

County Project: COVID-19 Testing
Santa Barbara County Public Health Department
APN: 071-130-009

TEMPORARY RIGHT OF ENTRY AGREEMENT
(NOT FOR RECORDATION)

The City of Goleta, owner of all that real property in the incorporated area of the City of Goleta, a municipal corporation of the State of California, commonly known as the Goleta Valley Community Center (GVCC), located at 5679 Hollister Avenue, Goleta and more particularly identified as Santa Barbara County Assessor's Parcel Number 071-130-009 (herein the "Property"), and referred to as OWNER herein, on behalf of themselves, their successors and assigns,

FOR A VALUABLE CONSIDERATION, DOES HEREBY GRANT TO

The COUNTY OF SANTA BARBARA, a political subdivision of the State of California, its authorized agents, contractors, officers and employees (hereinafter referred to as "COUNTY"), a right of entry, including the right to enter, store materials and equipment, move workers, equipment, and materials over, within and upon the Property. The Property covered by this Temporary Right of Entry Agreement (the "Area") is shown on the exhibit map (Exhibit A), attached hereto and incorporated herein.

This Temporary Right of Entry Agreement ("TROE") shall cover the Area, and shall be for the purpose of COVID-19 and for such other purposes as may be incidental to such activities ("Project"). This TROE shall be subject to the following provisions, requirements, and restrictions:

1. As consideration for the granting of this TROE, the COUNTY shall provide COVID-19 testing and janitorial services by COUNTY at COUNTY'S cost.
2. It is contemplated that this TROE shall be for a period of thirty (30) days beginning on September 3, 2020, and will commence upon execution by OWNER or COUNTY, whichever is later. In the event that testing is not completed within said thirty (30) day period, the County may extend the term of this TROE for a thirty (30) day period as necessary to facilitate completion of the COVID-19 testing. COUNTY shall provide OWNER with seven (7) business days written and advance notice in the event the COUNTY extends the term of this TROE.
3. The OWNER agrees to keep the Area free of personnel, materials or objects that may obstruct construction during the term of this TROE.
4. The COUNTY, its authorized agents, employees and contractors shall exercise reasonable precautions necessary to prevent damage to and protect the Property during COUNTY'S entry thereon.
5. By COUNTY'S exercise of this TROE, the OWNERS assume no liability for loss or damage to COUNTY'S property, or injury to or death of any agent, employee, or contractor of COUNTY, unless said loss, damage, injury, or death is as a result, in part or wholly, of the OWNER'S negligence or other wrongful act.

6. COUNTY agrees to defend, indemnify and hold OWNERS harmless from any claims or damages resulting from COUNTY'S use of the Property, unless said claims or damages are as a result, in part or wholly, of the OWNER'S negligence of other wrongful act.

7. COUNTY, its authorized agents, employees and contractors shall replace and/or repair any improvements on OWNER'S property, destroyed or damaged, as a result of the rights granted under this TROE. If any improvements are damaged or removed by COUNTY, its authorized agents, employees and contractors, they shall be restored or replaced by COUNTY to as near the original condition and location as is practicable. If any mature trees are damaged to the extent that they do not survive, COUNTY shall replace each such tree with two of the same or similar trees of not less than 5-gallon size as OWNER'S sole remedy.

8. OWNER agrees to comply with all Federal Provisions attached hereto as Exhibit B.

9. COUNTY agrees to reimburse OWNER Five Thousand Six Hundred Eighteen Dollars and Eighty Cents (\$5,618.80) per week, for facility rental and staff time, plus Three Hundred Fifty Dollars (\$350.00) for the temporary fence.

10. Signatories for the OWNER do hereby certify that they are, collectively, the sole owners of the Property; or warrant that they are authorized to sign on behalf of the OWNERS, have communicated the contents, rights and duties of this TROE to all parties having an interest in the Property, and that no additional signatures are required to grant the interest and perform the obligations specified herein.

OWNER:

Charles C. Johnson
Signature

COUNTY:

Patricia W. Zwick
Signature

Charles C. Johnson/Acting General Mgr.
Print Name/Title

for Janette Pell/General Services Director
Print Name/Title

c/o Goleta Valley Community Center
5679 Hollister Ave.
Address

105 E. Anapamu St.
Address

Goleta, CA 93117
City, State, Zip

Santa Barbara, CA 93101
City, State, Zip

SEPT. 2, 2020
Date

9/01/2020
Date

Mona Miyasato
Signature

Mona Miyasato/Director Emergency Services
Print Name/Title

9/11/2020
Date

EXHIBIT A

ASSESSOR PARCEL NUMBER 071-130-009

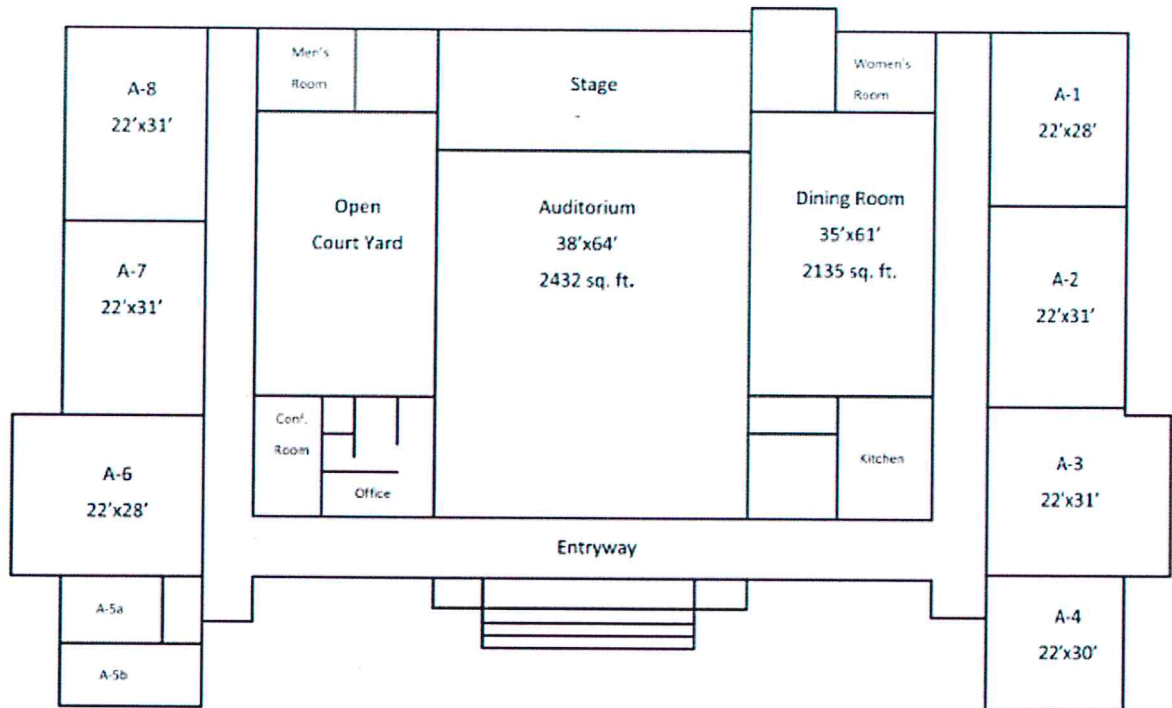


EXHIBIT B
FEDERAL PROVISIONS

Clean Air Act 1. The GVCC agrees to comply with all applicable standards, orders, or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. Section 7401 et seq.

2. The GVCC agrees to report each violation to the County and understands and agrees that the County will, in turn, report each violation as required to assure notification to the California Governor's Office of Emergency Services, Federal Emergency Management Agency (FEMA), and the appropriate Environmental Protection Agency Regional Office.

3. The GVCC agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance provided by FEMA.

Federal Water Pollution Control Act 4. The GVCC agrees to comply with all applicable standards, orders, or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. Sections 1251 et seq.

5. The GVCC agrees to report each violation to the County and understands and agrees that the County will, in turn, report each violation as required to assure notification to the Federal Emergency Management Agency (FEMA), and the appropriate Environmental Protection Agency Regional Office.

6. The GVCC agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance provided by FEMA.

Debarment and Suspension Clause 7. This MOA is a covered transaction for purposes of 2 C.F.R. pt. 180 and 2 C.F.R. pt. 3000. As such the GVCC is required to verify that none of the GVCC, its principals (defined at 2 C.F.R. § 180.995), or its affiliates (defined at 2 C.F.R. § 180.905) are excluded (defined at 2 C.F.R. § 180.940) or disqualified (defined at 2 C.F.R. § 180.935).

GVCC represents and warrants that it is not debarred, suspended, or otherwise excluded from or ineligible for participation in Federal assistance programs under Executive Order 12549, "Debarment and Suspension" or on the USEPA's List of Violating Facilities. GVCC agrees that neither GVCC nor any of its third party subcontractors shall enter into any third party subcontracts for any of the work under this Agreement with a third party subcontractor who is debarred, suspended, or otherwise excluded from or ineligible for participation in Federal assistance programs under executive Order 12549 or on the USEPA's List of Violating Facilities. Gov. Code § 4477.

8. The GVCC must comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C and must include a requirement to comply with these regulations in any lower tier covered transaction it enters into.

9. This certification is a material representation of fact relied upon by the County. If it is later determined that the GVCC did not comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C, in addition to remedies available to the County, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment.

10. The bidder or proposer agrees to comply with the requirements of 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C while this offer is valid and throughout the period of any contract that may arise from this offer. The bidder or proposer further agrees to include a provision requiring such compliance in its lower tier covered transactions.

Byrd Anti-Lobbying Amendment, 31 U.S.C. § 1352 (as amended)

11. GVCC who apply or bid for an award of \$100,000 or more shall file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant, or any other award covered by 31 U.S.C. § 1352. Each tier shall also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the recipient who in turn will forward the certification(s) to the County.

APPENDIX A, 44 C.F.R. PART 18- CERTIFICATION REGARDING LOBBYING

The undersigned [GVCC] certifies, to the best of his or her knowledge, that:

A. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

B. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

C. The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31, U.S.C. § 1352 (as amended by the Lobbying Disclosure Act of 1995). Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

The GVCC certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the GVCC understands and agrees that the provisions of 31 U.S.C. § 3801 et seq., apply to this certification and disclosure, if any.

GVCC

By _____
Date _____

Procurement of Recovered Materials

12. In the performance of this MOA, the GVCC shall make maximum use of products containing recovered materials that are EPA-designated items unless the product cannot be acquired—

- i. Competitively within a timeframe providing for compliance with the contract performance schedule;
- ii. Meeting contract performance requirements; or
- iii. At a reasonable price.

13. Information about this requirement, along with the list of EPA-designated items, is available at EPA's Comprehensive Procurement Guidelines web site, <https://www.epa.gov/smm/comprehensive-procurement-guideline-cpg-program>

14. The GVCC also agrees to comply with all other applicable requirements of Section 6002 of the Solid Waste Disposal Act.

Access to Records

15. The following access to records requirements apply to this MOA:

- i. The GVCC agrees to provide the County, the State, the FEMA Administrator, the Comptroller General of the United States, or any of their authorized representatives' access to any books, documents, papers, and records of the GVCC which are directly pertinent to this MOA for the purposes of making audits, examinations, excerpts, and transcriptions.
- ii. The GVCC agrees to permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.
- iii. The GVCC agrees to provide the FEMA Administrator or his or her authorized representatives access to construction or other work sites pertaining to the work being completed under the contract.
- iv. In compliance with the Disaster Recovery Act of 2018, the County and the GVCC acknowledge and agree that no language in this contract is intended to prohibit audits or internal reviews by the FEMA Administrator or the Comptroller General of the United States.
- v. The GVCC agrees to maintain all books, records, accounts, and reports required under this Agreement for a period of not less than three years after the later of: (a) the date of termination or expiration of this Agreement or (b) the date County makes final payment under this Agreement, except in the event of litigation or settlement of claims arising from the performance of this Agreement, in which case, GVCC agrees to maintain same until the County, FEMA, the Comptroller General, or any of their duly authorized representatives, have disposed of all such litigation, appeals, claims, or exceptions related thereto.

Department of Homeland Security Seal, Logo, Flags

16. The GVCC shall not use the DHS seal(s), logos, crests, or reproductions of flags or likenesses of DHS agency officials without specific FEMA pre-approval.

Compliance with Federal Law, Regulations, and Executive Orders 17. This is an acknowledgement that FEMA financial assistance will be used to fund all or a portion of the contract. The GVCC shall at all times comply with all applicable regulations, policies, procedures, and FEMA Directives as they may be amended or promulgated from time to time during the term of this Agreement, including but not limited to those requirements of 2 CFR 200.317 through 200.326 and more fully set forth in Appendix II to Part 200—Contract Provisions for non-Federal Entity Contracts Under Federal Awards, which is included herein by reference. Contractor's failure to so comply shall constitute a material breach of this contract. GVCC agrees to include the foregoing clause in each third party subcontract financed in whole or in part with Federal assistance provided by FEMA. It is further agreed that the clause shall not be modified, except to identify the subcontractor who will be subject to its provisions.

GVCC acknowledges that it has read and understands the reporting requirements of FEMA in Part III of Chapter 11 of the United States Department of Justice's Office of Justice Programs Financial Guide, and agrees to comply with any such applicable requirements. The GVCC agrees to include the above clause in each third party subcontract financed in whole or in part with Federal assistance provided by FEMA. It is further agreed that the clause shall not be modified, except to identify the subcontractor who will be subject to its provisions.

No Obligation by Federal Government 18. The Federal Government is not a party to this MOA and is not subject to any obligations or liabilities to the non-Federal entity, contractor, or any other party pertaining to any matter resulting from the contract. GVCC agrees to include this clause in each third party subcontract financed in whole or in part with Federal assistance provided by FEMA. It is further agreed that the clause shall not be modified, except to identify the subcontractor who will be subject to its provisions.

Program Fraud and False or Fraudulent Statements or Related Acts 19. The GVCC acknowledges that 31 U.S.C. Chapter 38 (Administrative Remedies for False Claims and Statements) applies to the Contractor's actions pertaining to this MOA.

MBE/WBE Requirements 20. The County intends to seek reimbursement from FEMA. Accordingly, the GVCC shall make every effort to procure Minority and Women's Business Enterprises ("DBEs") through the "Good Faith Effort" process as required in 2 CFR 200.321. Failure to perform the "Good Faith Effort" process and submit the forms listed below with the bid shall be cause for a bid to be rejected as non-responsive and/or be considered as a material breach of the contract.

PRIME CONTRACTOR RESPONSIBILITIES

All recipients of this grant funding, as well as their prime contractors and subcontractors, must take all affirmative steps to assure that minority firms, women's business enterprises, and labor surplus area firms are used when possible make every effort to solicit bids from eligible DBEs. This information must be documented and reported.

"GOOD FAITH" EFFORT PROCESS

Any public or private entity receiving federal funds must demonstrate that efforts were made to attract MBE/WBEs. The process to attract MBE/WBEs is referred to as the "Good Faith" effort. This effort requires the recipient, prime contractor and any subcontractors to take the steps listed below to assure that MBE/WBEs are used whenever possible as sources of supplies, construction, equipment, or services. If a CONTRACTOR fails to take the steps outlined below shall cause the bid to be rejected as non-responsive and/or be deemed a material breach of the contract.

- A. Place qualified small and minority businesses and women's business enterprises on solicitation lists;
- B. Assure that small and minority businesses, and women's business enterprises are solicited whenever they are potential sources;
- C. Divide total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority business, and women's business enterprises;
- D. Establish delivery schedules, where the requirement permits, which encourage participation by small and minority business, and women's business enterprises; and
- E. Use the services and assistance of the Small Business Administration, and the Minority Business Development Agency of the Department of Commerce.
- F. If subcontracts are to be let, Contractor shall take the affirmative steps listed in 2 CFR 200.321.

Incorporation of Uniform Administrative Requirements

21. The preceding provisions include, in part, certain standard terms and conditions required by FEMA, whether or not expressly set forth in the preceding contract provisions. All contractual provisions required by FEMA are hereby incorporated by reference. Anything to the contrary herein notwithstanding, all FEMA mandated terms shall be deemed to control in the event of a conflict with other provisions contained in this Agreement. Contractor shall not perform any act, fail to perform any act, or refuse to comply with any County requests that would cause County to be in violation of the FEMA terms and conditions.