

DOCUMENT 00 25 17

ACCESS REQUEST FORM AND AGREEMENT

DESIGN-BUILD ENTITY REQUESTING ACCESS: \_\_\_\_\_

DATE SUBMITTED: \_\_\_\_\_

DATE(S) FOR WHICH ACCESS IS REQUESTED: \_\_\_\_\_

PURPOSE FOR WHICH ACCESS IS REQUESTED: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

The Proposer or Design-Build Entity identified above hereby requests access to the Project Site as provided in Document 00 21 16 (Request for Qualifications and Proposals of Design-Build Entities) in connection with preparation of a Qualifications and Proposal for the **African American Wellness Hub Project**.

As a condition of the County allowing the Proposer access, the Proposer will execute the attached Permit and Right to Enter and comply with all requirements of that Permit.

Submit all Requests for Site Access to County's Project Manager:

Mr. Tom McKimmy  
1401 Lakeside Drive, Suite 10th Floor  
General Services Agency, Capital Programs  
Oakland, CA 94612  
Email: [tmckimmy@acgov.org](mailto:tmckimmy@acgov.org)

This Request for Site Access is required to attend a Pre-Qualifications and Proposal Site Visit or Tour conducted by the County.

Name of Proposer / Design-Build Entity

\_\_\_\_\_

By: \_\_\_\_\_

Title: \_\_\_\_\_

## PERMIT AND RIGHT TO ENTER

1. The Property. The County of Alameda ("County") is the owner in fee of the real property located at 1918 Martin Luther King Way, Oakland,, California ("Property"). Refer to Scope of Work for a general depiction of the Site.
2. Permittee and Uses. \_\_\_\_\_ ("Proposer" or "Permittee") is qualified by the County to respond to the County's Document 00 21 16 (Request for Qualifications and Proposals of Design-Build Entities) for the Contract to design and construct the **African American Wellness Hub Project** ("Project") on the Property and desires to enter onto the Property, on a temporary basis, initially to perform site investigation and inspections for use in preparing its Qualifications and Proposal for the Project. If approved by the County, Permittee shall be allowed to enter the Property And Proposer's team, will be escorted by the County representative during each Site visit.
3. Non-Exclusive Permit and Right of Entry. County hereby grants to Proposer and its agents, employees, and contractors a temporary, nonexclusive Permit and right to enter onto the Property for the purpose of performing site inspections and investigation for use in preparing its Qualifications and Proposal for the Project, and for no other purpose. Proposer's right to enter under this Permit is not exclusive, and Proposer acknowledges that County may grant other qualified Proposers the right to enter onto the Property for the purpose of performing site inspections and investigation for use in preparing Qualifications and Proposals for the Project.
4. Term. The term of this Permit shall be thirty (30) calendar days from the date the County executes this Permit. The term may be extended by written notice to Permittee in the sole and absolute discretion of the County. This Permit, and the rights granted herein, is subordinate to all prior or future rights and obligations of County in the Property.
5. Fee.
  - A. County will charge no fee in connection with this Permit. However, County reserves the right to charge or seek reimbursement from Permittee for all costs, expenses, and fees, including but not limited to reasonable fees for administrative and staff time, that the County may incur as a result of or associated with Permittee's activities under this Permit.
6. Liens. Permittee shall not permit any liens to be placed against the Property, or any part thereof, any design professionals', mechanics', materialmen's, contractors', or subcontractors' liens with regard to Permittee's actions upon the Property pursuant to this Permit and shall not permit any stop payment notices to be filed with County in connection with this Permit. Permittee agrees to defend, indemnify, and hold County harmless for any loss or expense, including reasonable attorneys' fees and costs, arising from any such liens, stop payment notices, or other claims for payment which might be asserted against the Property or the County arising from this Permit.
7. Compliance with Laws/Permits. Permittee shall, in all activities undertaken pursuant to this Permit, comply and cause its contractors, agents, and employees to comply with all applicable federal, state, and local laws, statutes, orders, ordinances, rules, regulations, plans, policies, and decrees. Without limiting the generality of the foregoing, Permittee, at its sole cost and expense, shall obtain any and all permits which may be required by any applicable law, regulation, or ordinance for any activities Permittee desires to conduct or have conducted pursuant to this Permit.
8. Inspection. County and its representatives, employees, agents, or independent contractors may enter and inspect the Property or any portion thereof or any improvements thereon at any time and from time to time at reasonable times to verify Permittee's compliance with the terms and conditions of this Permit, provided, however, that County has no obligation to Permittee or any third party to do so.

9. Utilities and Services. County is not obligated to provide any water, power, or energy source or service at the Property in connection with this Permit. Permittee is solely responsible for obtaining and maintaining all water, electrical, or other energy or power service in a form or source and from a provider or other vendor pre-approved by the County as may be necessary for the safe and effective performance of the permitted investigation. Permittee shall be solely responsible for providing and paying for all fees, charges, or costs for such service and agrees to indemnify, defend, and hold harmless the County from any and all such fees, charges, or costs.

10. Insurance. Permittee, at its sole cost and expense, shall obtain and maintain at all times during the term of this Permit in full force and effect insurance coverages designated in Document 00 73 16 (Insurance Requirements) excluding Builder's Risk coverage, and shall deliver, before entering onto the Property, evidence of required insurance to the County at the address below including insurance updates as required during the term of this Permit. Failure to maintain such insurance shall void this Permit.

11. No Real Property Interest. It is expressly understood that this Permit does not in any way whatsoever grant or convey any permanent easement, lease, fee, or other interest in the Property to Permittee. This Permit is not exclusive, and County specifically reserves the right to grant other rights of entry within the vicinity of the Property.

12. Limitations.

A. Permittee shall obtain all required federal, State, or local permits, licenses, and/or approvals relating to the testing or other activities it will perform under this Permit. Permittee's obligations under this provision include, but are not limited to, obtaining all necessary construction, building, or use permits and compliance with any progress inspections that may be required by any regulatory body.

B. Permittee shall not be permitted to display or advertise in any form its or any other person's or entity's name or product at or on County property.

C. In no event shall Permittee's activities interfere with any of the County's activities or operations or damage County property. Should the County determine, in its sole discretion, that any of Permittee's activities interfere with any County activities or operations or have damaged County property, County may revoke this Permit. Alternatively, at its sole discretion, County may require Permittee to eliminate immediately the interference or repair the damage, by providing Permittee with a written notice to do so. Immediately upon receipt of such notice, Permittee shall proceed to remove the interference or repair the damage as directed by County. In the event Permittee fails to remedy or correct the problem or repair the damage as directed by the County, County may take such action, at Permittee's sole cost, as County deems necessary, to remedy or remove such interference or repair such damage. Such action may include, but is not limited to, the removal, repair, or disconnection of any equipment or activity causing in whole or part that interference or damage.

D. Except as otherwise provided herein, the County is not obligated to construct, provide, or maintain access to the Site and does not guarantee or warrant access to the Site. Throughout the term of this Permit, County will permit Permittee reasonable use of County's existing access to the Site provided Permittee obtains County's prior written access permission.

E. County shall make its best efforts to provide reasonable access to the Site normal working hours (8 a.m. to 5 p.m., Monday-Friday). Permittee may obtain that access by contacting the County's Project Manager at the address listed in Document 00 21 16 (Request for Qualifications and Proposals of Design-Build Entities), or as Permittee may be otherwise directed by the County in the future.

F. Permittee shall plan, organize, and perform its activities or work under this Permit in the manner that results in the least amount of disruption to traffic and the peace of residential and commercial neighborhoods. At its sole expense, Permittee shall provide all signs, barricades, lights, and other devices, materials, or personnel as may be needed in connection with the safe and careful performance of its activities or work under this Permit. Permittee shall notify the County's Project Manager at least forty-eight (48) hours prior to its commencement of any activity or work that can be reasonably anticipated to adversely affect the quiet enjoyment of property owners within one hundred (100) feet of the Property.

G. The site and any access thereto are permitted on an "as-is" basis. The County has no obligation for maintenance or repair of Site or the access thereto at any time before, during, or after the term of this Permit.

H. Permittee shall be solely responsible for any injury, death, loss, or damage to its equipment or personnel resulting from theft, vandalism, or from any other cause. County will not provide security for Property or Permittee's materials or equipment on the Property. Permittee agrees to release County from any responsibility or liability for any claim, injury, death, loss, or damage (including but not limited to direct or indirect loss or damage, loss of use, or incidental or consequential loss or damage of any kind) to the wells or Permittee's equipment or personnel incurred in connection with this Permit.

I. Permittee shall not permit other persons, entities, or other users to access or utilize the Site or to locate any equipment or devices of any kind at the Site except as authorized by this Permit.

13. Revocable Licenses and Termination. Notwithstanding any activity by Permittee at the Property or any sums expended by Permittee in furtherance of this Permit, the right of entry granted herein is revocable and may be terminated by County in accordance with the terms of this Permit. County may terminate this Permit at any time upon two (2) calendar days' prior notice in writing to Permittee. In case of an emergency or a breach of this Permit by Permittee, this Permit may be terminated by the County immediately and without notice.

14. Restoration of the Property.

A. Upon completion of its Work Plan, or the expiration, termination, or revocation of this Permit, Permittee shall, at its sole cost and expense, remove all equipment and materials from the Site and clean and restore the Site to the condition in which it existed immediately prior to the initial issuance of this Permit, reasonable wear and tear excepted. Included as part of that obligation, Permittee shall restore all excavation, including but not limited to properly compacting all fill material at the Site to the condition in which the excavated area existed prior to the effective date of this Permit. Permittee agrees to perform all restoration work and restore the County's property in compliance with all applicable federal, State, or local laws.

B. In the event that Permittee fails to restore the Property to such condition within thirty (30) calendar days after the effective date of the termination, the County may proceed with such work and recover all costs and expenses from Permittee.

15. Continuing Liability. No termination of this Permit shall release Permittee from any liability or obligation hereunder resulting from any acts, omissions, or events happening prior to the termination of this Permit and restoration of the Property to its prior condition.

16. Assignment. Neither this Permit nor any rights thereunder shall be transferred or assigned by the Permittee, nor shall the Permittee rent to any person(s) or entity(ies) or permit the use of any portion of the Site by others without the prior written consent of County. Despite County's consent, no transfer or assignment shall release the Permittee's from any of the obligations to be performed under the Permit.

17. Acknowledgment of County Title. It is understood and agreed that Permittee, by the acceptance of this Permit and by the use or occupancy of the Site, has not acquired and shall not acquire hereafter any property rights or interest in or to the Site, and that Permittee may use the Site temporarily only as herein provided. Permittee shall not have, nor will it obtain, any right or claim to the continued use of the Site beyond that specifically given in this Permit. Permittee also waives any and all rights, if any, to reimbursement or benefits under the Uniform Relocation Assistance and Land Acquisition Act or comparable federal, State, or local law.

18. Indemnification. To the fullest extent permitted by law, Permittee agrees to defend, indemnify, and hold harmless the County of Alameda, and all of its elected and appointed officers, directors, representatives, attorneys, agents, employees, and consultants, including but not limited to the County Board of Supervisors, County Representatives, Construction Manager, and their subconsultants who worked on the Scope of Work Documents (collectively "Indemnitees") from all claims, losses, damages, fines, penalties, liabilities, or expenses, including reasonable attorneys' fees incurred in the defense thereof, for the death of or injury to any person or persons (including employees of Permittee or Permittee's contractors or agents) or damage to any property (including but not limited to Permittee's property) which arise out of or are connected in any way with the issuance of this Permit or Permittee's activities hereunder (collectively "Liabilities"). The only exception to the obligations imposed on Permittee under this provision is for those Liabilities caused by an Indemnitee's sole negligence or willful misconduct.

A. In addition, if Permittee brings or releases any contamination or hazardous material on County property, Permittee agrees to remove, clean up, or otherwise remediate immediately that contamination at Permittee's sole cost. Permittee agrees to defend, indemnify, and hold harmless the Indemnitees from all Liabilities that arise out of or are connected in any way with that contamination or Hazardous Materials, as defined below.

19. Inspection. The County shall have the right to inspect at any time the Permittee's equipment and operations on County property to confirm compliance with the terms of this Permit and to determine if they endanger public health, safety, or welfare.

20. Repairs. Permittee shall be solely responsible for the safe installation, maintenance, use, operation, repair, and removal of its materials and equipment. Permittee shall be solely responsible for the timely repair of all damage to Site or to County's property caused by any activity of Permittee, its employees, agents, or business visitors.

21. Notice. Any demand or notice which either party shall be required, or may desire to make upon or give to the other shall be in writing and shall be delivered personally upon the other or be sent by prepaid certified mail to the respective parties as follows:

COUNTY: Mr. Tom McKimmy  
1401 Lakeside Drive, Suite 10<sup>th</sup> Floor  
General Services Agency  
Oakland, CA 94612  
Email: tmckimmy@acgov.org

PROPOSER NAME: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Any party may, from time to time, designate any other address for this purpose by written notice to the other party, given with five (5) calendar days' notice.

22. Hazardous Materials. Hazardous Materials shall mean:

Any hazardous or toxic wastes, materials, or substances, and other pollutants or contaminants, which are or become regulated by all applicable local, state, and federal laws, including but not limited to 42 U.S.C. 6901 et seq., 42 U.S.C. 9601 et seq., and California Health and Safety Code §§ 25100 et seq., and 25300 et. seq.; petroleum and petroleum-based products, by products and fractions; asbestos and asbestos-containing materials; polychlorinated biphenyls; radioactive materials.

County hereby notifies Permittee that Hazardous Materials are potentially present at the Property.

A. If Permittee encounters any Hazardous Materials during the performance of Permittee's testing or site investigation, including but not limited to the installation, use, maintenance, repair, or removal of Permittee's equipment, Permittee shall notify County immediately. Permittee agrees to follow the County's general procedures and handling instructions pertaining to Hazardous Materials as directed by County. Permittee shall bear all costs of abatement or remediation of Hazardous Materials introduced or released as a result of its activities.

B. Permittee shall not introduce or use any Hazardous Materials at the Site in violation of any applicable law or otherwise. Permittee shall assess and remediate any such Hazardous Materials, if necessary, in compliance with all applicable laws and regulations.

C. To the fullest extent permitted by law, Permittee agrees to defend, indemnify, and hold harmless the County from all claims, losses, damages, liabilities, or expenses, including reasonable attorneys' fees incurred in the defense thereof, for the death of or injury to any person or persons (including employees of Permittee or Permittee's contractors or agents) or damage to any property or remediation costs or expenses arising out of or associated in any way with any Hazardous Materials which have been introduced at the Site or released by Permittee or its agents.

23. Miscellaneous.

A. If any provision of this Permit is invalid or unenforceable with respect to any party, the remainder of this Permit or the application of such provision to persons other than those as to whom it is held invalid or unenforceable, shall not be affected and each provision of this Permit shall be valid and enforceable to the fullest extent permitted by law.

B. This Permit shall be governed by the laws of the State of California.

IN WITNESS WHEREOF, the parties hereto have executed this Permit on the dates appearing below their respective authorized signatures.

COUNTY:

County of Alameda

PERMITTEE:

\_\_\_\_\_

By: \_\_\_\_\_

Director, General Services Agency  
County of Alameda, State of California

By: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_

END OF DOCUMENT