

**AMENDMENT TO JOINT USE AGREEMENT**

**PARTIES**

This second Amendment to the Joint Use Agreement (“Amendment”) is entered into between San José Unified School District (“District”) and **Action Day Nurseries and Primary Plus, Inc. dba Action Day Schools** (“Tenant,” collectively the “Parties”).

**RECITALS**

WHEREAS, District and Tenant entered into a Lease Agreement For Day Care, extended care and child care purposes at the Allen Site, on or about September 29, 2022 and was previously amended on February 8 2023, for certain real property located at 5845 Allen Avenue, in the City of San José, Santa Clara County, California (“Lease”); and

WHEREAS, District and Tenant desire to amend the Lease to extend term for an additional three-year term per Section 7.2 of the Joint Use Agreement; and

WHEREAS, District and Tenant desire to amend the Rent, per Sections 8, and Utility Pro-Rata rate, per Section 9.

NOW THEREFORE, in consideration of the mutual promises and covenants set forth above and contained herein, District and Tenant agree as follows:

**AGREEMENT**

1. Add Section 7.2.1: The first Renewal Term will be for July 1, 2025 to June 30, 2028.
2. Amend Section 8.1: Amend the Rent (Building Lease) amount to fifty-three thousand thirty dollars and zero cents (\$53,030.00) per month from July 1, 2025 – June 30, 2026. Add the Rent (Land Lease) amount to two thousand eight hundred eighty dollars and zero cents (\$2,880.00) per month from July 1, 2025 – June 30, 2026.
3. Add Section 8.1.1:  
  - 8.1.1. For purposes of this section, the applicable square footage for the Premises is 30,835 SF:  
    - 8.1.1.1. Building area: 26,515 SF
    - 8.1.1.2. Land area for Tenant owned buildings: 4,320 SF
4. Section 9.1.1 Maintenance and Repairs: Amend the Pro Rata cost for Maintenance services as of the Commencement Date(s) of the first renewal term (July 1, 2025-June 30, 2026) herein to \$3.38/SF/yr.
5. Section 9.3: Amend the District’s Utility Pro Rata cost as of the Commencement Date of the first renewal herein is \$5.80/SF/yr.
6. Exhibit “D” Pro-Rata Share and FMV Use Fee: Add **Exhibit D** per **Attachment 1**.
7. Except as set forth in this Amendment, all provisions of the Lease and any previous extension(s) and/or amendment(s) thereto shall remain unchanged, in full force and effect, and are reaffirmed. This Amendment shall control over any inconsistencies between it and the Lease and/or any previous extension(s) and/or amendment(s).
8. Lessee acknowledges and agrees that this Amendment shall not be binding on the Parties until and unless the San José Unified School District’s Board of Education approves this Amendment.

IN WITNESS WHEREOF, the parties hereto have accepted and agreed to this Amendment on the later date indicated below.

Dated:

Dated: 6/10/2025

**SAN JOSÉ UNIFIED SCHOOL DISTRICT**

**ACTION DAY NURSERIES AND PRIMARY PLUS, INC.  
dba ACTION DAY SCHOOLS**

By:

By:

Signed by:  
  
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Name: Tracy Morrison  
Title: Director, Procurement

Name: Cathy Jelic  
Title: President

**Attachment 1  
Exhibit "D"**

**Pro-Rata Share and FMV Use Fee**

<b>Action Day Primary Plus, Inc. Allen Site 2025-2026</b>
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[A] District Spaces (exclusive use)	Square Footage
Building A	3,672
Building B	3,672
Building C	3,672
Building D	3,944
Building E	1,051
Building F	1,721
Building G	3,023
Room 13	960
Room 14	960
Room 15	960
Room 16	960
Room 17	960
Room 18	960
<b>Subtotal of District Spaces</b>	<b>26,515</b>

[B] Tenant Provided Spaces	Square Footage
K-3	1,440
K-4	1,440
K-5	1,440
<b>Subtotal of Tenant Provided Spaces</b>	<b>4,320</b>

[A+B] Total Space	Square Footage
<b>Sum of District and Tenant Provided Spaces</b>	<b>30,835</b>

[D] Pro Rata Share (per square foot per year)	Rate	Square Feet	Subtotal
Routine Maintenance	\$3.38	26,515	\$89,620.70
Custodial	\$0.00	30,835	\$0.00
Grounds	\$0.97	30,835	\$29,909.95
Aquatics - Pool	\$0.00	30,835	\$0.00
Security Monitoring	\$0.31	30,835	\$9,558.85
Furniture Replacement	\$0.00	30,835	\$0.00
Natural Gas and Electricity	\$0.00	30,835	\$0.00
Solar	\$0.00	30,835	\$0.00
Water	\$0.00	30,835	\$0.00
Sewer	\$0.11	30,835	\$3,391.85
Trash	\$0.00	30,835	\$0.00
Data Network	\$0.00	30,835	\$0.00
Hazardous Substance	\$0.04	30,835	\$1,233.40
Insurance Package	\$0.53	30,835	\$16,342.55
Property Self-insured	\$0.40	30,835	\$12,334.00
Safety	\$0.06	30,835	\$1,850.10
<b>Total</b>	<b>\$5.80</b>	<b>30,835</b>	<b>\$164,241.40</b>

[E] Building Lease (per square foot per year)	Rate	Square Feet	Subtotal
Land Lease	\$8.00	4,320	\$34,560.00
Building Lease	\$24.00	26,515	\$636,360.00
		<b>30,835</b>	<b>\$670,920.00</b>

[D+E] Total Cost	Amount
Annual (sum of pro rata share and building lease)	\$835,161.40
Monthly (annual divided by 12)	\$69,596.78