

FACILITY USE PERMIT

**36193**

Pursuant to a minute order adopted by the City Council of the City of Long Beach at its meeting on December 3, 2019, the CITY OF LONG BEACH, a municipal corporation ("City"), hereby grants to the STATE OF CALIFORNIA DEPARTMENT OF PUBLIC HEALTH, ("Permittee"), whose address is 850 Marina Bay Parkway Building P Second Floor, Richmond, California 94804, permission to use space in the Miller Family Health Education Center located at 3820 Cherry Avenue, Long Beach, California 90806, which space is more particularly shown on Exhibit "A" attached hereto and incorporated herein (the "Permit Area").

Permittee shall use the Permit Area subject to the following terms, conditions and restrictions:

1. Permit Area and Purpose of Entry.

A. The Permit Area shall be used solely by Permittee generally for the purpose of providing the City of Long Beach direct assistance in STD control and prevention surge capacity, specifically around syphilis case management, investigations, interview and contact elicitations as part of partner services on behalf of the Long Beach City Health Officer and for no other purpose without the prior written consent of the Director of City's Department of Health and Human Services ("Director"). During the Permit period of October 1, 2021 through October 1, 2026 Permittee shall use the Permit Area only during the hours of 8:00 a.m. and 5:00 p.m., Monday through Friday, unless otherwise agreed upon. At the end of the initial Permit period, the Permit may be extended annually upon a determination by the City that Permittee has fully complied with the terms and conditions of this Permit and is otherwise in good standing with the City. The City shall notify Permittee within thirty (30) days of the end of the Permit period, and any subsequent extension thereof, if the Permit will be extended.

B. Permittee's use of the Miller Family Health Education Center

1 and Permit Area is non-exclusive, but Permittee's use of the Permit Area is reserved  
2 solely to Permittee. By executing this Permit, Permittee acknowledges that the City  
3 has issued other permits to other non-profit corporations for the use of the Miller  
4 Family Health Education Center. Permittee shall cooperate with other holders of  
5 permits at the Miller Family Health Education Center and shall not interfere with the  
6 use of the Miller Family Health Education Center by other holders of permits there.

7 C. There is no reserved parking at the Miller Family Health  
8 Education Center for Permittee, Permittee's employees, volunteers, or clients.  
9 Parking is "first come, first served."

10 D. Permittee acknowledges and agrees that, by this Permit,  
11 Permittee does not acquire any right, title, or interest in the Miller Family Health  
12 Education Center or Permit Area, including the right to possession and control, but  
13 acquires only the mere right to use. Permittee acknowledges and agrees that this  
14 Permit shall not be deemed a lease for any purpose.

15 2. Permittee shall pay to the City, a monthly fee for the use of the Permit  
16 Area, without deduction, setoff, prior notice or demand, on or before the thirtieth (30th) day  
17 of the month for the previous month, an amount equal to Four Hundred Dollars (\$400)  
18 payable to the City of Long Beach Department of Health and Human Services, 2525 Grand  
19 Avenue, Long Beach, California 90812, Attn: Accounting, Room 280.

20 3. The City may revoke this Permit for any reason or no reason by giving  
21 thirty (30) days prior notice to Permittee provided, however, that the City may revoke this  
22 Permit without notice and immediately if Permittee fails to comply with the terms,  
23 conditions, and restrictions in this Permit. Permittee may request cancellation of this Permit  
24 by giving thirty (30) days prior notice to the City.

25 On revocation by the City or cancellation by Permittee following notice,  
26 Permittee shall remove its personal property from the Permit Area and Miller Family Health  
27 Education Center within seven (7) days and peaceably surrender use of the Permit Area  
28 to the City. If Permittee has not removed said personal property in that time, then the City

1 may remove it and dispose of it as provided by law. Permittee shall pay to the City the cost  
2 of removal and disposal.

3 If Permittee abandons the Permit Area without giving notice of cancellation  
4 to the City, then title to any personal property left in, on or at the Permit Area forty-five (45)  
5 days after abandonment shall be deemed to have been transferred to the City. The City  
6 shall thereafter have the right to remove and to dispose of said property without liability to  
7 Permittee or to any person claiming under Permittee, and shall have no duty to account  
8 therefore. Permittee hereby names the Director as Permittee's attorney in fact to execute  
9 and deliver such documents or instruments as may be reasonably required to dispose of  
10 such property and transfer title thereto.

11 4. Permittee shall maintain the Permit Area and common areas of the  
12 Miller Family Health Education Center in a neat, clean, sanitary condition. Permittee shall  
13 not use, keep, or allow any offensive or refuse matter, any substance constituting a fire  
14 hazard, or any hazardous material or substance on, in, or about the Permit Area or the  
15 Miller Family Health Education Center.

16 5. Permittee shall not install, erect, or make improvements to the Permit  
17 Area or alter the Permit Area without the prior written approval of the Director, which may  
18 be withheld for any or no reason. Permittee shall pay the cost of any approved  
19 improvements and, if the improvements are of a permanent nature, they shall become the  
20 property of the City at the revocation or cancellation of this Permit.

21 6. The City shall maintain and repair the Miller Family Health Education  
22 Center and the Permit Area. Notwithstanding the foregoing sentence, if the City fails or  
23 refuses to maintain or repair the Miller Family Health Education Center or the Permit Area,  
24 then Permittee's sole and exclusive remedy by reason of the condition of the Permit Area  
25 or Miller Family Health Education Center shall be to cancel this Permit and vacate the  
26 Permit Area. The City shall not be liable to Permittee for any loss, cost, or expense  
27 resulting from Permittee's inability to use the Permit Area.

28 7. The City shall provide and pay for water, gas, electricity and one

1 telephone line to the Permit Area. In addition, the City shall provide and pay for custodial  
2 services for the Miller Family Health Education Center, including the Permit Area.

3 8. During its use of the Permit Area, Permittee shall comply with all laws,  
4 ordinances, rules, and regulations and obtain all permits required by all federal, state, and  
5 local governmental authorities having jurisdiction over the Permit Area and Permittee's  
6 activities thereon.

7 9. Because a Permit is personal in nature, Permittee shall not assign this  
8 Permit or any interest herein nor allow or cause the transfer hereof, whether by law or  
9 otherwise. Any attempted assignment or transfer shall be void and confer no rights  
10 whatsoever on a purported assignee or transferee.

11 10. The City's authorized representative(s) shall have access to the  
12 Permit Area during business hours for any reasonable purpose including but not limited to  
13 maintenance and repairs, and, in the event of an emergency, at any other time. The City  
14 shall make reasonable efforts to inform Permittee when access will be made.

15 11. This Permit may create a possessory interest subject to property  
16 taxation and Permittee may be liable for the payment of property taxes levied on such  
17 possessory interest. Permittee shall pay, prior to delinquency, all taxes, assessments, and  
18 other governmental or district charges that may be levied or assessed on Permittee's  
19 personal property at the Permit Area and on any possessory interest created by this Permit.  
20 Permittee shall deliver to the City satisfactory evidence of such payments upon City's  
21 request therefore.

22 12. All notices shall be in writing and personally delivered or deposited in  
23 the U.S. Postal Service, first class, postage prepaid, addressed to Permittee at the address  
24 first shown above and to the City at 2525 Grand Avenue, Long Beach, California 90815  
25 Attn: Director, Health and Human Services. Notice of change of address shall be given in  
26 the same manner as stated herein for other notices. Notice shall be deemed given on the  
27 date personal delivery is made or on the date of deposit in the mail, whichever first occurs.

28 13. In accordance with California Government Code Section 895.2, the

1 parties hereby each assume the liability imposed on it, its officials, officers, employees and  
2 agents for injury or damage caused by a negligent or wrongful act or omission occurring in  
3 connection with or arising from this Agreement to the same extent that such liability would  
4 be imposed in the absence of Section 895.2. Except to the extent a defense is provided  
5 by an insurer under this Agreement, each party shall defend, indemnify and hold harmless  
6 the other party for any claim, demand, cause of action, loss, liability, damage, cost or  
7 expense that may be imposed on such party solely by virtue of Section 895.2. In any action  
8 or proceeding brought against the City indemnified by the Permittee hereunder, the  
9 Permittee shall have the right to select the attorneys to defend the claim, to control the  
10 defense and to determine the settlement or compromise of any action or proceeding,  
11 provided that the applicable Permittee shall have the right, but not the obligation, to  
12 participate in the defense of any such claim at its sole cost. With respect to damage to the  
13 premises, remediation will be provided at the full cost of replacement or repair to the  
14 premises, as applicable. Permittee shall give notice to the City of any claim, demand,  
15 damage, cause of action, loss, liability, cost, or expense within ten (10) days.

16 14. Subject to applicable laws and regulations, Permittee shall not  
17 discriminate on the basis of race, religion, color, ancestry, sex, sexual orientation, gender  
18 identity, AIDS, AIDS related condition, HIV status, age, national origin, handicap or  
19 disability in Permittee's use of the Permit Area.

20 15. Permittee understands and agrees to the following:

21 In accordance with Government Code section 11007.4, the State of  
22 California has elected to be self-insured for liability exposures. Under this form of  
23 insurance, the State and its employees acting in the course and scope of their employment  
24 are insured for tort liability arising out of official State business. All claims against the State  
25 of California based on tort liability should be presented as a government claim to the  
26 Government Claims Program, P.O. Box 989052 MS 414, West Sacramento, CA 95798-  
27 9052. (Gov. Code section 900, et seq.) Internet link:

28 <https://www.dgs.ca.gov/ORIM/Services/Page-Content/Office-of-Risk-and>

Insurance-Management-Services-List-Folder/File-a-Government-Claim

The State of California has elected to be insured for its motor vehicle liability exposures through the State Motor Vehicle Liability Self-Insurance Program (VELSIP). This program provides liability coverage arising out of the operations of motor vehicles used by state employees for official state business (California Vehicle Code Sections 17000 and 17001). Motor vehicle liability claims against the State of California should be presented to the Office of Risk and Insurance Management, P.O. Box 989052 MS-403, West Sacramento, CA 95798-9052, (800) 900-3634, [claims@dqs.ca.gov](mailto:claims@dqs.ca.gov). If your motor vehicle liability claim is not resolved within six months from the date of loss, California law requires you to file a formal claim with the Government Claims Program, P.O. Box 989052 MS 414, West Sacramento, CA 95798-9052. (Gov. Code section 900, et. seq.) Internet link:

<https://www.dgs.ca.gov/ORIM/Services/Page-Content/Office-of-Risk-and-Insurance-Management-Services-List-Folder/File-a-Government-Claim>

The State of California has a Master Agreement with the State Compensation Insurance Fund regarding workers' compensation benefits for all state employees, as required by the Labor Code.

16. This Permit shall not be amended, nor any term, condition or restriction waived, nor any breach thereof waived, except in writing signed by both the City and Permittee. The waiver of any breach hereof shall not constitute a waiver of any other or subsequent breach. The failure or delay of the City to insist on strict compliance with the terms, conditions and restrictions of this Permit shall not be deemed a waiver of any right or remedy that City may have. This Permit shall be governed by the laws of the State of California. This Permit constitutes the entire understanding of the parties and supersedes all other agreements, oral or written, with respect to the subject matter herein. If there is any legal proceeding between the City and Permittee to enforce or interpret this Permit or to protect or establish any rights or remedies hereunder, the prevailing party in that legal proceeding shall be entitled to its costs and expenses, including reasonable

1 attorney's fees and court costs. This Permit is not intended or granted for the purpose of  
2 creating any benefit or right for any person or entity other than the City and the Permittee.  
3 Revocation or cancellation of this Permit shall not terminate any rights or liabilities of either  
4 the City or Permittee which accrued or existed during the time that this Permit was in effect.

5 17. Permittee shall not erect, allow, or cause to be erected on the Permit  
6 Area any sign that has not received the prior written approval of the City.

7 18. Notwithstanding any language to the contrary herein, if a court of  
8 competent jurisdiction deems this Permit to be a lease, then Permittee hereby waives any  
9 right of redemption or relocation payment under any existing or future law in the event of  
10 removal from the Permit Area. Permittee agrees that, if the manner or method used by the  
11 City in revoking this Permit gives to Permittee a cause of action for damages, that the total  
12 amount of damages to which Permittee shall be entitled in any such action is One Dollar.  
13 Permittee agrees that this Section may be filed in any such action and that, when filed, it  
14 shall be a stipulation by Permittee fixing the total damages to which Permittee is entitled in  
15 such action.

16 19. The City shall not be liable for and Permittee hereby waives all claims  
17 against the City, its officials and employees for loss or damage to Permittee's personal  
18 property, or for injury to or death of persons due to theft, fire, flood, burglary, vandalism, or  
19 other insurable cause, which occurs in, on or at the Permit Area except to the extent caused  
20 by the City's gross negligence or willful misconduct.

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OFFICE OF THE CITY ATTORNEY  
CHARLES PARKIN, City Attorney  
411 West Ocean Boulevard, 9th Floor  
Long Beach, CA 90802-4511

By signing below, Permittee accepts and agrees to abide by the terms, conditions and restrictions in this Permit.

STATE OF CALIFORNIA DEPARTMENT  
OF GENERAL SERVICES

September 22, 2021

By [Signature]  
Name Trevor Johnson  
Title Real Estate Officer  
Real Estate Leasing and Planning Section

Approved:

DIRECTOR OF THE DEPARTMENT OF  
GENERAL SERVICES

9/28, 2021

By [Signature]  
Name Jim McNearney  
Title Leasing Manager  
Real Estate Leasing and Planning Section

"Permittee"

CITY OF LONG BEACH, a municipal  
corporation

1/10/2022, 2021

By [Signature]  
City Manager  
EXECUTED PURSUANT TO SECTION 301 OF  
"City" CITY CHARTER.

This Facility Use Permit is approved as to form on January 4, 2021.

CHARLES PARKIN, City Attorney

By [Signature]  
Deputy



# EXHIBIT "A"

July/August 2018 Seating - Millier FHEC—Rev. 7/10/18

