

CONSENT AGREEMENT FOR VOLUNTARY ACCESS

THIS CONSENT AGREEMENT FOR VOLUNTARY ACCESS is made between the **CITY AND COUNTY OF DENVER**, a municipal corporation of the State of Colorado (the “City”), and **NATIONAL JEWISH HEALTH, a Colorado not for profit corporation addressed at 1400 Jackson Street, Denver, CO 80206**, and its officers, directors, employees, representatives, agents, consultants, and contractors (hereinafter referred to collectively as “NJH”), to permit access to City-owned properties located in Denver, Colorado, the addresses of which are set forth in **EXHIBIT A** (the “Property”), for the purpose of installing air monitoring equipment and conducting an air monitoring study.

WITNESSETH:

WHEREAS, NJH, has requested access to the Property to conduct air quality monitoring as part of a study in the Globeville, Elyria, and Swansea neighborhoods of Denver (the “Work”);

WHEREAS, the City desires to grant such access;

WHEREAS, the City desires to receive copies of the data and analytical results for the air quality monitoring that NJH intends to collect;

NOW, THEREFORE, in consideration of the premises and the mutual covenants and obligations herein set forth, the Parties agree as follows:

1. The City shall permit NJH to gain access to the Property, the description of which is set forth in **EXHIBIT A**, for purposes of conducting an air quality monitoring study.

2. NJH shall be solely responsible for all damage caused by NJH’s negligent performance of services. No work is permitted independent from that authorized herein without the express prior written authorization of the City.

3. By granting this access to and use of City property for the Work, the City does not assume, and is not subject to, any responsibility or liability for any claims, losses, damages, costs, expenses or lawsuits which may be asserted or brought against or incurred by the City from or by third parties with respect to any acts or omissions in or related to the Work or any other activity on or about the City Property as authorized under this Agreement. Moreover, nothing in this Agreement shall be regarded as a waiver of the protections, rights, and immunities of the City under the Colorado Governmental Immunity Act, section 24-10-101 et seq., C.R.S., or other

applicable law.

4. NJH agrees to notify the following City representatives three business days in advance of the time that NJH will be onsite to make arrangements for a mutually agreeable time to set up monitoring equipment and to obtain information from the City as to special conditions that may exist on the Property.

- (a)** Gregg Thomas
Department of Public Health and Environment
Telephone No. 720-865-5413
Email address: gregg.thomas@denvergov.org.

5. All work shall be performed at times and locations acceptable to City. Access of people and equipment to the site shall be in accordance with any instructions provided by the City's representative.

6. NJH will be permitted access to the properties listed in Exhibit A from November 1, 2018 to December 31, 2019. NJH anticipates that it will access the properties listed in Exhibit A during January, February, and June of 2019. However, these anticipated dates are subject to change.

7. Representatives of the City shall be allowed to observe site activities. NJH agrees to supply the City with a copy of the field data, all final analytical results, and quality control/quality assurance reports as soon as they are available.

8. All tools, equipment, and other property taken upon or placed upon the Property by NJH shall remain the property of NJH and must be removed by NJH on or before the expiration of this Agreement, unless authorization to leave materials on-site is otherwise agreed upon between NJH and the City. Air monitoring platforms shall be clearly marked "Denver Air Quality Study."

9. NJH assumes all risks of entry on the Property. All individuals securing access hereunder shall strictly comply with all safety requirements established by the City and as may be communicated from time to time at the Property by any representatives of the City.

10. This authorization may be revoked by the City without cause upon giving of fifteen (15) days' notice to NJH. Unless previously revoked or extended, this Agreement shall be valid from November 1, 2018 until December 31, 2019.

11. Communications in connection with this Agreement shall be directed to:

For the City: Gregg Thomas
Department of Public Health and Environment
City and County of Denver
101 W. Colfax Ave., Suite 800
Denver, Colorado 80202
Telephone No. 720-865-5413
Email Address: gregg.thomas@denvergov.org

For NJH: Greg Geras
NJH Solutions, Inc.
1435 Garrison St., Ste. 100
Lakewood, CO 80215
Telephone No. 303-729-6142
Email Address: greg.geras@NJHsolutions.com

12. NJH shall not damage, destroy or harm any improvements on or about the Property, including utilities located on or about the Property. NJH shall be solely responsible for locating and taking appropriate measures to protect all overhead, above ground and underground utilities, including without limitation gas, electrical, sewer, water, telephone, and cable, during the Work and any related activities on the Property. NJH shall arrange for the timely and complete location of all utilities in accordance with law; shall take all necessary precautions to avoid damage to, or injury from, such utilities; and shall be liable for all damages resulting from any contact with or destruction of such utilities as a result of NJH's negligence. The City will provide, upon request, any drawings or other documents it may have regarding the existence of such utilities in NJH's work areas, but the City expressly disclaims the reliability or accuracy of any such drawings or documents it may provide to NJH.

13. If NJH's work or related activities on or about the Property disturbs in any way the condition of the Property or any other City-owned property, NJH shall, upon completion of the work or related activities, restore the Property to a condition similar to that which existed prior to the commencement of the work or related activities by NJH under this Agreement. The condition of the Property shall be substantially the same as that of the surrounding, undisturbed portions of the Property.

14. The City shall not be responsible or liable for injuries to persons or damage to property when such injuries or damage are caused by or result from NJH's use of the premises under the terms of this Agreement and are not due to negligence of the City.

15. NJH shall secure and keep in force at all times during the term of this Agreement, comprehensive liability insurance policy or policies, including public liability and property damage, covering all operations hereunder of both contractor(s) and its subcontractors in the following minimum amounts:

- (a) **Business Automotive Liability Insurance:** NJH shall maintain Business Automobile Liability with limits of \$1,000,000 combined single limit applicable to all owned, hired and non-owned vehicles used in performing services under this Agreement.
- (b) **Commercial General Liability:** NJH shall maintain a Commercial General Liability insurance policy with limits of \$1,000,000 for each occurrence, \$1,000,000 for each personal and advertising injury claim, \$2,000,000 products and completed operations aggregate, and \$2,000,000 policy aggregate.
- (c) **Workers' Compensation/Employer's Liability Insurance:** NJH shall maintain the coverage as required by statute for each work location and shall maintain Employer's Liability insurance with limits of \$100,000 per occurrence for each bodily injury claim, \$100,000 per occurrence for each bodily injury caused by disease claim, and \$500,000 aggregate for all bodily injuries caused by disease claims.
- (d) **Additional Provisions:**
 - (i) For Commercial General Liability, the policy must provide the following:
 - (a) That this Agreement is an Insured Contract under the policy;
 - (b) Defense costs are outside the limits of liability;
 - (c) A severability of interests, separation of insureds provision (no insured vs. insured exclusion); and
 - (d) A provision that coverage is primary and non-contributory with other coverage or self-insurance maintained by the City.
 - (ii) For claims-made coverage:
 - (a) The retroactive date must be on or before the contract date or the first date when any goods or services were provided to the City, whichever is earlier.

- (b) NJH shall advise the City in the event any general aggregate or other aggregate limits are reduced below the required per occurrence limits. At their own expense, and where such general aggregate or other aggregate limits have been reduced below the required per occurrence limit, NJH will procure such per occurrence limits and furnish a new certificate of insurance showing such coverage is in force.

16. The person signing for NJH warrants that he or she has the complete authority to sign on behalf of and bind NJH.

17. NJH consents to the use of electronic signatures by the City. The Agreement, and any other documents requiring a signature under the Agreement, may be signed electronically by the City in the manner specified by the City. The Parties agree not to deny the legal effect or enforceability of the Agreement solely because it is in electronic form or because an electronic record was used in its formation. The Parties agree not to object to the admissibility of the Agreement in the form of an electronic record, or a paper copy of an electronic document, or a paper copy of a document bearing an electronic signature, on the ground that it is an electronic record or electronic signature or that it is not in its original form or is not an original.

[Signatures appear on the following pages.]

Contract Control Number:

IN WITNESS WHEREOF, the parties have set their hands and affixed their seals at Denver, Colorado as of

SEAL

CITY AND COUNTY OF DENVER

ATTEST:

By _____

APPROVED AS TO FORM:

REGISTERED AND COUNTERSIGNED:

By _____

By _____

By _____



Contract Control Number: ENVHL-201845753-00

Contractor Name: NATIONAL JEWISH HEALTH

By: *K. Sanner*

Name: *Katherine Sanner*
(please print)

Title: *Exec Dir. Contracts*
(please print)

ATTEST: [if required]

By: _____

Name: _____
(please print)

Title: _____
(please print)



EXHIBIT A

Air Monitoring Study Properties

Location	Address	# of Sites
Swansea Neighborhood Park	51st Ave and Steele St	1
Swansea Park (Rec Center)	2650 E 49th Ave	1
Elyria Park	4809 Race St	1
Denver Coliseum	4600 Humboldt St	1
Northside Park	1400 53rd Ave	1
Stapleton Recreation Center	5090 Broadway	1
Argo Park	4700 Logan St	1
Dunham Park	4400 Thompson Ct	1
National Western Complex	4655 Humboldt St	1
Globeville Landing Outfall (GLO) Sites	45th Ave and Washington St	1 to 2