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Env Svs Dept
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**CITY OF SAN DIEGO
RIGHT OF ENTRY PERMIT**

THIS CITY OF SAN DIEGO RIGHT OF ENTRY PERMIT ("Permit") is entered into by and between THE CITY OF SAN DIEGO, a California municipal corporation ("CITY"), and the ICLEI-LOCAL GOVERNMENTS FOR SUSTAINABILITY USA, Inc. ("PERMITTEE" or "ICLEI"), an international membership association of local governments, to be effective upon the date signed by the CITY and approved by the San Diego City Attorney ("Effective Date"), as follows:

RECITALS

WHEREAS, the CITY has been a national leader for many years in efforts to reduce greenhouse gas emissions from municipal operations and community-wide emissions; and

WHEREAS, the CITY has established a target to reduce greenhouse gas emissions to 1990 levels by 2020; and

WHEREAS, ICLEI is an international membership association of local governments that supports greenhouse gas reduction, climate adaptation, and sustainability efforts by those local governments; and

WHEREAS, it is the desire of ICLEI to maintain its presence in San Diego; and

WHEREAS, the CITY desires to host ICLEI in exchange for an 80 percent reduction in the annual membership fee, with full membership privileges and technical assistance, all as more fully described below.

NOW, THEREFORE, FOR VALUABLE CONSIDERATION, the sufficiency of which is acknowledged, the parties agree as follows:

1. Definitions. As used in this Permit, the following terms shall be defined as follows:

- a) **"Permit Area"** shall mean one cubicle space on the second floor, east side suite, next to the west window overlooking the building entrance of that certain CITY – owned real property in the County of San Diego, State of California, located at 9601 Ridgehaven Court, San Diego, CA 92123 (the "Property"). The Permit Area is shown in more detail in Exhibit "A" attached hereto and incorporated herein by this reference. It is agreed that CITY retains the right, at its sole discretion and upon reasonable notice, to designate other similar space as the Permit Area, as may be reasonably necessary for CITY's needs.
- b) **"Permit Use"** shall mean the nonexclusive use of the Permit Area for office use only, as set forth in more detail below.

2. Right to Enter. Subject to the terms and conditions of this Permit, CITY hereby grants permission to PERMITTEE, its officers, employees, agents and contractors to enter upon and occupy the Permit Area solely for the purpose of the Permit Use.

3. Use of Permit Area. PERMITTEE may use the Permit Area on a non-exclusive basis for ordinary and reasonable office uses for authorized ICLEI activities and for no other uses or activities.

4. CITY Obligations. CITY shall provide the following:

- a) Access to, and use of, the Permit Area, which will include the assigned space, use of office furniture, a telephone for local and long distance calls, internet access for a laptop computer (laptop to be provided by ICLEI), and use of basic utilities. Access to, and use of, the Permit Area will be limited to normal business hours which are Monday through Friday, 7:30 A.M. to 6:00 P.M., (federal and state holidays excepted). Holidays are defined as the following: New Years Day, President's Day, Cesar Chavez Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day and Christmas Day.
- b) Internet access will be allowed within standard City guidelines, and will include access to gmail.com and salesforce.com. The CITY shall not be responsible for any subscription costs which may be required for such internet access site/computer program.
- c) PERMITTEE shall comply with CITY directives regarding ingress and egress to/from the Permit Area.
- d) PERMITTEE shall be able to send and receive mail from the Property, but CITY shall not be responsible for the cost of PERMITTEE's postage or other mailing/delivery expenses.
- e) CITY shall have the right to enter and inspect the Permit Area and any other premises which may be assigned to PERMITTEE.
- f) Access to, and use of, a photocopy machine, scanner, and a fax machine for necessary and reasonable Permit Use. Large copying projects shall be processed by an outside provider at PERMITTEE's expense.
- g) Access to, and use of, meeting and conference facilities in ESD offices at the Property, during normal business hours as defined in section 4a above.
- h) In the event that the Property is closed or otherwise occupied, in whole or in part, due to an emergency or for public health and safety reasons, CITY may temporarily restrict or remove PERMITTEE'S right of access hereunder, at CITY's sole discretion.
- i) CITY will highlight and promote its membership in ICLEI and pay 20% of the

Annual Membership Fee during the Term.

5. PERMITTEE Obligations. PERMITTEE shall provide the following:

- a) Membership in ICLEI during the Term of this Permit at an 80% reduction in the Annual Membership Fee;
- b) Technical services for CITY'S Climate Mitigation and Adaptation Plan including, but not limited to, review and consultation on best practices, and Membership services, which include:
 1. Technical assistance on the quantification of greenhouse gas emissions from local government operations as well as community sources;
 2. Access to guidebooks and toolkits with best practice examples for local government sustainability initiatives;
 3. Access to ICLEI's international membership network of climate and sustainability leaders;
 4. Other resources and services which may be offered to ICLEI members from time to time;
 5. Promoting the City of San Diego as a leadership City to ICLEI's member network;
 7. Access to tools and technical assistance that are part of existing membership to ICLEI; and
 8. Formal recognition of CITY being a host city for ICLEI.

6. Term. The term of this Permit ("Term") shall commence on the date signed by CITY and approved by the San Diego City Attorney, and continue until September 30, 2013, unless terminated earlier in accordance with the terms of this Permit. Upon mutual written agreement of the parties, this Permit may be extended for up to three (3) additional one-year periods under the same terms and conditions herein.

7. CITY'S Consent, Discretion. Whenever required under this Permit, CITY'S consent or approval shall mean the written consent or approval of the Mayor of San Diego, or his or her designee ("Mayor"), unless otherwise expressly provided. CITY'S discretionary acts hereunder shall be made in the Mayor's discretion, unless otherwise expressly provided.

8. Insurance. Upon execution and delivery of this Permit, PERMITTEE shall deliver to CITY a current certificate(s) of insurance evidencing the following insurance coverage:

- a) Commercial General Liability Insurance, providing coverage for bodily injury, including death, personal injury, and property damage with limits of at least

One Million Dollars (\$1,000,000) per occurrence, subject to an annual aggregate of at least Two Million Dollars (\$2,000,000); and

- b) Workers' Compensation Insurance, as required by the laws of the State of California for all of PERMITTEE'S employees who are subject to this Permit, with Employers' Liability coverage with limits of at least One Million Dollars (\$1,000,000).

8.1 Additional Insureds. "The City of San Diego, its elected officials, officers, employees, representatives, and agents" shall be named additional insureds on all policies required, except Workers' Compensation Insurance, but only to the extent of PERMITTEE's Operations under this Permit.

8.2 Primary & Non-Contributory. Insurance policies shall be endorsed such that the coverage is primary and non-contributory to any coverage carried or maintained by CITY, its elected officials, officers, employees, representatives, and agents, but only to the extent of PERMITTEE's Operations under this Permit.

8.3 Waiver of Subrogation. The Worker's Compensation policy or policies must be endorsed to provide that the insurer will waive all rights of subrogation against CITY and its respective elected officials, officers, employees, agents and representatives for losses paid under the terms of this policy or these policies which arise from work performed by the Named Insured for CITY.

8.4 Qualified Insurer(s). All insurance required by the terms of this Permit must be provided by insurers licensed to do business in the State of California which are rated at least "A-, VI" by the current AM Best Ratings Guide and which are reasonably acceptable to CITY.

8.5 Deductibles/Retentions. All deductibles and self-insured retentions on all insurance policies are the sole responsibility of PERMITTEE and must be disclosed and acceptable to CITY at the time evidence of insurance is provided.

8.6 Continuity of Coverage. All policies shall be in effect on or before the first day of the Term. Prior to the expiration of each insurance policy, PERMITTEE shall furnish to CITY a certificate(s) showing that a new or extended policy has been obtained which meets the requirements of this Permit. All insurance policies required herein shall provide that the insurance carrier will provide written notice to the CITY no less than thirty (30) days prior to the termination or cancellation of any policy.

8.7 Modification. To assure protection from and against the kind and extent of risk existing on the Permit Areas or the Property, CITY, at its reasonable discretion, may require the reasonable revision of limits and coverage at any time during the Term by giving PERMITTEE thirty (30) days prior written notice. PERMITTEE shall also obtain any additional insurance required by CITY for new improvements, changed circumstances, or CITY's reasonable re-evaluation of risk levels related to PERMITTEE'S use of the Permit Area or the Property.

8.8 Accident Reports. PERMITTEE shall report to CITY any accident causing property damage or injury to persons on the Permit Area or the Property and related to PERMITTEE'S activities under the Permit. Such report shall contain the names and addresses of the involved parties, a statement of the circumstances, the date and hour of the accident, the names and addresses of any witnesses, and other pertinent information.

8.9 Failure to Comply. Notwithstanding any other provision of this Permit, if PERMITTEE fails or refuses to obtain or maintain insurance as required by this Permit, or fail to provide proof of insurance, CITY may immediately terminate this Permit.

8.10 Duration. All the policies required hereunder shall be kept in force for the duration of the Term and any extended term or use. The certificate(s) of insurance shall be filed with CITY'S Real Estate Assets Department.

8.11 Excess Insurance. All policies providing excess coverage to the CITY shall follow the form of the primary policy or policies including but not limited to all endorsements.

9. Hold Harmless. PERMITTEE shall protect, defend, indemnify, and hold CITY, its elected officials, officers, representatives, agents and employees, harmless from and against any and all claims asserted or liability established for damages or injuries to any person or property, including injury to PERMITTEE'S officers, employees, invitees, interns, volunteers, guests, agents, or contractors which arise out of or are in any manner directly or indirectly connected with this Permit, the Permit Use, or PERMITTEE'S use of the Permit Area and the Property and/or access thereto, and all expenses of investigating and defending against same, including without limitation attorney fees and costs; provided, however, that PERMITTEE'S duty to indemnify and hold harmless shall not include any claims or liability arising from the established active negligence, sole negligence, or sole willful misconduct of CITY, its elected officials, officers, representatives, agents and employees. The rights and obligations under this section shall survive the expiration or termination of this Permit.

10. PERMITTEE'S Risk. PERMITTEE shall bear all risks and liability arising out of or in any manner directly or indirectly connected with PERMITTEE'S use of the Permit Area and the Property and any damages to the improvements on, under, or in the vicinity of the Permit Area and the Property resulting directly or indirectly thereby.

11. Revocable License. This Permit is not a lease. It is a non-exclusive license to use CITY property, and may be revoked at will by CITY, in its sole discretion. CITY shall not be obligated for any loss, financial or otherwise, which may be incurred by PERMITTEE as a result of such revocation or the termination of this Permit. PERMITTEE expressly waives any claim for expense or loss which PERMITTEE might incur as a result of CITY'S termination of this Permit. CITY may at all times enter upon the Permit Area.

12. Compliance with Law. PERMITTEE shall, at its sole cost and expense, comply with all laws and the requirements of all municipal, state, and federal authorities now in effect or which may hereafter be in effect, which pertain to the Permit Area and/or the Permit Use. In addition,

PERMITTEE shall immediately comply, and require each of its employees, interns, volunteers, agents, and representatives to immediately comply, with all directives issued by the CITY, or its authorized representatives, under authority of any law, statute, ordinance, rule, or regulation.

13. No Assignment. PERMITTEE shall not assign any rights granted by this Permit or any interest therein without CITY'S prior written consent.

14. Encumbrances. PERMITTEE shall keep the Property and the Permit Area free from all encumbrances and liens of any nature which arise out of or are in any manner directly or indirectly connected with this Permit, the Permit Use, or PERMITTEE'S use of the Permit Area. PERMITTEE shall protect, defend, indemnify, and hold CITY harmless from and against any and all such encumbrances and/or liens, and from and against any claim, liability, cost or expense, including without limitation all attorney fees and costs, relating to or charged against the Property or the Permit Area, including without limitation PERMITTEE'S failure or the failure of any contractor or subcontractor hired by PERMITTEE to pay any person or persons referred to in Section 3181 of the California Civil Code or other applicable sections thereof.

15. Maintenance of the Permit Area. PERMITTEE shall, to CITY'S satisfaction, maintain the Permit Area in a decent, safe, healthy and sanitary condition at all times during the Term.

16. Inspection. CITY may, at any and all times, enter and inspect the Permit Area and/or the Permit Use.

17. Non-Interference. PERMITTEE shall not interfere with CITY'S use, activities, operations, and events at the Property.

18. Waiver. CITY'S failure to insist upon the strict performance of any of PERMITTEE'S obligations under this Permit, in one or more instance, shall not be construed as a waiver of any such obligation, and the same shall remain in full force and effect. The property constituting the Permit Area is CITY-owned and held in trust for the benefit of CITY'S citizens. CITY'S failure to discover a breach of any obligation of this Permit or take prompt action to require the cure of any such breach shall not result in an equitable estoppel, but CITY may at any and all times require the cure of any such breach.

19. Survival. Any obligation which accrues under this Permit prior to its expiration or termination shall survive such expiration or termination.

20. Entire Agreement. This Permit constitutes the entire agreement between the parties and supersedes any and all prior understandings, representations, warranties and agreements between the parties. Any modification, alteration, or amendment of this Permit shall be in writing and signed by all the parties hereto.

21. Legal Proceedings. If CITY commences legal proceedings to enforce any right or obligation under this Permit, PERMITTEE shall pay all costs in connection therewith, including reasonable attorney fees and costs.

22. Notices. Any notice required or permitted to be given under this Permit shall be in writing and may be served personally or by United States mail, postage prepaid, and addressed to CITY or PERMITTEE, respectively, as follows:

THE CITY OF SAN DIEGO
Real Estate Assets Department
1200 Third Avenue, Suite 1700 (MS 51A)
San Diego, CA 92101

THE CITY OF SAN DIEGO
Environmental Services Department
9601 Ridgehaven Court Suite 310 (MS 1103A)
San Diego, CA 92163

ICLEI-LOCAL GOVERNMENTS FOR SUSTAINABILITY USA, Inc.
436 14th Street, Suite 1520
Oakland, CA 94612

23. Governmental Approvals. By entering into this Permit, neither CITY nor CITY'S City Council is obligating itself to any other governmental agent, board, commission, or agency with regard to any other discretionary action relating to the Permit Use or PERMITTEE'S use of the Permit Area. Discretionary action includes but is not limited to re-zonings, variances, environmental clearances, or any other governmental agency approvals which may be required for the Permit Use or PERMITTEE'S use of the Permit Area.

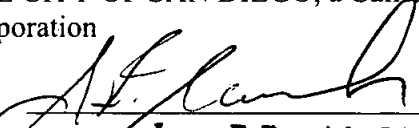
24. No Discrimination. PERMITTEE shall not discriminate in any manner against any person or persons on account of race, color, religion, gender, sexual orientation, medical status, national origin, age, marital status, or physical disability in PERMITTEE'S use of the Permit Area, including but not limited to the providing of goods, services, facilities, privileges, advantages, and accommodations, and the obtaining and holding of employment.

25. Authority to Contract. Each individual executing this Permit on behalf of another person or legal entity represents and warrants that he/she is authorized to execute and deliver this Permit on behalf of such person or entity in accordance with duly adopted resolutions or other authorizing actions which are necessary and proper and under such legal entity's articles, charter, bylaws, or other written rules of conduct or governing agreement, and that this Permit is binding upon such person or entity in accordance with its terms.

IN WITNESS WHEREOF, this Permit is executed to be effective as of the Effective Date.

Date: 12/8/11

THE CITY OF SAN DIEGO, a California municipal corporation

By: 

Name: James F. Barwick, CCIM

Director, Real Estate Assets

Title: _____

Date: 11/13/11

ICLEI-LOCAL GOVERNMENTS FOR
SUSTAINABILITY USA, Inc.

By: [Signature]

Name: Brian Holland

Title: Director of Climate Programs

ENVIRONMENTAL ANALYSIS SECTION ENVIRONMENTAL CLEARANCE:

THIS ACTIVITY IS CATEGORICALLY EXEMPT FROM CEQA PURSUANT TO STATE
CEQA GUIDELINES, SECTION 15301.

Date: 12/2/11

By: [Signature]

Name: Myra Herrmann

Title: Senior Planner

APPROVED AS TO FORM AND LEGALITY:

JAN I. GOLDSMITH, City Attorney

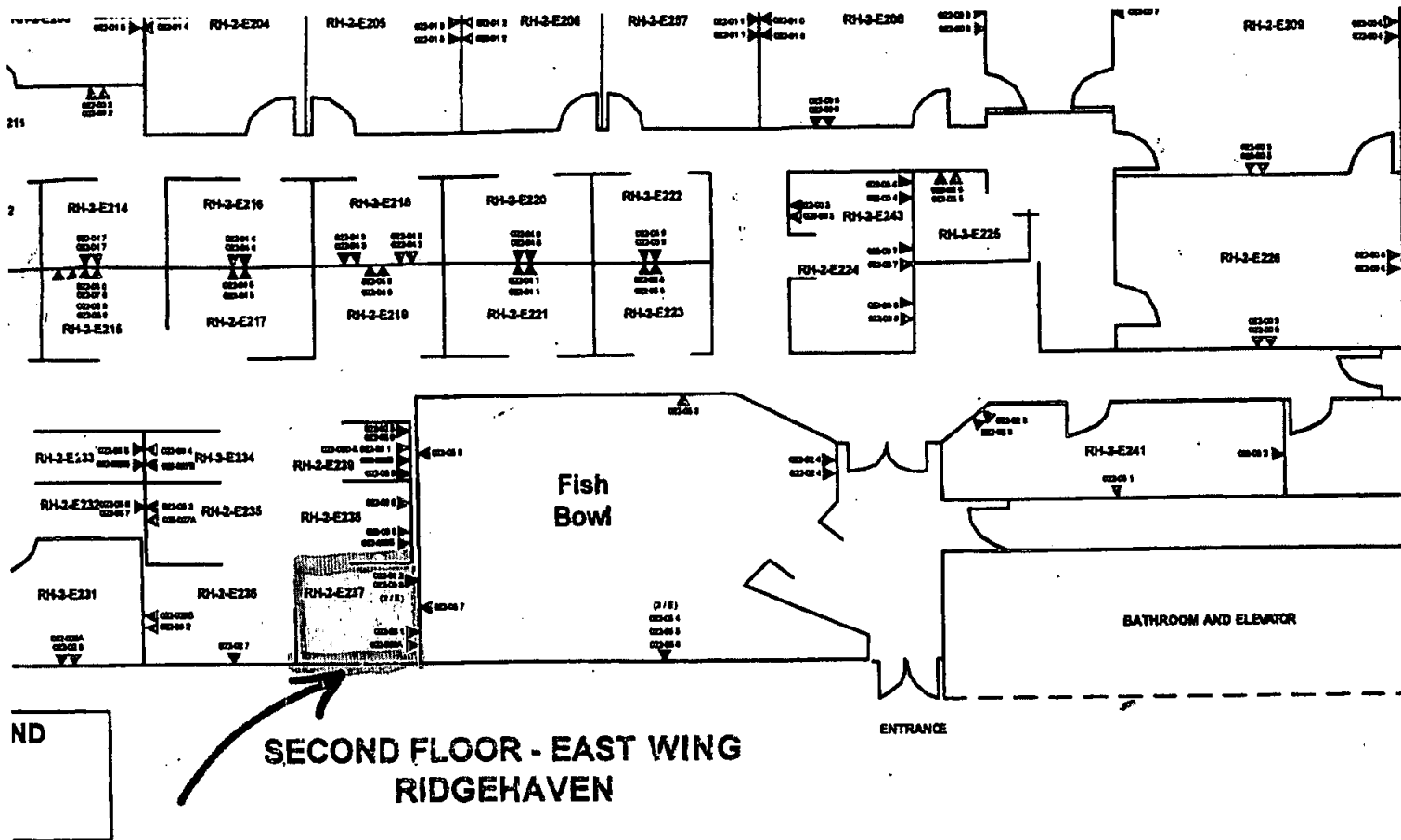
BY: [Signature] 12/16/11
Deputy City Attorney

Attachment A

Right of Entry Agreement

Office Space Available for ICELI staff member

9601 Ridgehaven Court, San Diego, CA 92123



SPACE DIMENSIONS =
9 ft 6 inches x 8 ft