

PREMISES USE AGREEMENT

This Premises Use Agreement (“Agreement”) is hereby made and entered into on this ____ day of _____ (“Effective Date”) by and between CITY OF SAN JOSE, a municipal corporation (“City”) and the SAN JOSÉ UNIFIED SCHOOL DISTRICT, a political subdivision of the State of California (“Owner”).

RECITALS

WHEREAS, City’s Office of Emergency Management desires to use certain facilities owned by Owner as specifically identified in Exhibit A (“Premises”) for the use of Mass Care Services during emergencies which may include Sheltering, Commodity Points of Distribution (C-POD), a Disaster District Office (DDO), and/or a Reunification and Notification Center if feasible; and

WHEREAS, Owner is willing to permit City to use its Premises at no cost to City; and

NOW, THEREFORE, in consideration of these mutual covenants herein, the parties hereto agree as follows:

SECTION 1. USE OF PREMISES.

City may use the Premises, or parts thereof, identified in **Exhibit A**, throughout the term of this Agreement as provided herein.

- A. City may use the Premises or parts thereof for emergency services including but not limited to the following operations and as indicated in **Exhibit B**:
- i. Service Center (operations, client services, or volunteer intake), including any of the following uses:
 - a. Shelter – Human shelter only or human shelter co-locating with animals for overnight sheltering or temporary evacuation point (TEP).
 - b. Commodity Points of Distribution (C-POD) - service operation for the public to receive food, water, medical countermeasures, and/or essential equipment and supplies identified during the emergency event.
 - c. Disaster District Office (DDO) - City Council district field office to provide and gather essential emergency information for the public via office hour sessions and/or community meeting.
 - d. Reunification and Notification Center (Facility) – space created for reunifying survivors with their family members or loved ones and utilizing a separate space for hospitalization notifications or death notifications of victims to family members or loved ones.
 - ii. Storage of equipment & supplies which include durable and consumable goods.
 - iii. Parking of vehicles for clients and staff involved in the emergency operation response.
- B. **Notice of Premises Access**: City may use the Premises, or parts thereof, at the Owner’s sole discretion when City provides telephone or written notice to the Premises Coordinator or Back-up Premises Coordinator, as identified in Section 4, that the Emergency Operations Center (EOC) has been activated and receives authorization from the Premises Coordinator (or Back-up) to use the Premises, or parts thereof, on the agreed date(s). The Owner will provide telephone numbers at which the Premises Coordinator and Back-up Premises Coordinator can be reached 24 hours a day. Telephone and written notices include phone and video calls (Zoom and Microsoft Teams), email, text, and Zoom and Microsoft Teams chat.

SECTION 2. PREMISES MANAGEMENT

- A. **Premises Management:** The City of San Jose will designate a City of San Jose official to manage the activities at the Premises (“City of San Jose Manager”). Owner will designate a Premises Coordinator to coordinate with the City of San Jose Manager (or designee) regarding the use of the Premises by the City.
- B. **Security/Safety:** In coordination with the Premises Coordinator, the City of San Jose Manager, as he or she deems necessary and appropriate, will coordinate with law enforcement regarding any security and safety issues at the Premises.
- C. **Signage and Publicity:** The City of San Jose may post signs identifying the Premises as a site of the City of San Jose operations in locations approved by the Premises Coordinator. The City of San Jose will remove such signs when the City of San Jose’s activities at the Premises are concluded. The Owner will not issue press releases or other publicity concerning the City of San Jose’s activities at the Premises without the express, written consent of the City of San Jose’s Manager. The Owner will refer all media questions about the City of San Jose activities to the City of San Jose’s Manager.
- D. Only when the Premises are being used as a shelter or service center, will the following apply.
- i. **Food Services:** Upon request by the City of San Jose, and if such resources are available, the Owner will make the food service resources of the Premises, including food, supplies, equipment, and food service workers, available to feed the shelter occupants. The Premises Coordinator will designate a Food Service Manager to coordinate the provision of meals at the direction of and in cooperation with the City of San Jose Manager. The Food Service Manager will establish a feeding schedule and supervise meal planning and preparation. The Food Service Manager and the City of San Jose Manager will jointly conduct a pre-occupancy inventory of the food and food service supplies before the Premises is turned over to the City of San Jose. When the City of San Jose vacates the Premises, the City of San Jose Manager and Premises Coordinator or Food Service Manager will conduct a post-occupancy inventory of the food and supplies used during the City of San Jose’s activities at the Premises.
 - ii. **Custodial Services:** Upon request of the City of San Jose and if such resources exist and are available, the Owner will make its custodial resources, including supplies and workers, available to provide cleaning and sanitation services at the Premises. The Premises Coordinator will designate a Premises Custodian to coordinate the provision of these services at the direction of and in cooperation with the City of San Jose’s Manager.
- E. **Closing the Premises:** The City of San Jose will notify the Owner or Premises Coordinator of the date when the City of San Jose will vacate the Premises. Before the City of San Jose vacates the Premises, the City of San Jose Manager and Premises Coordinator will jointly conduct a post-occupancy inspection, any damage shall be documented on the Premises Opening & Closing Inspection Form, attached as **Exhibit C**, and any changes to inventory shall be documented on the Premises Inventory Form, attached as **Exhibit D**.

SECTION 3. PROPERTY CONDITION

The Premises Coordinator and City of San Jose Manager (or designee) will jointly conduct a survey of the Premises before it is turned over to the City for its use. They will use the Detailed Premises Opening & Closing Inspection Form, attached as **Exhibit C**, to record any existing damage or conditions. They will use the Premises Inventory Form, attached as **Exhibit D**, to document the

consumable items available for use at the Premises. The Premises Coordinator will identify and secure all equipment in the Premises that the City should not use. The City will exercise reasonable care while using the Premises and will not modify the Premises without the Owner's express written approval.

SECTION 4. NOTICE

Except for the notice for Premises access, all notices and other communications required or permitted to be given under this Agreement shall be in writing and shall be personally served or mailed, postage prepared and return receipt requested, addressed to the respective parties as follows:

<p><u>Owner: San José Unified School District</u></p> <p>Address: 855 Lenzen Avenue San José, CA 95126 408-535-6000</p> <p>Premises Coordinator shall be the Director-Maintenance, Grounds and Operations: Pini Denny Work Phone: 408-535-6200 Alternate / 24-Hour Phone: 408-690-8085 dpini@sjusd.org</p> <p>Backup Premises Coordinator shall be the Chief Business Officer: Seth Reddy Work Phone: 408-535-6000 Alternate / 24-Hour Phone: 202-580-5615 sreddy@sjusd.org</p>	<p><u>City of San Jose</u></p> <p>200 East Santa Clara Street Tower, 9th Floor, Parks, Recreation and Neighborhood Services San Jose CA, 95113</p> <p>City of San Jose Manager: Andrea Flores-Shelton Assistant Director of Parks, Recreation and Neighborhood Services or designee</p> <p>Work phone: 408-535-3570 Cell phone/pager: 408-834-0603</p>
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Notices shall be deemed effective on the date personally delivered or, if mailed, three (3) days after deposit in the mail.

SECTION 5. TERM OF AGREEMENT.

The term of this Agreement shall be from the Effective Date of this Agreement to December 31, 2029.

- A. Either party shall have the right to terminate this Agreement, without cause, by giving not less than thirty (30) days' written notice of termination.
- B. San Jose City Manager or his/her designee is authorized to terminate this Agreement on behalf of City.
- C. The Chief Business Officer is authorized to terminate the Agreement on behalf of Owner.

SECTION 6. COMPENSATION.

- A. Use Fee: Owner will not charge a fee for the use of the Premises in recognition of the emergency services the City of San Jose provides to the community.
- B. Reimbursement: The City of San Jose will not reimburse the Owner for items claimed through property insurance, state or federal declared emergency funds, or any other source of reimbursement. The City of San Jose may reimburse the Owner for the following:
1. *(Only when Premises is used as a Service Center)* Reasonable costs associated with custodial and food service personnel which would not have been incurred but for the City of San Jose’s use of the Premises. The City of San Jose will reimburse at per-hour, straight-time rate for wages actually incurred but will not reimburse for (i) overtime or (ii) costs of salaried staff. The City will not request and the Owner will not provide any overtime services.
 2. Reasonable costs to replace items used or consumed in the operation of the Premises as a Shelter or Service Center, including without limitation, food, toilet paper, paper towels, etc. All such items must be documented using **Exhibit D** at opening and closing for City reimbursement.
 3. Reasonable, actual, out-of-pocket costs for the utilities indicated below, to the extent that such costs would not have been incurred but for the City of San Jose’s use of the Premises. Both parties must initial all utilities to be reimbursed by the City of San Jose.

	Owner Signatures	City Signatures
Water	<p style="text-align: center;"><i>Seth Reddy</i></p> <hr/> <p><small>Email: sreddy@sjusd.org Date: 11/08/2024 PST</small></p>	<p style="text-align: center;"><i>Sarah Zarate</i></p> <hr/> <p><small>Email: sarah.zarate@sanjoseca.gov Date: 11/08/2024 PST</small></p>
Gas	<p style="text-align: center;"><i>Seth Reddy</i></p> <hr/> <p><small>Email: sreddy@sjusd.org Date: 11/08/2024 PST</small></p>	<p style="text-align: center;"><i>Sarah Zarate</i></p> <hr/> <p><small>Email: sarah.zarate@sanjoseca.gov Date: 11/08/2024 PST</small></p>
Sewer	<p style="text-align: center;"><i>Seth Reddy</i></p> <hr/> <p><small>Email: sreddy@sjusd.org Date: 11/08/2024 PST</small></p>	<p style="text-align: center;"><i>Sarah Zarate</i></p> <hr/> <p><small>Email: sarah.zarate@sanjoseca.gov Date: 11/08/2024 PST</small></p>
Electricity	<p style="text-align: center;"><i>Seth Reddy</i></p> <hr/> <p><small>Email: sreddy@sjusd.org Date: 11/08/2024 PST</small></p>	<p style="text-align: center;"><i>Sarah Zarate</i></p> <hr/> <p><small>Email: sarah.zarate@sanjoseca.gov Date: 11/08/2024 PST</small></p>
Waste Disposal		

	<p style="text-align: center;"><i>Seth Reddy</i></p> <p>Email: sreddy@sjusd.org Date: 11/08/2024 PST</p>	<p style="text-align: center;"><i>Sarah Zarate</i></p> <p>Email: sarah.zarate@sanjoseca.gov Date: 11/08/2024 PST</p>
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The Owner will submit any request for reimbursement to the City of San Jose within 60 days after the occupancy of the City of San Jose ends. Any request for reimbursement must be accompanied by supporting invoices and documentation. Any request for reimbursement for personnel costs must be accompanied by a list of the personnel with the dates and hours worked.

SECTION 7. INSURANCE:

- A. City maintains a self-insurance program as authorized under California Government Code Section 990.4. City agrees that its activities pursuant to this Agreement are covered under its self-insurance program.
- B. City is self-insured against workers' compensation claims as authorized under California Labor Code Section 3700.

SECTION 8. RELEASE OF LIABILITY.

Owner waives and releases City from and against any and all rights, claims, demands, and damages, actions known or unknown, suspected or unsuspected, which Owner, its officers, agents, and employees may have or may acquire in the future based on damage to the Premises or personal property located in, on or about the Premises arising or resulting from City's use of the Premises under this Agreement, unless such damage is caused solely by the gross negligence or willful misconduct of the City. Section 1542 of the Civil Code of the State of California provides as follows:

A general release does not extend to claims which the creditor does not know or suspect to exist in his favor at the time of executing the release, which if known by him must have materially affected his settlement with the debtor.

It is expressly agreed that any and all rights granted to Owner under Section 1542 of the California Civil Code are hereby and expressly waived.

SECTION 9. PRIOR AGREEMENTS AND AMENDMENTS.

This Agreement represents the entire understanding of the parties as to those matters contained herein. No prior oral or written understanding shall be of any force or effect with respect to those matters covered hereunder. This Agreement may only be modified by a written amendment duly executed by the parties to this Agreement.

SECTION 10. GOVERNING LAWS AND VENUE.

The laws of the State of California shall govern this Agreement. Any litigation resulting from this Agreement will be filed and resolved by a federal or state court in and for Santa Clara County, California.

SECTION 11. MISCELLANEOUS.

- A. Non-Agency. The Owner is not an agent or employee of the City.
- B. Waiver of Violation. The City's waiver of any violation of this Agreement by the Owner is not a waiver of any other violation by the Owner.
- C. Assignability. Neither party may assign its rights or responsibilities under this Agreement to a third party without the written consent of the non-assigning party.
- D. Severability. If a court finds any part of this Agreement unenforceable, all other parts shall remain enforceable.
- E. Headings. The section and exhibit headings are for convenience only and are not to be used for interpreting this Agreement.

WITNESS THE EXECUTION HEREOF on the day and year first hereinabove written.

“OWNER”

SAN JOSÉ UNIFIED SCHOOL DISTRICT, a political subdivision of the State of California

By

Seth Reddy

Email: sreddy@sjusd.org
Date: 11/08/2024 PST

Name: Seth Reddy
Title: Chief Business Officer

“CITY”

CITY OF SAN JOSE, a municipal corporation

By

Sarah Zarate

Email: sarah.zarate@sanjoseca.gov
Date: 11/08/2024 PST

Name: Sarah Zarate
Title: Director of Administration,
Policy & Intergovernmental Relations

Approved as to legal form and content:

Attorney
Diana Yuan
Senr Deputy City Atty II U
diana.yuan@sanjoseca.gov

Diana Yuan

Email: diana.yuan@sanjoseca.gov
Date: 11/08/2024 PST

Diana Yuan
Senior Deputy City Attorney

EXHIBIT A

List of Facilities

Abraham Lincoln High School

555 Dana Avenue
San José, CA 95126
408-535-6300
lincoln.sjUSD.org

Bret Harte Middle School

7050 Bret Harte Drive
San José, CA 95120
408-535-6270
bretharte.sjUSD.org

Castillero Middle School

6384 Leyland Park Drive
San José, CA 95120
(408)535-6385
castillero.sjUSD.org

Gunderson High School

622 Gaundabert Lane
San José, CA 95136
(408)535-6340
gunderson.sjUSD.org

Herbert Hoover Middle School

1635 Park Avenue
San José, CA 95126
(408)535-6274
hoover.sjUSD.org

John Muir Middle School

1260 Branham Lane
San José, CA 95118
(408)535-6281
muir.sjUSD.org

Leland High School

6677 Camden Avenue
San José, CA 95120
(408)535-6290
leland.sjUSD.org

Muwekma Ohlone Middle School

850 North 2nd Street
San José, CA 95112
(408)535-6267
ohlone.sjUSD.org

Pioneer High School

1290 Blossom Hill Road
San José, CA 95118
(408)535-6310
pioneer.sjUSD.org

San José High School

275 North 24th Street
San José, CA 95116
(408)535-6320
sjhs.sjUSD.org

Willow Glen High School

2001 Cottle Avenue
San José, CA 95125
(408)535-6330
wghs.sjUSD.org

Willow Glen Middle School

2105 Cottle Avenue
San José, Ca 95125
(408)535-6277
wgms.sjUSD.org

EXHIBIT B

FACILITY USE(S)

FOR INTERNAL CITY USE ONLY (<i>check all that apply</i>)	
<input type="checkbox"/> ALL Services	<input type="checkbox"/> Other Mass Care Service(s):
<input type="checkbox"/> Shelter	<input type="checkbox"/> Other Mass Care Service(s):
<input type="checkbox"/> C-POD	<input type="checkbox"/> DDO
<input type="checkbox"/> Reunification & Notification Center	<input type="checkbox"/> Storage
<input type="checkbox"/> Other Mass Care Service(s):	<input type="checkbox"/> Parking

EXHIBIT C

PREMISES OPENING & CLOSING INSPECTION FORM

Name of Facility _____ Address _____ Date: _____

Name of Owner's Premises Coordinator: _____ Phone # _____

Any damages or additional comments: _____

Opening Inspection					
Areas to Inspect When Opening the Facility (Check yes, no, not applicable (NA) or unknown (U). Specific areas needing correction and those responsible for making them should be noted under "Comments". <i>Take pictures of pre-existing damages</i>)					
Yes	No	NA	U	Comments	Areas to Inspect
					Are indoor and outdoor walking surfaces free of trip and fall hazards (e.g. uneven sidewalks, unprotected walkways, loose/missing tiles, wires, etc...)?
					Are the routes to exits relatively straight and clear of obstructions (e.g. blocked, chained, obstructed)?
					Are all emergency exits properly identified and secured, and there are at least two exits per floor?
					Are illuminated exit and exit directional signs visible from all aisles?
					Are all kitchen equipment and bathroom fixtures in working order?
					Is there an emergency evacuation plan posted and an identified meeting place?
					Are there guidelines for directing occupants to an identified assembly area away from the building once they reach the ground floor?
					Are there any site specific hazards (e.g. hazardous chemicals and machinery)? If so, describe them.
					Is the facility neat, clean and orderly?
					Are the following utility systems in good working order: electricity, water, sewage system, HVAC?
					Are fire extinguishers and smoke detectors present, inspected and properly serviced with current inspection tags?
					If power fails, is automatic emergency lighting available for exit routes, stairs and restrooms?
					Is there a back-up power source?
					Are first aid kits readily available and fully stocked? Where?
					Will occupants of the building be notified that an emergency evacuation is necessary by a public address system or alarm?
					Are floors and walls free of damage?
					Is the parking area free of damage?

City Manager Name & Title: _____

Signature: _____









Owner Premises Coordinator Name & Title: _____

Signature: _____

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Created:	11/07/2024
Status:	Signed
Transaction ID:	ec9374b5-0893-44c8-b135-c72eb9b18265

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-  Jessica Lowry created the document.
11/07/2024 5:24:02 PM PST
-  Document was emailed to Seth Reddy
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-  Seth Reddy signed the document.
11/08/2024 8:54:18 AM PST
-  Document was emailed to Diana Yuan
11/08/2024 8:54:19 AM PST
-  Diana Yuan signed the document.
11/08/2024 9:22:42 AM PST
-  Document was emailed to Sarah Zarate
11/08/2024 9:22:43 AM PST
-  Sarah Zarate signed the document.
11/08/2024 10:59:28 AM PST
-  Document was successfully signed and filed
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