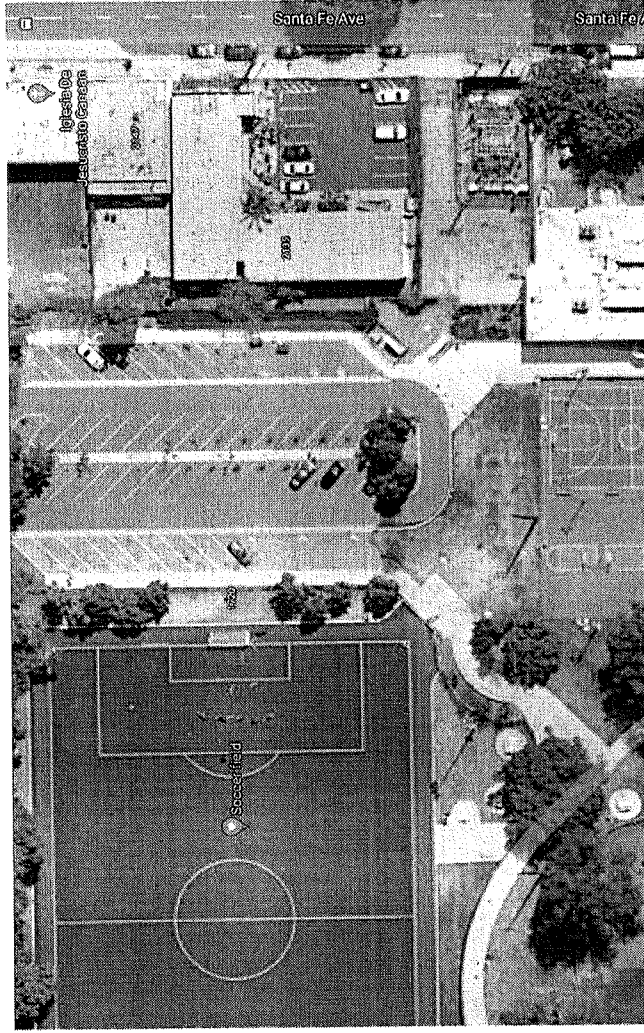


EXHIBIT “B”

ATTACHMENT B

Image of the Food Finders refrigerated container.

