

Project: Tilden-Coil Laydown Yard - CBU Construction
Site Location: 8733 Indiana Avenue, Riverside, CA
Assessor's Parcel Nos.: 233-140-016

RIGHT OF ENTRY AGREEMENT

This Right of Entry Agreement ("Agreement") is made and entered into this _____ day of _____ 2016, by and between the **Housing Authority of the City of Riverside, a public agency**, a ("Housing Authority"), and **Tilden-Coil Constructors, Inc.** ("Grantee"). Housing Authority owns the real property located at 8733 Indiana Avenue and further identified by Assessor's Parcel Number 233-140-016 ("Property") and Grantee would like to use the Property as a construction laydown yard to store construction related materials and to park vehicles.

1. **Scope.** Housing Authority, owner of 8733 Indiana Avenue, Riverside, CA and further identified as Assessor's Parcel Number 233-140-016 ("Property"), hereby grants permission to Grantee, its employees, agents and subcontractors to enter upon a portion of the Property as identified on Exhibit "A" attached hereto and incorporated herein by reference. Grantee's use of the Property is for storing construction related materials and to park vehicles. Grantees agrees to install fencing and screen the Property for the Term of the Agreement.

2. **Term.** This Agreement will be effective on the date written above and shall terminate after eighteen (18) months, unless earlier terminated as set forth in this Agreement. Grantee shall provide City with twenty-four (24) hours advanced written notice directed to David Welch at (951) 826-5649 of the date upon which Grantee will enter and use the Property.

3. **Compensation.** As compensation for use of the Property, Grantee shall pay to the Housing Authority rent in the amount of \$15,524.46, due and payable in advance on or before the effective date of this Agreement. Said rent shall be made by check payable to the City of Riverside and sent to: The City of Riverside, Attn: Angela Ferreira, 3900 Main Street, 2nd Floor, Riverside, California 92522.

4. **Condition of Premises.** During the term of this Agreement, Grantee is to avoid damaging or contaminating the Property, including any existing trees, landscaping or plants, and shall take all reasonable steps to maintain the Property in an orderly and appealing manner. At the completion of the work, Grantee will restore the Property to a condition equal to or better than its condition at the commencement of the term of this Agreement.

5. **Termination.** This Agreement may be terminated by either party upon three (3) days prior written notice to the other party or immediately by the Housing Authority if it is determined that Grantee's actions are unsafe or a liability to the Housing Authority.

In the event of a termination, the Housing Authority shall return to Grantee the pro rata portion of the Grantee's advanced payment up to the date of termination.

6. **Access to the Property.** Grantee shall make every reasonable effort to keep access to the Property open at all times and shall not interfere with Housing Authority's activities in any way.

7. **Indemnification.** Except as to sole negligence or willful misconduct of the Housing Authority, Grantee agrees to indemnify, defend and hold the Housing Authority, its officers and employees, harmless from and against all claims, damages, losses, liability, cost or expense, including attorney's fees, which arises out of or is in any way connected with the performance of work under this Agreement by Grantee or any of Grantee's employees, agents or subcontractors. Grantee shall also be responsible for any attorneys' fees the Housing Authority incur in the event the Housing Authority has to file any action in connection with this right of entry.

The parties expressly agree that any payment, attorney's fee, costs or expenses the Housing Authority incurs or makes to or on behalf of an injured employee under the Housing Authority self-administered workers' compensation is included as a loss, expense or cost for the purpose of this Section, and that this Section shall survive the expiration or early termination of this Agreement.

8. **Workers' Compensation Insurance.** By executing this Agreement, Grantee certifies that it is aware of and will comply with Section 3700 of the Labor Code of the State of California requiring every employer to be insured against liability for workers' compensation, or to undertake self-insurance before commencing any of the work. Grantee shall carry the insurance or provide for self-insurance required by California law to protect Grantee from claims under the Workers' Compensation Act. Prior to Housing Authority's execution of this Agreement, Grantee shall file with Housing Authority either (1) a certificate of insurance showing that such insurance is in effect, or that they are self-insured for such coverage, or (2) a certified statement that they have no employees, and acknowledging that if they do employ any person, the necessary certificate of insurance will immediately be filed with Housing Authority. Any certificate filed with Housing Authority shall provide that Housing Authority will be given ten (10) days prior written notice before modification or cancellation thereof.

9. **General Commercial Liability and Automobile Insurance.** Prior to Housing Authority's execution of this Agreement, Grantee shall obtain, and shall thereafter maintain during the term of this Agreement, commercial general liability insurance and automobile liability insurance as required to insure Grantee against damages for personal injury, including accidental death, as well as from claims for property damage, which may arise from or which may concern operations by anyone directly or indirectly employed by, connected with, or acting for or on behalf of Grantee. The Housing Authority, and its officers, employees and agents, shall be named as additional insureds under the Contractor's insurance policies.

All liability insurance shall be issued by insurance companies authorized to transact liability insurance business in the State of California with a policy holder's rating of A or higher and a Financial Class of VII or higher.

Grantee's commercial general liability insurance policies shall cover both bodily injury (including death) and property damage (including, but not limited to, premises operations liability, products-completed operations liability, independent contractor's liability, personal injury liability, and contractual liability) in an amount not less than \$1,000,000 per occurrence and a general aggregate limit in the amount of not less than \$2,000,000, unless otherwise approved or reduced by the Housing Authority's Risk Manager ("Risk Manager"), or his designee.

Grantee's automobile liability policy shall cover both bodily injury and property damage in an amount not less than \$1,000,000 per occurrence unless otherwise approved or reduced by the Risk Manager, or his designee.

These minimum amounts of coverage shall not constitute any limitation or cap on Grantee's indemnification obligations under Section 7 hereof.

Prior to Housing Authority's execution of this Agreement, copies of insurance policies or original certificates and additional insured endorsements evidencing the coverage required by this Agreement, for both commercial general and automobile liability insurance, shall be filed with Housing Authority and shall include the Housing Authority and its officers, employees and agents, as additional insureds. Said policies shall be in the usual form of commercial general and automobile liability insurance policies, but shall include the following provisions:

It is agreed that the Housing Authority of the City of Riverside, and its officers, employees and agents, are added as additional insureds under this policy, solely for work done by and on behalf of the named insured for the Housing Authority of the City of Riverside.

The policies shall not be canceled unless thirty (30) days prior written notification of intended cancellation has been given to Housing Authority by certified or registered mail, postage prepaid.

The Housing Authority, its officers, employees and agents make no representation that the types or limits of insurance specified to be carried by Grantee pursuant to this Agreement are adequate to protect Grantee. If Grantee believes that any required insurance coverage is inadequate, they will obtain such additional insurance coverage as it deem adequate, at its sole expense.

10. **Hazardous Substances Indemnity.** Grantee expressly agrees to and shall indemnify, defend, release and hold the City, its officers, officials, directors, agents, servants, employees, attorneys and contractors harmless from and against any liability, loss, fine, penalty, fee, charge, lien, judgment, damage, entry, claim, cause of action, suit, proceeding (whether legal or administrative), remediation, response, removal, or clean-up and all costs and expenses associated therewith, and all other costs and expenses (including, but not limited to, attorneys' fees, expert fees, and court costs) in any way related to the disposal, treatment, transportation, manufacture, or use of any Hazardous Substances on, in, under, or about the Property by Grantee, or its respective officers, directors, agents, servants, employees or contractors, or by any

other third party acting under the control or request of Grantee, other than the Housing Authority and its respective officers, agents, servants, employees or contractors. This indemnity, defense and hold harmless obligation shall survive the expiration or termination of this Agreement.

11. **Hazardous Substances Defined.** Hazardous Substances shall mean any (a) substance, product, waste or other material of any nature whatsoever which is or becomes listed, regulated, or addressed pursuant to CERCLA, 42 U.S.C. § 9601, et seq.; The Hazardous Materials Transportation Act, 49 U.S.C. § 1801, et seq.; the Resource Conservation and Recovery Act, 42 U.S.C. § 6901, et seq. ("RCRA"); The Toxic Substances Control Act, 15 U.S.C. § 2601 et seq.; The Clean Water Act, 33 U.S.C. § 1251, et seq.; The Hazardous Waste Control Act, California Health and Safety Code ("H. & S.C.") § 25100, et seq.; the Hazardous Substance Account Act, H. & S.C. § 25330, et seq.; the California Safe Drinking Water and Toxic Enforcement Act, H. & S.C. § 25249.5, et seq.; Underground Storage of Hazardous Substances H. & S.C. § 25280, et seq.; the Carpenter-Presley-Tanner Hazardous Substance Account Act (H & S.C. § 25300 et seq.); The Hazardous Waste Management Act, H. & S.C. §§ 25170.1, et seq.; Hazardous Materials Response Plans and Inventory H. & S.C. § 25001 et seq.; or the Porter-Cologne Water Quality Control Act, Water Code § 13000, et seq., all as amended, or any other federal, state or local statute, law, ordinance, resolution, code, rule, regulation, order or decree regulating, relating to, or imposing liability or standards of conduct concerning, any hazardous, toxic or dangerous waste, substance or material, as now or at any time hereafter in effect, (b) any substance, product, waste or other material of any nature whatsoever which may give rise to liability under any of the above statutes, (c) petroleum, crude oil or any substance which contains gasoline, diesel fuel or other petroleum hydrocarbons other than petroleum and petroleum products contained within regularly operated motor vehicles, and (d) polychlorinated biphenyls (PCB), radon gas, urea-formaldehyde, asbestos and lead.

12. **Venue.** Any action at law or in equity brought by any of the parties hereto for the purpose of enforcing a right or rights provided for by this Agreement shall be tried in a court of competent jurisdiction in the County of Riverside, State of California, and the parties hereby waive all provisions of law providing for a change of venue in such proceedings to any other county.

13. **Nondiscrimination.** During Grantee's performance of this Agreement, it shall not discriminate on the grounds of race, religious creed, color, national origin, ancestry, age, physical disability, mental disability, medical condition, including the medical condition of Acquired Immune Deficiency Syndrome (AIDS) or any condition related thereto, marital status, sex, genetic information, gender, gender identity, gender expression or sexual orientation, in the selection and retention of employees and subcontractors and the procurement of materials and equipment, except as provided in Section 12940 of the California Government Code. Further, Grantee agrees to conform to the requirements of the Americans with Disabilities Act in the performance of this Agreement.

14. **Notices.** Service of any notices, bills, invoices or other documents required or permitted under this Agreement shall be sufficient if sent by one party to the other by United States mail, postage prepaid and addressed as follows.

Housing Authority

Housing Authority of the
City of Riverside
3900 Main Street, 2nd Floor
Riverside, California 92522
Attn: David Welch
Real Property Services Manager
(951) 826-5649

Grantee

Tilden-Coil Constructors, Inc.
3612 Mission Inn Ave.
Riverside, California 92501
Attn: Dayne Brassard
Executive Vice President
(951) 684-5901

15. **Assignment.** It is mutually understood and agreed that this Agreement is personal to Grantee and shall be binding upon Grantee and its successors and may not be assigned or transferred in any way. Any transfer shall be void and of no effect.

16. **Authority.** The individuals executing this Agreement each represent and warrant that they have the legal power, right and actual authority to bind their respective entities to the terms and conditions hereof and thereof.

17. **Severability.** Each provision, term, condition, covenant, and/or restriction, in whole and in part, in this Agreement shall be considered severable. In the event any provision, term, condition, covenant, and/or restriction, in whole and/or in part, in this Agreement is declared invalid, unconstitutional, or void for any reason, such provision or part thereof shall be severed from this Agreement and shall not affect any other provision, term, condition, covenant, and/or restriction, of this Agreement and the remainder of the Agreement shall continue in full force and effect.

{Signatures on following page}

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed on the date and year first written above.

HOUSING AUTHORITY OF THE
CITY OF RIVERSIDE

By: _____
David Welch
Real Property Services Manager

TILDEN-COIL CONSTRUCTORS, INC.

By: _____
Greg Lackey
Its: Secretary/Treasurer

By: _____

Attested to:

Its: _____

By: _____
Housing Authority Secretary

Approved as to Form:

Housing Authority General Counsel

EXHIBIT "A"

DIANA AV

91 FWY

MONROE ST

INDIANA AV

NOZAY LN

DROME LN

CHAUMONT DR

NIMES LN

CANDE WY

CANTAL LN

CHOLET WY

RUMAIN LN

USSEL LN

