

Access Agreement for Marion-Ralls Regional Port Authority Brownfield Assessments (BF4B96705301)

THIS ACCESS AGREEMENT, made and entered into by _____ (hereinafter referred to as the "GRANTOR"), and the Marion-Ralls Regional Port Authority (CITY), authorizes CITY's employees, contractors, and subcontractors access to the property(ies) owned by the GRANTOR, located at _____; hereinafter referred to as the "Property". Access to the Property is requested for the purpose of:

- 1) Conduct a site visit to complete a Phase I Environmental Site Assessment;**
- 2) If warranted based on the results of the Phase I Environmental Site Assessment, conduct an inspection of the Property and complete required testing to complete a Phase II Environmental Site Assessment.**
 - a) Testing may include the following:**
 - i) Collecting samples of building materials as part of asbestos containing materials and lead based paint assessments;**
 - ii) Installation and maintenance of permanent or temporary groundwater monitoring wells;**
 - iii) Collection of soil samples and water samples; and**
 - iv) Proper abandonment of the groundwater monitoring wells installed by the CITY when the wells are no longer needed.**

FOR THE PARTIES' JOINT AND MUTUAL CONSIDERATION IT IS HEREBY AGREED AS FOLLOWS:

1. That the undersigned GRANTOR states they are the lawful possessor of the Property(ies) located at _____, and generally identified as parcel numbers _____.
2. That the GRANTOR hereby grants and conveys to CITY's employees, contractors, and subcontractors temporary access to the real estate identified in section 1 of this Agreement for the purpose of **[See examples above]**
3. That the GRANTOR has a good and lawful right to grant access to the Properties.
4. That the individual or individuals executing this Agreement on behalf of the GRANTOR has or have authority to grant the access rights conveyed to CITY herein.
5. That GRANTOR shall indemnify and hold harmless CITY against any damage to the Properties arising from CITY's presence on the premises, unless such damage is a result of an act or omission of CITY or CITY's representatives.

GRANTOR waives any and all claims against CITY and its representatives and, to the maximum extent permitted by law, agrees to defend, indemnify, hold harmless CITY and its representatives from any claim, liability, and/or defense costs for injury or loss arising from the discovery of hazardous materials, including, but not limited to, any costs created by delay of the project and any cost associated with possible reduction of the Property's(ies') value or the value of any other property impacted by the discovery of hazardous materials. As such, notwithstanding any other provision of this Agreement, CITY's obligations to restore the Property(ies) and to indemnify and hold GRANTOR harmless shall not extend to any damage resulting from any one or more of the following: (a) the discovery of hazardous materials on the Property(ies); (b) the spread of hazardous materials already on the property(ies) as a result of assessment for the same, so long as CITY's consultants, agents, contractors and employees use commercially reasonable measures to not spread or disturb any such hazardous materials in conducting the Assessments; or (c) latent defects in the Property(ies).

6. That CITY shall access the Property(ies) during regular business hours, unless otherwise agreed to by the GRANTOR.
7. That CITY shall restore the Property(ies) as nearly as practicable to its original condition following completion of the aforementioned scope of work, subject to paragraph 5 above.
8. That CITY shall use best efforts to avoid disrupting the GRANTOR's activities on the Property(ies) while conducting the aforementioned scope of work.
9. When soil or water samples are collected on the property(ies) described above, split samples will be provided to the property(ies) owner(s), if the property(ies) owner(s) requests split samples and provides sample bottles before the samples are collected.
10. The property(ies) owner(s) agree(s) not to damage or interfere with the use of any monitoring well that is installed as permitted herein and agree(s) to notify third parties who plan to conduct any activity on the property described above that monitoring wells have been installed on the property.
11. The term of this Agreement shall commence on the date of execution and shall automatically expire upon completion of the aforementioned scope of work. In the event permanent monitoring wells are installed as part of the scope of work, the terms of this Agreement shall continue indefinitely to allow the CITY to gather samples from such wells and properly close out such wells. If the property owner wishes to withdraw permission for continued access, the property(ies) owner(s) shall notify CITY of that fact. CITY shall, within 90 days after receiving such notice, either abandon any wells installed by CITY that remain on the property or obtain a court order to allow continued access.
12. ALL COSTS FOR COMPLETION OF THE AFOREMENTIONED SCOPE OF WORK SHALL BE THE SOLE RESPONSIBILITY OF CITY.
13. This Agreement and the rights and obligations of the parties hereto shall be governed by and construed per the laws of the State of Iowa.

In WITNESS WHEREOF, the parties have executed this Agreement as of the date written below:

Name of Property Owner

Name of City Representative

Signature

Signature

Date

Date

Mailing Address of Property Owner

Mailing Address of City

Telephone Number

Telephone Number

Email Address

Email Address