

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 COUNTY OF SAN DIEGO, a political subdivision of the State of California ("PERMITTEE"), to be effective as of September 24, 2018 (the "Effective Date"), when signed by the parties and approved by the San Diego City Attorney, as follows:

RECITALS

- A. CITY is the owner of real property located at **415 Euclid Avenue**, San Diego, California 92114 (the "Property"), commonly known as **The Tubman Chavez Center**, and currently leased to The Neighborhood House Association in San Diego County ("CITY'S Lessee").
- B. PERMITTEE is considering acquiring the Property.
- C. PERMITTEE would like to perform borings and take soil samples in the parking lot (hereinafter referred to as the "Permit Area"), more particularly described in the attached **Exhibit A: Permit Area**.
- D. Under the terms and conditions of this Permit, CITY will grant PERMITTEE a right of entry to the Property necessary to perform the borings and obtain such soil samples.

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

- 1. **Right to Enter.** Subject to the terms and conditions of this Permit, CITY hereby grants permission to PERMITTEE, its employees, agents, consultants, and contractors to enter upon the Property as described in the attached Exhibit A. PERMITTEE shall contact and obtain approval from CITY'S Lessee prior to its use of the Permit Area. The CITY's Lessee contact is Vaniety Tenorio, phone 619-363-3463.
- 2. **Revocable License.** This Permit is not a lease. It is a non-exclusive license to access the Permit Area for the purposes stated herein, 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 revocation or termination of this Permit. CITY may at all times enter upon the Permit Area.
- 3. **Term.** The term of this Permit ("Term") shall be ninety calendar (90) days, commencing on the Effective Date.
- 4. **Use of Permit Area.** PERMITTEE may use the Permit Area on a non-exclusive basis for the sole purpose of performing borings and obtaining **soil samples** (referred to hereinafter

as the "Permitted Use" or the "Project"). Prior to the Effective Date of this Permit, PERMITTEE shall provide the following information: (a) name of company that would be performing the testing; (b) requested dates for testing; (c) a plan showing the number and location of the testing sites, method of testing (for example, drilling using hollow stem auger methods), depth of drilling, and method of backfilling bore holes; (d) permit with the County of San Diego Dept. of Environmental Health; and (e) type of soils analysis (bulk density measurements, geotechnical tests, metals, etc.), which will then be attached hereto as **Exhibit B: Project Description** and incorporated herein.

PERMITTEE, at PERMITTEE's sole cost and expense, shall undertake and complete all appropriate restoration and remediation of the impacted portion of the Permit Area.

Examinations of the Permit Area, whether invasive or non-invasive, shall only be conducted in a manner as to not unreasonably disturb or interfere with the current use of the Property by CITY'S Lessee and any sublessees. If requested by City, PERMITTEE shall also provide CITY with a copy of all reports, analyses, findings and conclusions resulting from the Project, which may be reasonably redacted for confidentiality purposes. PERMITTEE shall pay all costs and expenses related to the Project.

5. Superior Interests. This Permit is subject to all liens, encumbrances, covenants, conditions, restrictions, reservations, contracts, permits and licenses, easements, and rights of way pertaining to the Property, whether or not of record. PERMITTEE shall obtain all licenses, permits, and agreements from such third parties as may be necessary to allow its use of the Permit Area for the Permitted Use, relative to any such superior interest. If PERMITTEE'S use of the Permit Area is or becomes inconsistent or incompatible with a preexisting, superior interest, PERMITTEE shall take such actions and pay all costs and expenses necessary to remove such inconsistency or incompatibility to the satisfaction of the holder of the superior interest.
6. Permit Fee. None. The City finds that the building of a Live Well Center will serve a public purpose, benefitting the citizens of the City of San Diego, and therefore, is waiving the permit fee for this Permit.
7. Restoration of the Permit Area. Upon the expiration or termination of this Permit, PERMITTEE shall restore any disturbed areas within the Permit Area to the same condition as existed immediately prior to the Term's commencement, subject to the satisfaction of the City.
8. CITY's Consent, Discretion. CITY's consent or approval under this Permit shall mean the written consent or approval of the Mayor of San Diego or his designee ("Mayor"), unless otherwise required by law or expressly provided herein, and shall be made in the Mayor's discretion, subject to all applicable laws, rules, regulations and directives of competent governmental authorities.
9. Unauthorized Activities. PERMITTEE shall not engage in any activity on CITY-owned property other than the Permitted Use. Any work done that was not previously approved in writing by the CITY or otherwise authorized by this Permit, shall subject PERMITTEE to being liable for all costs and damages associated with inspecting, remediating, and/or taking other actions to ensure that the Property and the Permit Area

shall be returned to its condition on the Effective Date, subject to the sole discretion/satisfaction of the CITY.

10. Improvements/Alterations. PERMITTEE shall not construct any improvements, structures, or installations on the Permit Area, and shall not alter the Permit Area except as otherwise permitted hereunder. Except as required by law, CITY shall not be obligated to make any repair or assume any expense for any improvements or alterations to the Permit Area.

11. Insurance.

- 11.1 PERMITTEE shall obtain and maintain throughout the term of this Permit, at its sole cost and expense, all insurance required by this Permit. PERMITTEE's liabilities under this Permit, including without limitation PERMITTEE's indemnity obligations, shall not be deemed limited in any way to the insurance coverage required herein. PERMITTEE's maintenance of the required insurance coverage is a material consideration for this Permit. Notwithstanding any provision of this Permit to the contrary, if PERMITTEE fails to maintain or renew the insurance coverage required herein, or fails to deliver evidence of same to CITY, PERMITTEE shall be in default of this Permit. PERMITTEE shall not modify any policy or endorsement thereto which increases CITY's exposure to loss. PERMITTEE shall obtain and deliver to CITY's Real Estate Assets Department a current certificate of insurance and relevant endorsements for (and subject to CITY's reasonable written approval of same):

- (a) Commercial General Liability Insurance ("CGL") written on an *ISO Occurrence form CG 00 01 07 98* or an equivalent form providing coverage at least as broad which shall cover liability arising from any and all bodily injury, including death, and property damage with limits of at least Five Million Dollars (\$5,000,000) per occurrence and general aggregate of Five Million Dollars (\$5,000,000). There shall be no endorsement or modification of the CGL limiting the scope of coverage for either insured vs. insured claims or contractual liability.

- (b) Commercial Automobile Liability Insurance, providing coverage for all bodily injury, including death, and property damage on an *ISO form CA 00 01 12 90* or a later version of such form or an equivalent form providing coverage at least as broad for a combined single limit of at least One Million Dollars (\$1,000,000) per occurrence. Such insurance shall cover liability arising out of any vehicle (including owned, hired, and non-owned vehicles) operated in performing any and all work pursuant to this Permit.

- (c) Workers' Compensation Insurance, as required by applicable laws, for all of PERMITTEE's employees who are subject to this Permit, with employers' liability coverage with a limit of at least One Million Dollars (\$1,000,000), including a waiver of the right of subrogation against The City of San Diego and its elected officials, officers, employees, and representatives.

11.1.1 Additional Insureds. To the fullest extent allowed by law, including without limitation California Insurance Code section 11580.04, each policy excluding workers' compensation and employer's liability shall include as an insured "The City of San Diego and its elected officials, officers, employees, and representatives" with respect to liability arising out of: (a) ongoing operations performed by PERMITTEE or on PERMITTEE's behalf; (b) PERMITTEE's products; (c) PERMITTEE's work, including without limitation PERMITTEE's completed operations performed by PERMITTEE or on PERMITTEE's behalf; or (d) the Premises.

11.1.2 Primary & Non-Contributory. The Commercial General Liability policy is primary to any insurance or self-insurance of The City of San Diego and its elected officials, officers, employees, and representatives as respects operations of the named insured. Any insurance maintained by The City of San Diego and its elected officials, officers, employees, and representatives shall be in excess of PERMITTEE's insurance and shall not contribute to it.

11.1.3 Severability of Interest. Each policy shall provide that PERMITTEE's insurance shall apply separately to each insured against whom claim is made or suit is bought, except with respect to the limits of the insurer's liability and shall provide cross-liability coverage.

11.1.4 Qualified Insurer(s). Except for the State Compensation Insurance Fund, all insurance required by this Permit shall only be carried by insurance companies with a rating of at least "A-, VII" by A.M. Best Company that are authorized by the California Insurance Commissioner to do business in the State of California, and that have been approved by CITY. CITY may accept insurance provided by non-admitted, "surplus lines" carriers only if the carrier is authorized to do business in the State of California and is included on the List of Eligible Surplus Lines Insurers (i.e., the LESLI list). All policies of insurance carried by non-admitted carriers shall be subject to all of the requirements for policies of insurance provided by admitted carriers described herein. Each insurer shall be subject to CITY's approval in each instance.

11.1.5 Deductibles/Retentions. All deductibles and self-insured retentions on any insurance policy are the sole responsibility of PERMITTEE shall provide CITY with a letter ("Verification Letter") confirming that PERMITTEE's parent company has a net worth of at least \$100,000,000, which Verification Letter shall be provided to CITY within thirty (30) days after this Permit is fully executed. Thereafter, PERMITTEE shall provide Verification Letter on or before each annual anniversary of the effective date.

11.1.6 Continuity of Coverage. All policies shall be in effect on or before the first day of the Term, except "course of construction fire insurance" shall be in force on commencement of all authorized construction, and full applicable fire insurance coverage shall be effective upon completion of each insurable improvement. The policies shall be kept in force for the duration of the Term. Within thirty (30)

days after the expiration of each insurance policy, PERMITTEE shall furnish a certificate(s) showing that a new or extended policy has been obtained which meets the requirements of this Permit. PERMITTEE shall provide proof of continuing insurance at least annually during the Term and otherwise upon CITY's request. If insurance lapses or is discontinued for any reason, PERMITTEE shall immediately obtain replacement insurance as soon as possible.

11.1.7 Modification. To assure protection from and against the kind and extent of risk existing with the Allowed Uses, CITY, at its reasonable discretion, may require the revision of amounts and coverage at any time 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 the Allowed Uses.

11.1.8 Accident Reports. PERMITTEE shall immediately, or as soon as practicable and not more than 48 hours after PERMITTEE becomes aware of such accident, report to CITY any accident causing property damage or injury to persons on the Premises or otherwise related to the Allowed Uses. 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.

11.1.9 Notwithstanding the insurance provisions of section 11 to the contrary, PERMITTEE shall have the right to self-insure with respect to any of the insurance required to be carried by PERMITTEE under this section.

12. Indemnification. 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, agents, contractors, invitees and guests, to the extent arising out of or are in any manner directly or indirectly connected with this Permit or PERMITTEE's occupancy, use, development, maintenance, or restoration of the Permit Area, including damages arising out of release of hazardous materials caused by the Permit Use or Project, and all expenses of investigating and defending against same, including without limitation reasonable attorney fees and costs; provided, however, that PERMITTEE's duty to indemnify and hold harmless shall not include any established liability arising from the sole negligence or willful misconduct of CITY, its elected officials, officers, representatives, agents and employees. CITY may, at its election, conduct the defense or participate in the defense of any claim related in any way to this indemnification. If CITY chooses at its own election to conduct its own defense, participate in its own defense, or obtain independent legal counsel in defense of any claim related to this indemnification, PERMITTEE shall pay all reasonable costs related thereto, including without limitation reasonable attorney fees and costs.
13. No Discrimination. PERMITTEE shall not discriminate in any manner against any person or persons on account of race, color, religion, gender, gender expression, gender

identity, 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.

14. PERMITTEE's Risk. Except as expressly provided for herein. PERMITTEE shall bear all risks and liability arising out of or in any manner directly or indirectly connected with the Permitted Use and any damages to the improvements on, under, or in the vicinity of the Permit Area resulting directly or indirectly thereby.
15. Nuisance and Noise Disturbances. PERMITTEE shall not use the Permit Area in any manner which, in the opinion of the CITY creates a nuisance or disturbs the quiet enjoyment of persons in the surrounding area or that violates the CITY's Noise Abatement and Control Ordinance (Chapter 5, Article 9.5 of the San Diego Municipal Code, as amended from time to time).
16. No Assignment. PERMITTEE shall not assign any rights granted by this Permit nor any interest therein without the prior written approval of the CITY. Approval of any such proposed assignment may be withheld at the sole and absolute discretion of the CITY. Any assignment by operation of law shall automatically terminate this Permit.
17. Signs. PERMITTEE shall not erect or display any banners, pennants, flags, posters, signs, decorations, marquees, awnings or similar devices or advertising in the Permit Area except as may be required by law without CITY's prior written consent. If any such unauthorized item is placed on the Permit Area, by PERMITTEE, PERMITTEE shall remove the item at its expense within twenty-four (24) hours after notice by CITY, or CITY may thereafter summarily remove the item at PERMITTEE's cost.
18. Security and Safety of Permit Area. PERMITTEE shall bear sole responsibility for the security and safety of any portions of the Permit Area affected by the Permitted Use during such use. PERMITTEE shall be responsible for the, cleanup and securing of any areas of the Permit Area disturbed by PERMITTEE, as appropriate, immediately following each day's work to ensure security and safety. PERMITTEE shall comply with all applicable laws, rules, regulations and directives of competent governmental authorities, at PERMITTEE's sole cost and expense, with respect to maintaining the Permit Area in a safe and secure manner during the Term in connection with the Permitted Use. CITY has no obligation to provide oversight of the Project or staffing or resources for the maintenance of the Permit Area during the Term.
19. Encumbrances. PERMITTEE shall keep 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 or the Permitted Use. 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 reasonable attorney fees and costs, relating to or charged against 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.

20. Compliance with Laws. PERMITTEE shall, at its sole cost and expense, comply with all the requirements of all rules, regulations, ordinances, laws and direction of governing authorities now in effect or which may hereafter be in effect, which pertain to the Permitted Use.
21. Hazardous Materials. PERMITTEE shall not allow the illegal installation, storage, utilization, generation, sale or release of any Hazardous Substance (defined below) or otherwise regulated substances in, on, under or from the Permit Area. PERMITTEE and PERMITTEE's agents and contractors shall not install, store, utilize, generate or sell any Hazardous Substance on the Permit Area without CITY's prior written consent. PERMITTEE shall, prior to initiating any operations in the Permit Area, obtain all required permits for the Permitted Use from any applicable regulatory agencies, including without limitation the San Diego County Department of Environmental Health, local fire agencies, the San Diego County Department of Weights and Measures, the San Diego County Air Pollution Control District, and the San Diego Regional Water Quality Control Board. Installing, utilizing, storing, or any other presence of a Hazardous Substance includes boxes, bags, bottles, drums, cylinders, above or below ground tanks, equipment with tanks, or any other type of container, equipment or device which holds or incorporates a Hazardous Substance or hazardous waste.
- 21.1 Release. For all purposes of this Permit, a "release" shall include without limitation any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping or otherwise disposing of a Hazardous Substance.
- 21.2 Hazardous Substance. For all purposes of this Permit, "Hazardous Substance" shall mean any substance listed by the Environmental Protection Agency or the State of California as a hazardous substance, and all types of petroleum-related substances and their chemical constituents.
- 21.3 Remediation. If PERMITTEE's use, or restoration of the Permit Area results in a release of a Hazardous Substance, PERMITTEE shall pay all costs of remediation and removal to the CITY's satisfaction for unrestricted reuse of the Permit Area to the extent as required by applicable laws, and in accordance with all applicable laws, rules, and regulations of governmental authorities.
- 21.4 Removal. If PERMITTEE or PERMITTEE's agent has received approval and permits to store, utilize, generate or install, or otherwise bring Hazardous Substances to the Permit Area, PERMITTEE or PERMITTEE's agent shall remove all such Hazardous Substances in any type of container, equipment or device from the Permit Area immediately upon or prior to the expiration or earlier termination of this Permit. CITY reserves the right to conduct inspections of the Permit Area and/or request documentation demonstrating the legal removal and/or disposal of the hazardous materials, wastes or other containers, equipment or devices from the Permit Area by PERMITTEE. PERMITTEE shall be responsible for any and all costs incurred by CITY to remove any container, equipment or device brought onto the Property by PERMITTEE and requiring disposal or removal as required by this provision.

- 21.5 Indemnity. PERMITTEE shall protect, defend, indemnify, and hold CITY harmless from any and all claims, costs, and expenses related to environmental liabilities resulting from PERMITTEE's use, , or restoration of the Permit Area, including without limitation: (i) costs of environmental assessments; (ii) costs of regulatory remediation oversight; (iii) costs of remediation and removal; (iv) any necessary CITY response costs; (v) all fines, penalties or fees assessed by any regulatory agency; (vi) damages for injury to natural resources, PERMITTEE's officers, employees, invitees, guests, agents or contractors, or the public; and (vii) all costs of any health assessments or health effect studies.
- 21.6 Notice of Release. If PERMITTEE knows or has reasonable cause to believe that a Hazardous Substance has been released on, from or beneath the Permit Area, PERMITTEE shall immediately notify CITY and any appropriate regulatory or reporting agency pursuant to California Code of Regulations Title 19 and any other applicable laws or regulations. PERMITTEE shall deliver a written report thereof to CITY within three (3) days after receipt of the knowledge or cause for belief and submit any required written reports to regulatory or reporting agencies as required by regulation or law. If PERMITTEE knows or has reasonable cause to believe that such substance is an imminent release or is an imminent substantial danger to public health and safety, PERMITTEE shall take all actions necessary to alleviate the danger. PERMITTEE shall immediately notify CITY in writing of any violation, notice to comply, or notice of violation received or the initiation of environmental actions or private suits related to the Permit Area.
- 21.7 Environmental Assessment. Upon reasonable cause to believe that PERMITTEE's use, or restoration of the Permit Area in connection with the Permitted Use, resulted in any Hazardous Substance being released on, from or beneath the Permit Area, CITY may cause an environmental assessment under regulatory oversight of the suspect area to be performed by a professional environmental consultant registered with the State of California as a Professional Engineer, Certified Engineering Geologist or Registered Civil Engineer. The environmental assessment shall be obtained at PERMITTEE's sole cost and expense, and shall establish what, if any, Hazardous Substances have more likely than not been caused by PERMITTEE's use, or restoration of the Permit Area, and in what quantities. If any such Hazardous Substances exist in quantities greater than allowed by CITY, county, state or federal laws, statutes, ordinances or regulations, or require future restricted re-use of the Permit Area, then the environmental assessment shall include a discussion of such substances with recommendations for remediation and removal necessary to effect unrestricted re-use to the extent as required by applicable laws and in compliance with those laws or statutes, and estimates of the cost of such remediation or removal. PERMITTEE shall cause, or if PERMITTEE fails to do so within a reasonable period of time, as determined by CITY in its sole discretion, then CITY may cause, the remediation and/or removal recommended in the environmental assessment such that unrestricted re-use of the Permit Area and compliance with environmental laws and regulations are achieved, and PERMITTEE shall pay all costs and expenses therefore.

22. Repair. PERMITTEE shall be responsible, at its sole cost and expense, for the repair or replacement of any damage to the Property caused by PERMITTEE or by PERMITTEE's work on the Project, including items that CITY staff has reasonably determined to be damaged by PERMITTEE. PERMITTEE shall comply with the direction of CITY Contact or other competent CITY staff with respect to the method of any repairs or replacement arising under this Permit.
23. Vehicular Traffic. All vehicular traffic shall be confined to concrete, asphalt or decomposed aggregate surfaces unless otherwise approved in writing by CITY Contact prior to the commencement of the Project.
24. Subcontractors. PERMITTEE shall provide a list of any and all contractors and subcontractors to CITY Contact, including name, address, email, fax and phone number. All construction work requiring a licensed contractor pursuant to the Contractors' State Licensing Laws (California Business & Professions Code sections 7000-7191) shall be done by contractors licensed within the State of California.
25. Water Quality - Best Management Practices. The CITY and PERMITTEE are committed to the implementation of controls (best management practices, or BMPs) to manage activities on the Permit Area in a manner which aids in the protection of the City of San Diego's precious water resources. It is the PERMITTEE's responsibility to identify and implement an effective combination of BMPs so as not to cause pollutant discharges to the storm drain system in violation of San Diego Storm Water Management and Discharge Control Ordinance (San Diego Municipal Code Section 43.0301 to 43.0312).

Therefore, PERMITTEE shall, at a minimum, implement and comply, as applicable, with the Minimum Industrial and Commercial BMPs adopted under the San Diego Municipal Code Section 43.0307(a).

It is ultimately the PERMITTEE's responsibility to prevent pollutant discharges to the storm drain system. Therefore, the PERMITTEE will identify and implement any additional BMPs that may be required to avoid the discharge of pollutants to the storm drain system.

26. Grading and Barriers. PERMITTEE shall not change the surface grade or construct any permanent barriers within the Permit Area. Any violations shall be corrected by PERMITTEE at its sole expense to the satisfaction of the CITY and are grounds, at the CITY's option, for immediate termination of this Permit.
27. 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.

28. Acceptance of Permit Area. PERMITTEE represents and warrants that it is not relying on any representation by CITY as to the condition of the Permit Area or its suitability for the Project, and that PERMITTEE is relying solely on its own and independent inspections, tests, investigations and observations of the Permit Area in entering into this Permit. PERMITTEE accepts the Permit Area in its current condition. PERMITTEE acknowledges and agrees that unless set forth in this Permit, CITY has no obligation to improve, modify, repair, replace, alter, secure, or otherwise develop the Permit Area at any time either prior to, on or after the Effective Date. PERMITTEE shall not hold CITY responsible for any defects in the Permit Area. PERMITTEE accepts and assumes all risk of harm to all persons and property arising solely from any defects in the Permit Area or any improvements thereon.
29. No Affiliation. Nothing contained in this Permit shall be deemed or construed to create a partnership, joint venture or other affiliation between CITY and PERMITTEE or between CITY and any other entity or party, or cause CITY to be responsible in any way for the debts or obligations of PERMITTEE or any other party or entity.
30. PERMITTEE's Termination. PERMITTEE may terminate this Permit upon written notice to the City.
31. Cumulative Remedies. CITY's rights and remedies under this Permit are cumulative and shall not limit or otherwise waive or deny any of CITY's rights or remedies at law or in equity.
32. Survival. Any obligation which accrues under this Permit prior to its expiration or termination shall survive such expiration or termination.
33. Entire Agreement. This Permit constitutes the entire agreement between the parties and supersedes any and all prior understandings, representations, warranties and agreements between them and pertaining to this Permit and the Permitted Use. Any modification, alteration, or amendment of this Permit shall be in writing and signed by all the parties hereto.
34. Legal Proceedings. If, as a result of an action brought by or against PERMITTEE in connection with this Permit, CITY intervenes therein, becomes a party, or is made a party thereto, PERMITTEE shall pay all of CITY'S costs and expenses thereof, including without limitation reasonable attorney fees and costs.
35. Notices. Any notice required or permitted to be given under this Permit shall be in writing and may be served personally or delivered by United States mail, postage prepaid, and addressed to CITY (referred to herein as the "CITY Contact") or PERMITTEE, respectively, as follows:

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

COUNTY OF SAN DIEGO

Attention: Director, Department of General Services
5560 Overland Ave, Suite 410
San Diego, CA 92123

36. Governmental Approvals. By entering into this Permit, neither CITY nor CITY's City Council is obligating itself to PERMITTEE or to any governmental agent, board, commission or agency with regard to any other discretionary action relating to PERMITTEE's occupancy; use, development, maintenance or restoration of the Permit Area. "Discretionary action" includes without limitation re-zonings, variances, environmental clearances and all other required governmental approvals.

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37. 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. Each person executing this Permit on behalf of another person or legal entity shall provide CITY with evidence, satisfactory to CITY, that such authority is valid and that such entity is a valid, qualified corporation, limited liability company, partnership, or other unincorporated association in good standing in its home state and that such entity is qualified to do business in California.

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

Date: 9/25/18

APPROVED AS TO FORM

Mara W. Elliott
City Attorney

BY: Melissa Ables
Name: Melissa Ables
Title: Deputy City Attorney
Date: 9/25/18

Date: 9/25/18

THE CITY OF SAN DIEGO, a California
municipal corporation

By: Cybele L. Thompson
Cybele L. Thompson
Director, Real Estate Assets

COUNTY OF SAN DIEGO, a political subdivision
of the State of California

By: Marko Medved
Marko Medved, P.E., CEM, Director
Department of General Services

Environmental Analysis Section Environmental Clearance:

This activity is covered under the Final Mitigated Negative Declaration prepared for the Southeastern Live Well Center Project (Project No. 1021148/ SCH No. 2018031088, dated May 2018) prepared by the County of San Diego and adopted by the Board of Supervisors on June 19, 2018. This activity is part of a series of subsequent discretionary actions, and therefore not considered to be a separate project for purposes of California Environmental Quality Act (CEQA) review as defined in State CEQA Guidelines Section §15378(c). Pursuant to Section 15162 of CEQA, there is no change in circumstance, additional information or project changes to warrant additional environmental review for this action.

Date: 9/25/18

BY: Alyssa Muto
Alyssa Muto
Deputy Director, Environment & Mobility
Planning

EXHIBIT A – Permit Area Description

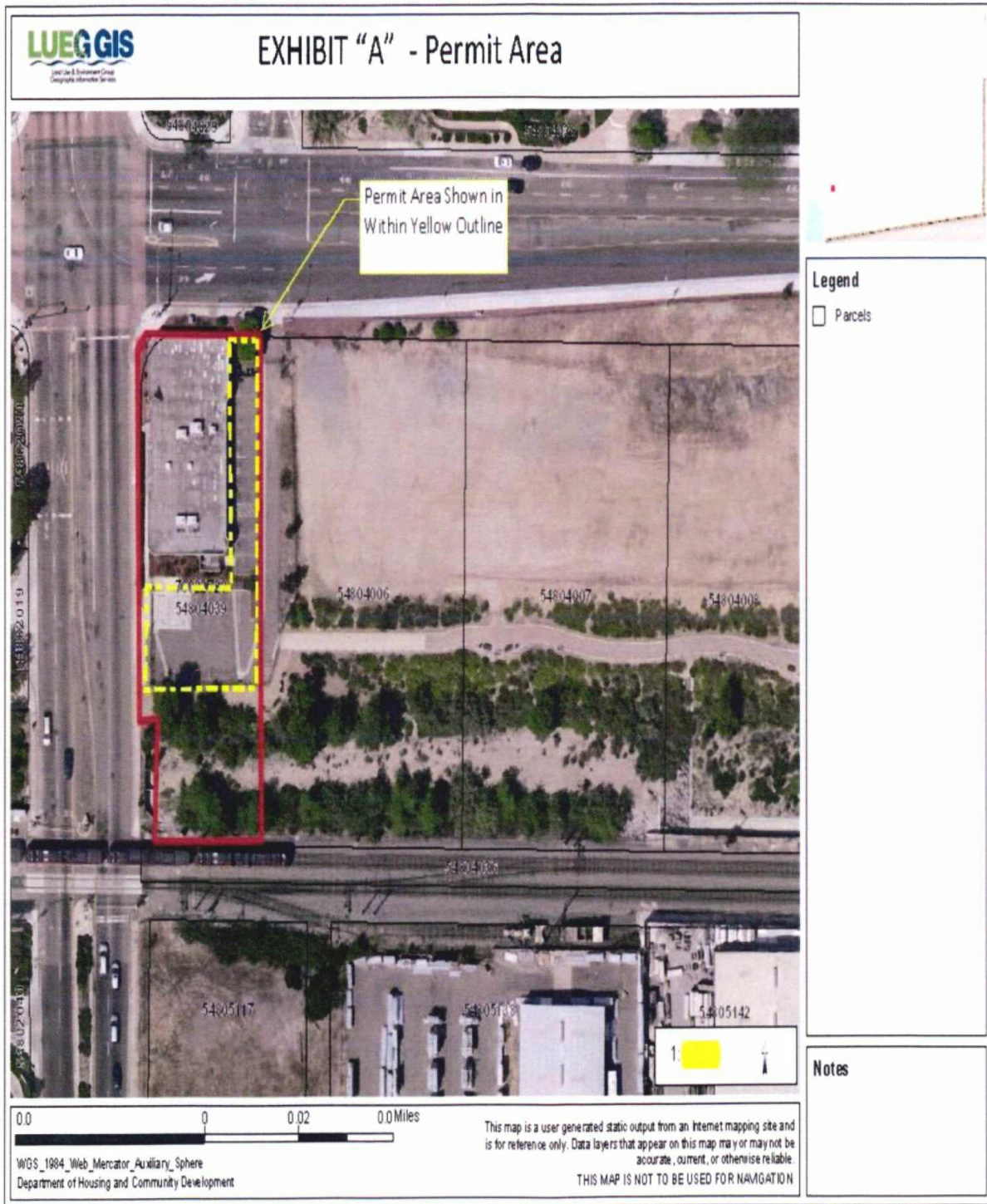


EXHIBIT B – Project Description





County of San Diego

ELISE ROTHCHILD
DIRECTOR

DEPARTMENT OF ENVIRONMENTAL HEALTH
LAND AND WATER QUALITY DIVISION
P.O. BOX 129261, SAN DIEGO, CA 92112-9261
(858) 505-6688
www.sdcdeh.org

AMY HARBERT
ASSISTANT DIRECTOR

PROPERTY OWNER CONSENT

Proposed locations for subsurface work:

Property Address:

Assessor's Parcel Number (APN):

415 Encino Avenue,
San Diego, CA 92114

5480403900

I, _____, owner of the property/properties listed above, give my permission to
Ninyo & Moore, Baja Drilling (consulting company, contractor) to conduct the following work at the locations
stated above.

☐ Install _____ monitoring wells

☐ Destroy _____ monitoring wells

☒ Drill 2 soil borings

I understand that Todd Schmitz (registered professional) of Ninyo & Moore (consulting company) and an
authorized signer for Baja Drilling (drilling company) have submitted a signed application to the
Department of Environmental Health in which they have agreed to complete the above-stated work according to the requirements
of the current SAM Manual, all ordinances and laws of the County of San Diego and the State of California pertaining to
well/boring construction and destruction. I have arranged with the Responsible Party, the person who causes to have
monitoring wells/borings installed or existing wells destroyed on this property, to ensure proper closure of the monitoring
wells/borings.

Property Owner Signature: _____ Date: 9/15/18

Print Name: Cybele L. Thompson Title: Director, Real Estate Assets

Company: City of San Diego

Mailing Address: 1200 Third Ave, Suite 1700, San Diego, CA 92101