

**AGREEMENT FOR SPECIAL SERVICES
BY AND BETWEEN
SAN JOSÉ UNIFIED SCHOOL DISTRICT
AND
DOMUS AUREA, INC.**

This Agreement for Special Services ("Agreement") is made as of August 22, 2024, between the **San José Unified School District** ("District") and **Domus Aurea, Inc.** ("Contractor" or "Domus"). The District and Contractor may be individually referred to herein as a "Party" or collectively referred to herein as the "Parties."

RECITALS

WHEREAS, District owns Hoover Theater located at 1635 Park Avenue, San José, CA 95126 ("Hoover Theater"); and

WHEREAS District desires to engage the professional services of a contractor that has expert knowledge of and specializes in day-to-day operations and booking of a first-class multi-use theater; and

WHEREAS Government Code section 53060 allows the District to contract for special services without public bidding or other procurement processes; and

WHEREAS, Contractor has offered to perform certain services at Hoover Theater, and Contractor has the requisite personnel, expertise, and experience, to perform the services set for the herein in accordance with District's objectives; and

WHEREAS, District and Contractor desire that Contractor be contractually engaged to manage and operate Hoover Theater, and the parties desire to enter into this Agreement.

AGREEMENT

1. Term.

1.1. The term of this Agreement shall be for three (3) years. The commencement date shall be July 1, 2024, ("Commencement Date"), and, unless sooner terminated under any provision hereof, this Agreement shall end on June 30, 2027 ("Term").

1.2. Renewal of Agreement

If the Parties intend to renew this Agreement when the Term ends, the Parties may do so only by executing a separate writing that complies with all of the following provisions by March 1st of the final year of the term:

1.2.1. It specifically authorized further tenancy by Contractor and specifies the terms of that tenancy, and

1.2.2. It is approved by each Party's governing body prior to the end of the Term.

1.3. On the last day of the Term hereof, or on sooner termination of this Agreement, Contractor shall surrender the Premises to District and any existing improvements in good order, condition and repair, free and clear of all liens, claims and encumbrances. The condition of the Premises when surrendered shall be similar to that existing as of the Commencement Date of this Agreement excepting normal ordinary wear and tear and any structural improvements made by District subsequent to the Commencement Date. This Agreement shall operate as a conveyance and assignment to District of any improvements identified by District to remain on the Premises. Contractor shall remove from the Premises all of Contractor's personal property, trade fixtures, and any improvements made by Contractor which Contractor and District agreed would be removed by Contractor. All property not removed shall be deemed abandoned by Contractor. If the Premises are not surrendered at the end of the Term or upon earlier termination of this Agreement, Contractor shall indemnify District against loss or liability resulting from delay by Contractor in surrendering the Premises including, without limitation, any claims made by any succeeding Contractor or loss to District due to lost opportunities to timely obtain succeeding tenants.

2. Premises. Hoover Theater ("Theater" or "Premises") consists of 11,641 sqft of interior space, specifically, the Theater, the Green Room, four classrooms that constitute the Art Education Center, dressing rooms,

backstage facilities, stage, auditorium, certain seats and other equipment, shared use of Hoover school parking lots, the reception courtyard, use of the outer lobbies and the right of ingress and egress through halls and corridors of the Theater all as generally described on the diagram attached hereto as Exhibit A.

3. **Parking.** Contractor shall have reasonable and non-exclusive use of the parking lot described in Exhibit A. Contractor shall not abandon any inoperative vehicles or equipment on any portion of the parking.
4. **Operating Obligations of Contractor.** Contractor shall provide necessary personnel and management services to operate Hoover Theater within the budget for Hoover Theater as approved by District and within the management directives provided to Contractor. Contractor agrees to consult with District in the preparation of the budget for Hoover Theater, including assisting the District in its setting of fees for the use of the facility. The services to be provided by Contractor include those duties set forth in Exhibit B to this Agreement ("Operating Obligations of Domus Aurea, Inc.") and the following:
 - 4.1. Providing qualified staff to operate Hoover Theater. The qualified personnel may include a general manager, event coordinator, house manager, accountant, technical director, box office staff and other personnel needed to operate Hoover Theater;
 - 4.2. Booking a diverse range of entertainment and educational events and negotiating, arranging and preparing proposed contracts/license agreements between Contractor and users of Hoover Theater, within the guidelines set forth in this Agreement;
 - 4.3. Negotiating and arranging service and purchase agreements between Contractor and vendors as are necessary to operate Hoover Theater;
 - 4.4. Performing other services in furtherance of the foregoing as are mutually agreeable to District and Contractor;
 - 4.5. Paying all operational expenses as defined in Section 7.3.2;
 - 4.6. Providing all functions necessary to operate the Hoover Theater, including providing maintenance and custodial service for the Premises;
 - 4.7. Requiring that all users of Hoover Theater indemnify, hold harmless and defend the District to the same extent as Contractor agrees to indemnify, hold harmless and defend the District in this Agreement and that all users of Hoover Theater carry at least the types and levels of insurance coverages set forth in the Standard License Agreement, attached hereto as Exhibit C.
5. **Operating Obligations of District. District shall be obligated as follows:**
 - 5.1. Fund all capital improvements and major equipment purchases of Hoover Theater.
 - 5.2. Whenever the Contractor requests the District to approve an item contemplated by this Agreement, the District shall review the request promptly and shall make its decision in a reasonable time frame.
 - 5.3. District shall maintain the levels and coverage of commercial general liability and property insurance it has in effect for Hoover Theater, as of the Commencement Date, and shall notify Contractor of any changes in such levels or coverages which materially decrease District's insurance coverage for Hoover Theater.
 - 5.4. District shall be responsible for telephone, utilities, and internet service within the specified interior spaces. For purposes of this Agreement, "utilities" includes routine maintenance, custodial service, grounds service, general security monitoring (excludes event security), natural gas, electricity, water, irrigation, waste removal, hazardous waste compliance, data, sewage fees, and associated insurance fees.
 - 5.5. District shall perform such maintenance and repairs as are necessary to keep Hoover Theater in good order and condition similar to that existing as of the Commencement Date and to the standard of care equal to other District facilities on normal business days.

- 5.6. The District will provide general property monitoring, excluding special events that require additional security.
6. **Compensation of Contractor.** District shall compensate Contractor for Contractor's services under this Agreement as follows:
 - 6.1. **Base Fee.** The base fee for Contractor's services shall be **Forty-Six Thousand Two Hundred Dollars (\$46,200.00)** per year paid in monthly installments of **Three Thousand Eight Hundred Fifty Dollars (\$3,850.00)** pro-rated for any partial year. Payment shall be made on the first business day of each month.
7. **Payments to District.**
 - 7.1. **Reimbursement of Base Fee.** For each fiscal year ending June 30, Contractor shall pay District one hundred percent of Net Operating Income, as defined in Section 7.3 below, up to Forty-Six Thousand Two Hundred Dollars (\$46,200.00). Should the Net Operating Income be less than \$46,200.00, the Contractor shall pay to the District the actual Net Operating Income. Payment shall be made by September 30th. This reimbursement may be waived upon mutual agreement between Contractor and District if the Net Operating Income is reinvested in equipment and facility improvement.
 - 7.2. **Percentage Share of Net Operating Income.** For each fiscal year ending June 30, Contractor shall pay District fifty percent (50%) of Net Operating Income, as defined below, in excess of \$46,200.00. Payment shall be made by September 30th.
 - 7.3. **Definition of Net Operating Income.** For purposes of this Agreement, the term "Net Operating Income" shall be defined as: Hoover Theater Operational Revenues less Hoover Theater Operational Expenses.
 - 7.3.1. "Hoover Theater Operational Revenues" consist of all revenue related to Contractor's operation of the Hoover Theater, including all facility and equipment rental fees, concessions, fundraising revenue, merchandise sales, parking revenues, box office income, promotion/production reimbursements, interest and other customary receipts, and any other revenues collected by Contractor as a result of licensing the Theater.
 - 7.3.2. Operational expenses consist of all expenses incurred by Contractor that arise from the Hoover Theater, including all Contractor's employee and independent contractor services costs (such as employee payroll and benefits), Contractor's professional services (such as accounting and legal), utilized at the Premises, advertising, insurance, postage, travel, office equipment, cleaning and other costs incurred to provide Contractor's services as set forth in this Agreement.
8. **Independent Contractor.** Contractor, in the performance of this Agreement, shall be and act as an independent contractor. Contractor understands and agrees that he/she and all of his/her employees shall not be considered officers, employees, agents, partner, or joint venture of the District, and are not entitled to benefits of any kind or nature normally provided employees of the District and/or to which District's employees are normally entitled, including, but not limited to, State Unemployment Compensation or Worker's Compensation. Contractor shall assume full responsibility for payment of all federal, state and local taxes or contributions, including unemployment insurance, social security and income taxes with respect to Contractor's employees.
9. **Standard of Care.**
 - 9.1. Contractor represents that Contractor has the qualifications and ability to perform the Services in a professional manner, without the advice, control or supervision of District. Contractor's Services will be performed, findings obtained, reports and recommendations prepared in accordance with generally and currently accepted principles and practices of its profession for services to California school districts. Contractor's Services will be performed with due care and in accordance with applicable law, code, rule, regulation, and/or ordinance.
 - 9.2. Contractor hereby represents that it possesses the necessary professional capabilities, qualifications, licenses, skilled personnel, experience, expertise, and financial resources, and it has available and will provide the necessary equipment, materials, tools, and facilities to perform the Services in an efficient, professional, and timely manner in accordance with the terms and conditions of the Agreement.
 - 9.3. Contractor shall be responsible for the professional quality, technical accuracy, completeness, and coordination of the Services, and Contractor understands that the District relies upon such professional quality, accuracy, completeness, and coordination by Consultant in performing the Services.

- 9.4. Contractor shall ensure that any individual performing work under the Agreement requiring a California license shall possess the appropriate license required by the State of California. All personnel shall have sufficient skill and experience to perform the work assigned to them.
10. **Originality of Services.** Contractor agrees that all technologies, formulae, procedures, processes, methods, writings, ideas, dialogue, compositions, recordings, teleplays and video productions prepared for, written for, or submitted to the District and/or used in connection with this Agreement, shall be wholly original to Contractor and shall not be copied in whole or in part from any other source, except that submitted to Contractor by District as a basis for such services.
11. **Copyright/Trademark/Patent.** Contractor understands and agrees that all matters produced under this Agreement shall become the property of District and cannot be used without District's express written permission. District shall have all right, title and interest in said matters, including the right to secure and maintain the copyright, trademark and/or patent of said matter in the name of the District. Contractor consents to use of Contractor's name in conjunction with the sale, use, performance and distribution of the matters, for any purpose and in any medium.
12. **Termination.**
- 12.1. **Without Cause by District.** District may, at any time, with or without reason, terminate this Agreement and compensate Contractor only for services satisfactorily rendered to the date of termination. Written notice by District shall be sufficient to stop further performance of services by Contractor. Notice shall be deemed given when received by the Contractor or no later than three days after the day of mailing, whichever is sooner.
- 12.2. **With Cause by District.** District may terminate this Agreement upon giving of written notice of intention to terminate for cause. Cause shall include:
- 12.2.1. material violation of this Agreement by the Contractor; or
- 12.2.2. any act by Contractor exposing the District to liability to others for personal injury or property damage; or
- 12.2.3. Contractor is adjudged a bankrupt, Contractor makes a general assignment for the benefit of creditors or a receiver is appointed on account of Contractor's insolvency.
- Written notice by District shall contain the reasons for such intention to terminate and, unless within three (3) calendar days after that notice the condition or violation shall cease or satisfactory arrangements for the correction thereof be made, this Agreement shall upon the expiration of the three (3) calendar days cease and terminate. In the event of this termination, the District may secure the required Services from another Contractor. If the expense, fees, and/or costs to the District exceeds the cost of providing the Services pursuant to this Agreement, the Contractor shall immediately pay the excess expense, fees, and/or costs to the District upon the receipt of the District's notice of these expenses, fees, and/or costs. The foregoing provisions are in addition to and not a limitation of any other rights or remedies available to District.
- 12.3. **With Cause by Contractor.** The Contractor has the right to terminate this Agreement if the District does not fulfill its material obligations under this Agreement and fails to cure such material default within sixty (60) days, or if the default cannot be cured within sixty (60) days, commence to cure such default, diligently pursue such cure, and complete the cure within a reasonable time following written notice and demand from Contractor. Such termination shall be effective after receipt of written notice from Contractor to the District.
- 12.4. Upon termination, Contractor shall provide the District with all documents produced maintained or collected by Contractor pursuant to this Agreement, whether or not such documents are final or draft documents.
- 12.5. **Termination for Non-Appropriation of Funds.** The continuation of this Agreement is contingent upon the appropriation of funds to fulfill the requirements of the Agreement by the District. If the District fails to appropriate sufficient monies to provide for the continuation of the Agreement, or if appropriations to the District are reduced and the effect of such reduction is to provide insufficient monies for the continuation of the Agreement, the Agreement shall terminate on the date of the beginning of the first fiscal year for which funds have not been appropriated. Contractor will only be entitled to payment for deliverables that have been satisfactorily completed as of the termination date.
13. **Force Majeure Clause.** Contractor shall be excused from performance hereunder during the time and to the extent that it is prevented from obtaining delivery, or performing by act of God, fire, strike, loss, or shortage of transportation facilities, lock-out, commandeering of materials, product, plant, or facilities by the government, or pandemic (collectively a "Force Majeure Event") when satisfactory evidence thereof is presented to the District, provided that it is satisfactorily established that the non-performance is not due to the fault or neglect of the Contractor. Any delay associated with a Force Majeure Event, or any federal, state, or local order relating

thereto, shall not be considered a Force Majeure Event unless it renders Consultant’s performance of the Services impossible, and that event was not reasonably foreseeable at the time Contractor executed this Agreement.

14. **Indemnification.** To the furthest extent permitted by California law, Contractor shall defend, indemnify, and hold free and harmless the District, its agents, representatives, officers, consultants, employees, trustees, and volunteers (“the indemnified parties”) from any and all claims, demands, causes of action, costs, expenses, liability, loss, damage or injury of any kind, in law or equity, including without limitation the payment of all consequential damages (“Claim”), arising out of, pertaining to or relating to, in whole or in part, the negligence, recklessness, errors or omissions, or willful misconduct of Contractor, its officials, officers, employees, subcontractors, consultants, or agents directly or indirectly arising out of, connected with, or resulting from the performance of the Services or from any activity, work, or thing done, permitted, or suffered by the Contractor in conjunction with this Agreement. The District shall have the right to accept or reject any legal representation that Contractor proposes to defend the indemnified parties.

15. **Release.** Contractor acknowledges that it is voluntarily and freely entering into this Agreement and to perform the Services which may require Contractor to enter upon and into the District’s site(s) or property(ies) (“Premises”). Contractor further acknowledges that Contractor’s use of the Premises may result in Contractor’s exposure to and illness from infectious disease including, but not limited to, MSRA, influenza and COVID-19 (collectively “Infectious Disease”). Contractor further acknowledges the dangers involved with providing the Services and, with full knowledge of these dangers, voluntarily agrees to assume all risks of bodily injury, death, or property damage, whether those risks are known or unknown. Contractor hereby releases the District, its agents, representatives, officers, consultants, employees, trustees, and volunteers from any and all liabilities, causes of action, lawsuits, claims, demands, or damages of any kind whatsoever that Contractor, its staff, participants, relatives, children, spouse, partner, household members, family members, employees, guests, invitees, volunteers, agents, consultants and any other person tracing exposure or illness to Contractor, now have, or may have in the future, for injury, trauma, illness, loss, unwanted contact, harassment, disability, death or property damages related to being exposed to or contracting an Infectious Disease while using the Premise for the performance of the Services.

16. **Insurance.**

16.1. The Contractor shall procure and maintain at all times it performs any portion of the Services the following insurance with minimum limits equal to the amount indicated below.

16.1.1. **Commercial General Liability and Automobile Liability Insurance.** Commercial General Liability Insurance and Any Auto Automobile Liability Insurance that insure against all claims of bodily injury, property damage, personal injury, death, advertising injury, and medical payments arising from Contractor’s performance of any portion of the Services. (Form CG 0001 and CA 0001)

16.1.2. **Workers’ Compensation and Employers’ Liability Insurance.** In the event that Contractor obtains employees, Contractor shall maintain Worker’s Compensation as follows:

Workers’ Compensation Insurance and Employers’ Liability Insurance for all of its employees performing any portion of the Services. In accordance with provisions of section 3700 of the California Labor Code, the Contractor shall be required to secure workers’ compensation coverage for its employees. If any class of employee or employees engaged in performing any portion of the Services under this Agreement are not protected under the Workers’ Compensation Statute, adequate insurance coverage for the protection of any employee(s) not otherwise protected must be obtained before any of those employee(s) commence performing any portion of the Services. Worker’s Compensation Insurance shall be at statutory limits and Employers’ Liability Insurance shall be at \$1,000,000.

16.1.3. **Professional Liability (Errors and Omissions).** Professional Liability (Errors and Omissions) Insurance as appropriate to the Contractor’s profession.

Type of Coverage	Minimum Requirement
Commercial General Liability Insurance , including Bodily Injury, Personal Injury, Property Damage, Advertising Injury, and Medical Payments	
Each Occurrence	\$ 2,000,000
General Aggregate	\$ 4,000,000
Automobile Liability Insurance - Any Auto	

Each Occurrence	\$ 1,000,000
General Aggregate	\$ 2,000,000

- 16.2. **Proof of Carriage of Insurance.** The Contractor shall not commence performing any portion of the Services until all required insurance has been obtained and certificates indicating the required coverage's have been delivered in duplicate to the District and approved by the District. Certificates and insurance policies shall include the following:
- 16.2.1. A clause stating: "This policy shall not be canceled or reduced in required limits of liability or amounts of insurance until notice has been mailed to the District, stating date of cancellation or reduction. Date of cancellation or reduction shall not be less than thirty (30) days after date of mailing notice."
 - 16.2.2. Language stating in particular those insured, extent of insurance, location and operation to which insurance applies, expiration date, to whom cancellation and reduction notice will be sent, and length of notice period.
 - 16.2.3. An endorsement stating that the District and its representatives, employees, trustees, officers, and volunteers are named additional insureds under all policies except Workers' Compensation Insurance, Professional Liability, and Employers' Liability Insurance. An endorsement shall also state that Contractor's insurance policies shall be primary to any insurance or self-insurance maintained by District.
 - 16.2.4. All policies shall be written on an occurrence form, except for Professional Liability which shall be on a claims-made form.
- 16.3. **Acceptability of Insurers.** Insurance is to be placed with insurers with a current A.M. Best's rating of no less than A: VII, unless otherwise acceptable to the District.

17. **Assignment.** The obligations of the Contractor pursuant to this Agreement shall not be assigned by the Contractor.

18. **Compliance with Applicable Laws.** In performing services under this Agreement, Contractor shall comply with all applicable legal requirements. Contractor must complete and sign the Contractor Certifications attached as Exhibit F when Contractor submits this Agreement to the District. It shall be the sole responsibility of Contractor to obtain any needed business licenses, certificates, permits to conduct business to meet the terms of this Agreement.

Contractor shall give all notices required by any law, ordinance, rule and regulation bearing on conduct of the Work as indicated or specified. If Contractor observes that any of the Work required by this Agreement is at variance with any such laws, ordinance, rules or regulations, Contractor shall notify the District, in writing, and, at the sole option of the District, any necessary changes to the scope of the Work shall be made and this Agreement shall be appropriately amended in writing, or this Agreement shall be terminated effective upon Contractor's receipt of a written termination notice from the District. If Contractor performs any work that is in violation of any laws, ordinances, rules or regulations, without first notifying the District of the violation, Contractor shall bear all costs arising therefrom.

19. **Permits/Licenses.** Contractor and all Contractor's employees or agents shall secure and maintain in force such permits and licenses as are required by law in connection with the furnishing of services pursuant to this agreement.

20. **Safety and Security.** Contractor is responsible for maintaining safety in the performance of this Agreement. Contractor shall be responsible to ascertain from the District the rules and regulations pertaining to safety, security, and driving on school grounds, particularly when children are present. Contractor is responsible to comply with Santa Clara County Public Health's guidelines concerning the Novel Coronavirus (COVID-19).

21. **Employment with Public Agency.** Contractor, if an employee of another public agency, agrees that Contractor will not receive salary or remuneration, other than vacation pay, as an employee of another public agency for the actual time in which services are actually being performed pursuant to this Agreement.

22. **Anti-Discrimination.** It is the policy of the District that in connection with all work performed under Contracts there be no discrimination against any employee engaged in the work because of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, or military and veteran status and therefore the Contractor agrees to comply with applicable Federal and California laws including, but not limited to the California Fair Employment and Housing Act beginning with Government Code Section 12900 and Labor Code Section 1735. In addition, the Contractor agrees to require like compliance by all its

subcontractor(s).

23. **Audit.** Contractor shall establish and maintain books, records, and systems of account, in accordance with generally accepted accounting principles, reflecting all business operations of Contractor transacted under this Agreement. Contractor shall retain these books, records, and systems of account during the Term of this Agreement and for five (5) years thereafter. Contractor shall permit the District, its agent, other representatives, or an independent auditor to audit, examine, and make excerpts, copies, and transcripts from all books and records, and to make audit(s) of all billing statements, invoices, records, and other data related to the Services covered by this Agreement. Audit(s) may be performed at any time, provided that the District shall give reasonable prior notice to Contractor and shall conduct audit(s) during Contractor's normal business hours, unless Contractor otherwise consents.
24. **District's Evaluation of Contractor and Contractor's Employees and/or Subcontractors.** The District may evaluate the Contractor in any manner which is permissible under the law. The District's evaluation may include, without limitation:
- 24.1. Requesting that District employee(s) evaluate the Contractor and the Contractor's employees and subcontractors and each of their performance.
 - 24.2. Announced and unannounced observance of Contractor, Contractor's employee(s), and/or subcontractor(s).
 - 24.3. Consultant agrees to remove or re-assign its employees as may be reasonably requested by the District as a result of the District's evaluation. The District shall provide its request in writing, convey the basis for its request and provide reasonable time for Consultant to satisfy the District's request.
25. **Limitation of District Liability.** Other than as provided in this Agreement, District's financial obligations under this Agreement shall be limited to the payment of the compensation provided in this Agreement. Notwithstanding any other provision of this Agreement, in no event, shall District be liable, regardless of whether any claim is based on contract or tort, for any special, consequential, indirect or incidental damages, including, but not limited to, lost profits or revenue, arising out of or in connection with this Agreement for the services performed in connection with this Agreement.
26. **Disputes:** In the event of a dispute between the parties as to performance of Work, Agreement interpretation, or payment, the Parties shall attempt to resolve the dispute by negotiation and/or mediation, if agreed to by the Parties. Pending resolution of the dispute, Contractor shall neither rescind the Agreement nor stop Work.
27. **Confidentiality.** The Contractor and all Contractor's agents, personnel, employee(s), and/or subcontractor(s) shall maintain the confidentiality of all information received in the course of performing the Services. This requirement to maintain confidentiality shall extend beyond the termination of this Agreement.
28. **Notice.** Any notice required or permitted to be given under this Agreement shall be deemed to have been given, served, and received if given in writing and either personally delivered or sent by overnight delivery service, or facsimile transmission, addressed as follows:

San José Unified School District
Attn: Purchasing & Contract Management
855 Lenzen Avenue
San Jose, CA 95126

Domus Aurea, Inc.
Attn: Susan Rojas
59 Washington Street #146
Santa Clara, CA 95050

Any notice personally given shall be effective upon receipt. Any notice sent by overnight delivery service shall be effective the business day next following delivery thereof to the overnight delivery service.

29. **Integration/Entire Agreement of Parties.** This Agreement constitutes the entire agreement between the Parties and supersedes all prior discussions, negotiations, and agreements, whether oral or written. This Agreement may be amended or modified only by a written instrument executed by both Parties.
30. **California Law.** This Agreement shall be governed by and the rights, duties and obligations of the Parties shall be determined and enforced in accordance with the laws of the State of California. The Parties further agree that any action or proceeding brought to enforce the terms and conditions of this Agreement shall be maintained in the California county in which the District's administration offices are located.

- 31. **Provisions Required by Law Deemed Inserted.** Each and every provision of law and clause required by law to be inserted in this Agreement shall be deemed to be inserted herein and this Agreement shall be read and enforced as though it were included therein.
- 32. **Authority of Executing Officer or Party.** By signing below, the signer represents that it has the legal right, power, and authority to enter into and execute this Agreement and to bind the Party on whose behalf the signer executes this Agreement.
- 33. **Waiver.** The waiver by either party of any breach of any term, covenant, or condition herein contained shall not be deemed to be a waiver of such term, covenant, condition, or any subsequent breach of the same or any other term, covenant, or condition herein contained.
- 34. **Severability.** If any term, condition or provision of this Agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remaining provisions will nevertheless continue in full force and effect, and shall not be affected, impaired or invalidated in any way.
- 35. **Incorporation of Recitals and Exhibits.** The Recitals and each exhibit attached hereto are hereby incorporated herein by reference.

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement as of the date that is later of the two dates set forth below.

San José Unified School District

Date:

By:

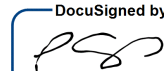
Tracy Morrison
Director, Procurement

Initial


Domus Aurea, Inc.

Date: 12/3/2024

By:

DocuSigned by:

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Paula Davis
CEO

EXHIBIT A
SITE MAP

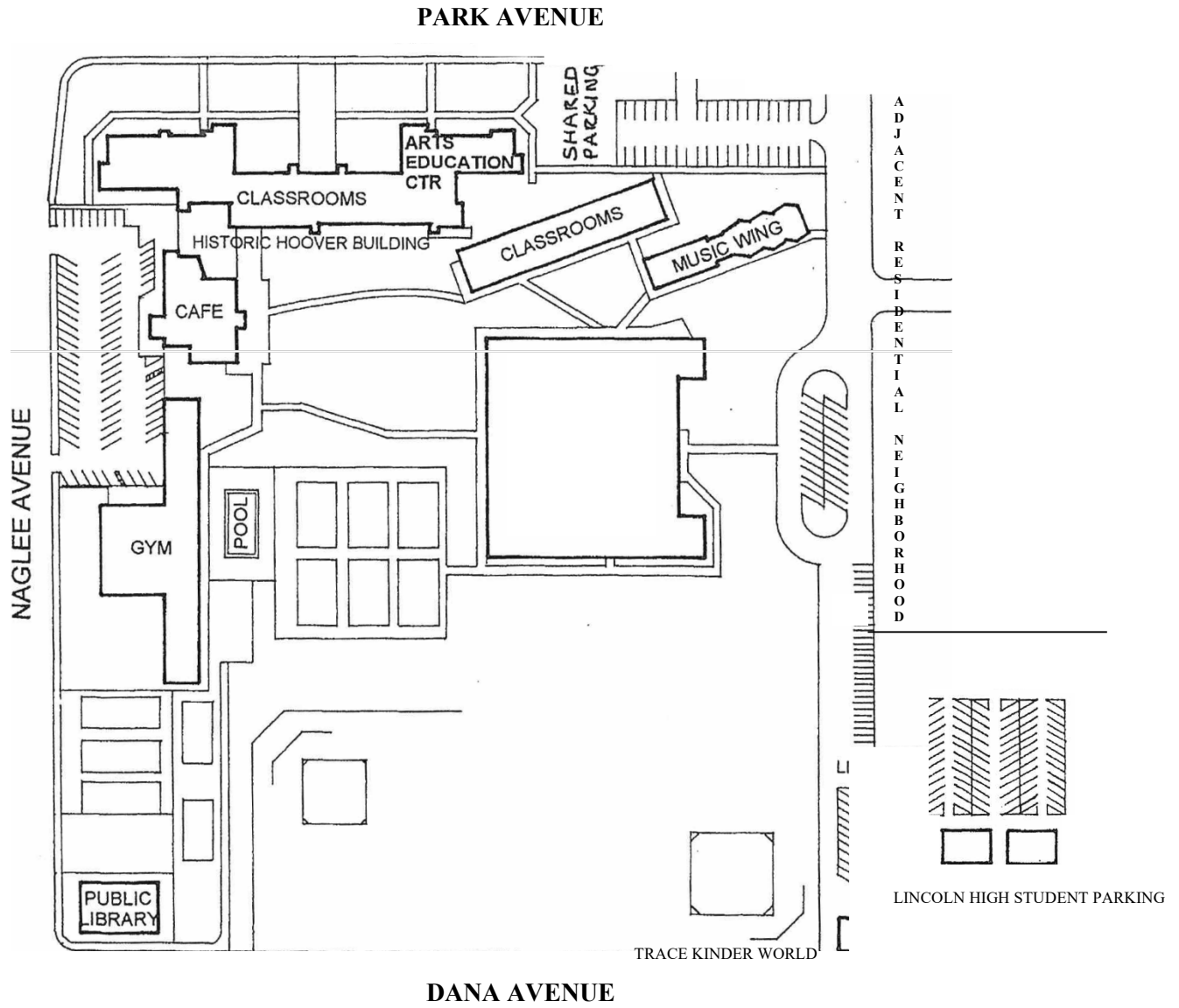


EXHIBIT A
FLOOR PLAN

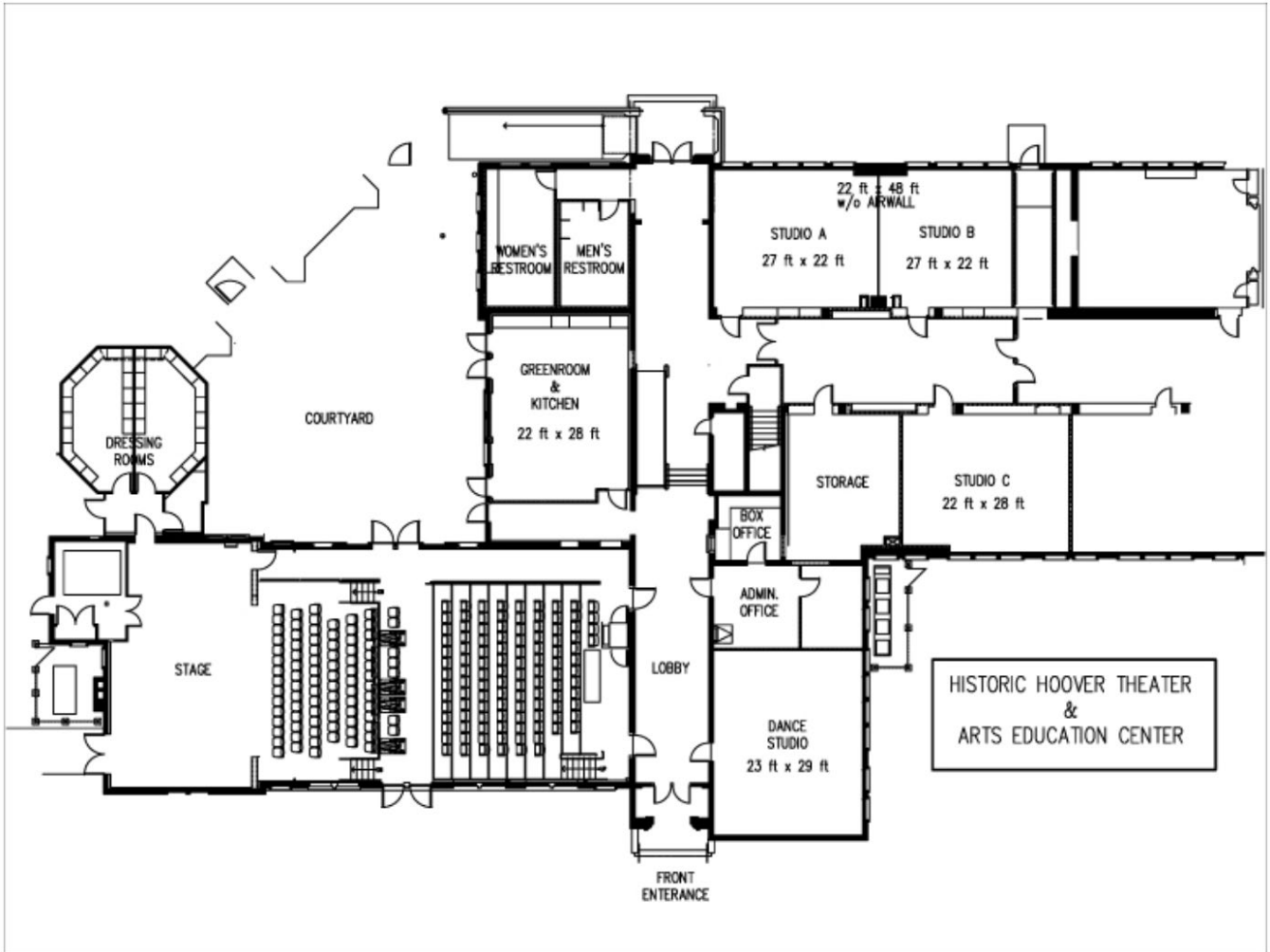


EXHIBIT B
OPERATING OBLIGATIONS OF DOMUS AUREA, INC.

In performing its obligation pursuant to the Agreement, Domus shall follow the following operation requirements:

1. Domus shall schedule use of Theater and additional facility space with first priority of use within the first 60 days to be given to District users. Requests for use by District users will be submitted prior to January 30th for the following academic year. Calendar will then open to outsider renters March 1st for the following academic year.
2. With District's approval, Domus shall set lease and equipment rental rates that reflect consideration for District users as well as youth and non-profit group renters.
3. In Domus' negotiating and administering of license agreements between users of facility and Domus, the District retains the right to prohibit any performance or to withhold approval of any proposed contract if in District's view such performance is not within District's Programming Guidelines or such contract is not in District's best business interest. A copy of the District's Programming Guidelines for the Hoover Theater is attached hereto as Exhibit E. Domus shall consult with the District on whether to omit programs not clearly covered by the Program Guidelines.
4. ~~Domus shall establish an intern/mentor program that draws from students of the District and provides an educational and rewarding experience for the student. Approximately 4-5 District students shall participate in this program at a time, or an amount mutually agreed upon.~~
5. Domus shall convey District use rules to renters both contractually and verbally, and enforce same (liability insurance, etc.)
6. The cost of rekeying the Hoover Theater, if necessary, shall be the responsibility of Domus. District reserves the right to key-control and issuance of duplicate keys in order to maintain the integrity of District policy.
7. Domus shall maintain and repair all Hoover Theater equipment, necessary for the operations of the Theater programs, including the production equipment.
8. Domus and the District shall review potential Capital Improvement projects annually.
9. Domus shall market the Theater facility to potential user groups including development of marketing materials, networking with community-based arts groups, and hosting facility tours.
10. Once a year, Domus shall submit accounting of revenue and expenses to the District, or as requested by District, in a format to be agreed upon by both Parties.
11. In licensing the Hoover Theater for use by third parties, Domus shall use a licensing agreement substantially similar to the sample agreement attached hereto as Exhibit C, and shall charge fees set forth on the fee schedule attached hereto as Exhibit D.




EXHIBIT C
STANDARD LICENSE AGREEMENT

HISTORIC HOOVER THEATRE LEASE AGREEMENT

THIS LEASE AGREEMENT is entered into this _____ day of _____ by and between Domus Aurea, Inc., a Corporation doing business in California ("Lessor") and _____, a non-profit organization ("Lessee"), whose principal address _____.

WHEREAS the premises know as Hoover Theater/Arts Education Center, located at 1635 Park Avenue, San José CA 95126 (the "theater" or "premises" belongs to San José Unified School District (the "District") and

WHEREAS by Agreement dated August 20, 2024, the District has granted Lessor the right to enter into license agreements with third parties for use of the Theater.

SECTION 1. LEASED PREMISES

Subject to the terms and conditions set forth in this Lease Agreement, Lessor does hereby lease and let unto Lessee during the term set forth in Section 2 below, for the consideration set forth in Section 3 below, the premises known as the Hoover Theatre and Arts Education Center, located at 1635 Park Avenue, San José , CA (the "Theatre") for use and occupancy by the Lessee, such use to include, without limitations, dressing rooms, backstage facilities, courtyard, greenroom, stage, auditorium, seats and other equipment, necessary for the presentation of a stage performance or meeting, including without limitation, stock draperies, general lighting, and seating or air conditioning equipment and in addition to phone and internet service. In addition, such use shall include without limitation, use of the outer lobbies and the right of ingress and egress through such halls and corridors of the Theatre under Lessor's control, provided that Lessee's right of ingress and egress shall not infringe or impede the rights of use of third parties in the Theatre. The General Manager of the Theatre ("General Manager") shall have authority to resolve any controversy in his/her sole discretion, involving the use of space in the Theatre and the General Manager's determination shall be binding on Lessee.

SECTION 2. PURPOSE AND TERM

- (A) Lessee shall use the Theatre for the following purpose(s):
- (B) The term of the lease shall be from see below through and including ____, pursuant to the following schedule:
Dates -
- (C) During such term, Lessee may use the Theatre during the hours of 9:00 a.m. through 9:59 p.m. for the purpose of set-up, rehearsal, performance, and dismantling. Lessee, or Lessee's authorized representative, agent, or employee shall remain in the Theatre until all patrons, guests, and persons under the direct or indirect supervision or control of Lessee, have vacated the Theatre.

SECTION 3. RENTAL AND OTHER FEES

- (A) In consideration of the use and occupancy of the Theatre Lessee shall pay to Lessor a Basic Rental Fee in the amount of \$_____ per performance day.
- (B) Lessee shall pay Lessor, upon execution of the Lease Agreement, a deposit in the amount of _____ \$ made payable to Domus Aurea, Inc, which shall be non-refundable in the event of a cancellation of the Lease Agreement. Deposit to be returned with Lease Agreement to Lessor no later than close of business on _____ Lease Agreement is not valid until a deposit and signed Lease Agreement is received and fully executed Lease Agreement is returned to Lessee.
- (C) In addition to the amounts set forth in subsections (A), (B) above, and in accordance with the rate card currently in use at the time of the Lessee's usage, Lessee shall pay the following to the Lessor no later than one (1) hour after the last scheduled performance time.

- (i) If required, a fee for certain services, including but not exclusive of (a) setting-up and removing all booths, counters, risers, signs, tables, chairs and other furnishings, if any, necessary for, or convenient to, Lessee's use; (b) receiving, setting-up, and dismantling all sets, if any; (c) handling and storing crates and boxes, if any; (d) supplying qualified stagehands, musicians, wardrobe attendants, carpenters, electricians, engineers, and other tradesmen, technicians and operators for sound system, motion picture equipment, stage lighting and equipment and other special lighting or equipment, and such other personnel as required; it being expressly acknowledged and understood by Lessee that Lessor has the sole right to select, in its sole discretion, any and all persons who will perform work at the Theatre. The fee for services under this subsection shall be based upon the Lessor's ratecard or the current rates for union labor in effect on the day of performance and shall include wages, benefits, payroll taxes, and payroll processing fees.
- (ii) A fee for any additional services or equipment furnished by Lessor in connection with Lessee's needs, as determined in advanced production meetings. The fee for such additional services or equipment shall be based upon the actual cost to the Lessor of such services or equipment plus 5% or, for services provided by Lessor's employees or equipment owned by Lessor, the usual customary charges for such services and equipment.

Final settlement and payment with respect to the actual amount due under Section 3 will be made no later than one (1) hour after the scheduled time of the final performance. At the sole discretion of the General Manager, payment by Lessee of all or any part of the fees, deposits, and charges in Section 3 may be demanded by 5:00 p.m. three (3) business days prior to the commencement of the term of this Lease Agreement. Payment shall be made in cash or certified check or money order.

In the event that any rental, deposits, fees, or charges are not paid when due, the General Manager, at his/her sole discretion, may cancel all performances of Lessee, and terminate this Lease as well as all subsequent Lease(s), with Lessor retaining all sums paid by Lessee as cancellation and Lessor shall further be entitled to reimbursement by Lessee of any and all expenses and/or costs incurred by Lessor, directly or indirectly, as a result of such cancellation.

Failure to pay any rentals, deposits, fees or charges when due and payable, shall obligate the Lessee to pay a late fee of 5% per month on such rentals, deposits, fees, or other charges, until paid in full.

- (D) If required, a fee of \$ 500.00 per performance, and for each non-performance day, during the term of the Lease Agreement for a Technical Director, provided by Lessor, who shall be present for all set-ups, rehearsals, performances and dismantling and who shall operate and attach to Lessor's equipment all theatrical equipment and similar stage equipment furnished by Lessee (provided that the Technical Director may appoint a qualified representative or agent to act for him.) Fee to be paid via cash or check no less than 10 days prior to performance date, payable directly to Technical Director.

SECTION 4. DAMAGE DEPOSIT; ALTERATION OF THEATRE

- (A) At the discretion of the General Manager, Lessor may assess Lessee a \$500.00 damage deposit, which shall be applied against the cost of repair for any damages to the Theatre, or any of its furnishings, fixtures, or equipment, caused by or arising out of Lessee's use and occupancy of the Theatre; provided, however, that the extent of Lessee's liability and responsibility to pay for and repair any damages to the Theatre shall not in any manner be restricted by the amount of such damage deposit, and Lessor may seek full reimbursement from Lessee for the actual cost of repairs if, and to the extent that, such amount exceeds the amount of the damage deposit. In the event that the Theatre suffers no damages, or the amount of such damages, in the aggregate, is less than \$ 500.00, then the Lessor shall refund the deposit, or the portion thereof remaining after payment for such repair, to Lessee within sixty (30) days of the last day of the term of the Lease.
- (B) By payment of the damage deposit set forth in subsection 4 (A) above, Lessee shall be deemed to have accepted the Theatre in its condition as of the commencement of the term hereof. Lessee shall not install or make any improvements, additions or alterations of any nature in, to, or on the Theatre, including without limitation, driving any tack, nail, or screw, or the use of adhesive tape on any surface (with the exception of blue painters' tape) in the Theatre without prior given notice and consent received of the Lessor. In the event

that Lessor shall give its consent, any such improvement, addition or alteration shall be removed by Lessee, at Lessee's sole cost and expense, upon the termination of this Lease, and the Theatre shall be placed in the same condition as existed on the commencement of the term hereof, normal wear and tear excepted.

- (D) If General Manager does not access a damage deposit but damage to the theatre does occur, Lessee shall be deemed responsible to reimburse Lessor for the actual cost of repairs of such damages.

If Lessee causes or allows major damage to occur and/or does not reimburse Lessor for such damages, Lessee shall be placed on Lessor's Do Not Lease list.

If Lessee intends to utilize stage surface for tap dancing purposes, a Marley floor must be laid down at Lessee's expense.

SECTION 5. INSURANCE

- (A) Lessee shall obtain and keep in full force and effect during the Term, for the benefit of Domus and the San José Unified School District, commercial general liability and property damage insurance from companies authorized and admitted to do business in California, satisfactory to Lessor, in order to fully indemnify and hold and save Lessor harmless from and against any and all cost, expense, claim, demand, cause of action or liability of whatsoever nature arising from the operations to be conducted by Lessee hereunder in minimum amounts of \$1,000,000.00 for injuries to or death of any number of persons in any one accident, property damage liability in the amount of \$1,000,000.00, auto liability for owned or non-owned vehicles in the amount of \$ 250,000.00 and Worker's Compensation to statutory limits. Lessee shall keep and maintain in full force and effect Workmen's Compensation insurance with respect to all persons employed or to be employed by Lessee in connection with Lessee's use and occupancy of the Theatre. Lessee shall keep and maintain in full force fire insurance for the full replacement value of all of Lessee's equipment, furnishings, materials and other property owned, rented, or brought into the Theatre by Lessee. **Certificates of insurance evidencing the same shall be furnished to Lessor no later than fifteen (15) business days prior to the commencement of Lessee's usage and shall state that such policies are not cancelable without ten (10) days written notice of cancellation to Lessor. All premiums on all policies shall be paid by Lessee.** Lessee shall not authorize, permit suffer to be done any act or course of conduct within Theatre which may in any manner conflict with the conditions stated in any policy of insurance then in effect covering the Theatre, or which may in any manner increase the premium rate of any fire, liability, or extended coverage insurance in existence upon the Theatre or any property of Lessor situated therein, or which may in any manner obstruct or interfere with the rights of other lessees or occupants of the Theatre or any portion thereof. In the event Lessee is a non-profit or charitable association, corporation or other entity and by virtue thereof, has or claims an immunity or exemption (statutory or otherwise) from and against any liability for damages or injury to property or persons, Lessee, by its execution hereof, expressly waives any such right to plead such immunity or exemption as a defense against Lessor.
- (B) Lessee hereby releases Lessor from any liability for any loss, damage, or injury to customers or patrons of Lessee by reason of the operations of Lessee hereunder or for the loss of any of the equipment or otherwise, during the continuance of the term of the Lease Agreement, and Lessee shall indemnify and hold harmless Lessor against any and all liability which may arise or be created by Lessee's operations hereunder whether due to the negligence of the Lessee, of any of its representatives, agents or employees.
- (C) All liability policies maintained by Lessee shall name Lessor as follows:

"Domus Aurea, Inc., Hoover Theatre, San José Unified School District, their Board of Trustees, officers, agents, and employees."

In the event that Lessee fails to obtain and maintain in full force and effect any of the insurance required under this Section 5, Lessor shall have the right, but not the obligation, to obtain and maintain, at Lessee's expense, any and all such insurance and Lessee shall pay Lessor a charge of \$ 500.00 per performance. Lessee must notify Lessor no less than 30 days prior to the first date of the term of this Lease Agreement should Lessor be requested to obtain insurance. Notwithstanding anything herein to the contrary, Lessor's election not to obtain and maintain any insurance required to be obtained and maintained by Lessee hereunder, shall in no way limit or vitiate Lessee's liability for any loss, damage, or injury to persons or property as set forth in this Section 5 or elsewhere in the Lease Agreement. Lessor and Lessee each hereby

waive all rights of subrogation that shall otherwise inure to or benefit their respective insurance carriers by reason of any loss as to which the related cause of action shall have been so waived. Lessor and Lessee each hereby waive any right to claim against and recover from the other for any loss to the Theatre or to any property placed in the Theatre to the extent the injured party collects proceeds from insurance related to such loss.

SECTION 6. SECURITY; NO BAILMENT

- (A) The number of security personnel required for any performance shall be in the sole discretion of the Lessor's General Manager, at the sole cost and expense of Lessee. No such persons shall be present in the Theatre at any time without prior arrangement with General Manager. No representative, agent or employee of Lessee shall sleep or lodge in the Theatre.
- (B) Lessor shall not be responsible for any property brought into the Theatre by Lessee or any of its representatives, agents or employees, and neither Lessor nor any of its representatives, agents or employees, including without limitation, any security personnel hired or obtained by Lessor, shall be required to watch, guard or protect any of such property. Any property left in the Theatre after the termination of the term of the Lease Agreement shall be deemed abandoned by Lessee, and Lessor may dispose of such property as it deems proper, in its sole discretion, and Lessee shall reimburse Lessor for the costs and expenses of such disposal.
- (C) Lessor shall not be required to accept any property delivered or shipped to the Theatre on behalf of Lessee if any sum is to be paid upon delivery thereof.

SECTION 7. CANCELLATION

- (A) If the performance for which Lessee has entered this Lease Agreement, under Section 2(A) and 2(B) is cancelled, Lessee shall forfeit the deposit under Section 3(B). Notice of cancellation must be made in writing and received by Lessor no later than (90) business days prior to the first date of the term of this Lease Agreement. Lessee will be placed on Lessor's Do Not Lease list.
- (B) If the performance for which Lessee has entered into this Lease Agreement is rescheduled, Lessee shall pay an administrative fee of \$ **100.00 for a single day event and \$250 for a week long engagement** .
 - (i) All requests to re-schedule must be made **in writing** and received by Lessor no later than **ninety (90)** business days prior to the first date of the term of this Lease Agreement, otherwise performance will be deemed cancelled and deposit as outlined in Section 3(B) will be forfeited.
 - (ii) The re-scheduled term for the performance must be mutually agreed upon between Lessor and Lessee, and held within **ninety (90)** days from the original performance date, otherwise performance will be deemed cancelled and deposit as outlined in Section 3(B) will be forfeited. It is understood by Lessee that it is possible a date may not be available within this 90 day period and consequently deposit will be forfeited.

All changes pertaining to the re-scheduling of the Lease Agreement shall be done in writing as an addendum to this Lease Agreement.

SECTION 8. FORCE MAJEURE

- (A) In the event that the Theatre is not available for use by Lessee at any time during the term of this Lease Agreement by reason of Force Majeure, including, without limitation, acts of God, acts of the public, enemy, war, blockades, insurrection, riots, strikes, pandemics, epidemics, landslides, lightening, earthquakes, fires, storms, floods, washouts, tornadoes, hurricanes, arrests and restraints of governments and people, explosions, power outages and any other inability making it impossible for Lessor to provide use of the Theatre to Lessee, Lessee shall owe the Lessor a Basic Rental Fee based on the period of time, if any, during which the Lessee had reasonable use of the Theatre, and any part of the Basic Rental Fee paid to Lessor prior to the Force Majeure shall be refundable, in whole or in part, as the circumstances require.
- (B) Notwithstanding anything herein to the contrary, Lessor shall not be liable to Lessee for any damages, of whatever nature, as a result of Lessee's inability to use the Theatre by reason of Force Majeure. Lessor agrees to use reasonable efforts to reschedule performances affected by reason of Force Majeure, but Lessor shall have no liability to Lessee if Lessor is not able to reschedule any performances to the satisfaction of Lessee.

SECTION 9. COMPLIANCE WITH LAWS AND REGULATIONS

- (A) Lessee shall, in conducting its operations hereunder, comply with all laws, statutes, ordinances, rules and regulations of any federal, state, parish (county) or municipal authority having jurisdiction, including, without limitation, all rules, regulations, and ordinances of the Police and Fire Departments of the County of Santa Clara. It shall be the responsibility of Lessee, prior to any performance to be presented within the Theatre to obtain at Lessee's sole expense, all necessary permits, licenses and authorizations which may be required by any of such laws, statutes, ordinances, rules or regulations. Failure of Lessee to obtain any required permits, licenses or authorizations shall be grounds for termination of this Lease and the retention by Lessor of any deposits previously paid. Lessee shall not do or suffer to be done any act or omission with the Theatre during the term of this Lease Agreement, which may constitute a violation of any such laws, statutes, ordinances, rules or regulations. In the event Lessor notifies Lessee of any such violation on the part of Lessee or any representative agent, employee, or patron of Lessee or other person, then Lessee will immediately desist from and remedy any such violation.

- (B) Lessee shall comply with the Federal Copyright Law of 1978 (17 U.S.C. 101 et seq.), any regulation issued thereunder, including, without limitation, payment of any royalties which are due for the use of copyrighted works in Lessee's transmissions or broadcasts to the copyright owner, or representative of said copyright owner, and Lessee shall defend, indemnify and hold harmless Lessor and its representatives, agents, and employees from any claims or damages arising out of Lessee's infringement or violation of the Copyright Law and/or related regulations or any claims which may be asserted by others against Lessor relating to or in any other way connected with Lessee's performances, including, without limitation, payment of any royalties due for use of any copyrighted works.

- (C) Lessor shall take such steps as may be necessary to ensure that no qualified individual with a disability is excluded, denied services, segregated or otherwise treated differently than other individuals because of the absence of auxiliary aids and services during any performance(s) sponsored by Lessee during the term of the Lease Agreement. Lessee shall provide, at its sole cost and expense, any and all auxiliary aids and services, which includes the cost of a minimum of two (2) professional ASL Interpreters if requested by hearing-impaired patrons, (but not to include any permanent physical improvements to the building) as may be necessary to comply with the foregoing, unless Lessee can demonstrate that taking such steps would fundamentally alter the nature of the performance(s), or would result in an undue burden to Lessee.

- (D) **Health and Safety.** Lessee must comply with the policies, safety protocols and practices established by Licensor, the District, the Health Officer of the County of Santa Clara, the state of California, and OSHA and Cal-OSHA related to required health monitoring, cleaning and sanitization practices, physical distancing requirements, face coverings, use of PPE, site safety protocols, community infectious disease spread reduction plan, and communication matters (collectively "Health & Safety Policies") in effect as of the date of this License, and as may be revised during the Term. Lessee must always review and implement the Health & Safety Policies in its use of the Theater.

Lessee agrees to implement, comply with, and fulfill the terms and requirements of the Health & Safety Policies. Licensee also acknowledges and hereby certifies that Lessee will require any of its employees, agents, subcontractors, or subcontractors' employees or agents, guests and invitees to comply with the requirements of the Health & Safety Policies.

- (E) Lessee and constituents agree to comply with all Hoover Theatre Building Policies while on Hoover Theatre property. Building policies include but are not limited to the following areas:
 - (i) No smoking is permitted in any enclosed area within the Hoover Theatre including, on stage, off stage, or in dressing areas.
 - (ii) The use of products containing tobacco and/or nicotine, including, but not limited to, smokeless tobacco, snuff, chew, clove cigarettes, and electronic nicotine delivery systems, such as electronic cigarettes and other vapor emitting devices, with or without nicotine content, are prohibited.
 - (iii) No illegal drug use is permitted on Hoover Theatre property. Violators of this policy will be reported to legal authorities.
 - (iv) No flammable substances, including those used as special effects during performances, will be allowed UNLESS proper permits are obtained prior to the performance.

- (v) No alcohol use is permitted on Hoover grounds
- (F) If the Lessee or his/her constituents violate any of these policies, the Lessor retains the right to assess damages of not less than \$500 per occurrence.
- (G) **Lessee agrees to comply with all requirements of the County of Santa Clara and State of California regarding occupancy, social distancing, and other public performance attendance related requirements regarding the COVID 19 pandemic. While Lessor will provide guidance on such matters, it is ultimately the responsibility of the Lessee to be knowledgeable and to enforce such requirements at the engagement covered under this Lease Agreement. At a minimum, Lessor will ensure the following are in place:**
 - * All attendees will wear face masks
 - * Lessor will provide back-up face masks, hand sanitizer and non-touch thermometer
 - * Lessor must keep a list of all attendees and performers along with phone number and email and provide same list to Lessee at the end of the performance
 - * 6 feet social distancing will be in effect (except within members of the same household or unless patrons can show physical proof of two-dose vaccination)

SECTION 10. RIGHT OF INSPECTION

Lessor reserves the right to enter the Theatre at any time and from time to time during Lessee's use and occupancy thereof for any purpose whatsoever, including without limitation, inspection, repair and maintenance thereof. Lessor's right to enter the Theatre granted hereunder shall not be conducted in such a manner so as to interfere with the use of the Theatre by Lessee. The Lessor shall retain possession of the keys required for Lessor's access to the Theatre, but during the term of the Lease Agreement, the entrances and exits shall be locked or unlocked at the discretion of the General Manager.

SECTION 11. PUBLICITY AND BROADCASTING

- (A) Lessor shall not be responsible for any advertising or promotion of the Lessee's use or occupancy of the Theatre unless a separate agreement is executed in the regard between Lessee and Lessor. At Lessee's written request, Lessor will advise the local news media of Lessee's event, but Lessor shall not be responsible or liable for any inaccuracy, printing or broadcast, with respect to such information.
- (B) Lessee shall at no time advertise or make any false or misleading statement concerning the activities conducted or to be conducted at the Theatre. Any violation of the Section 11 (B) shall be grounds and cause for immediate termination of the Lease Agreement at the sole option of Lessor. In addition, Lessor shall be entitled to retain any deposits previously paid by Lessee and Lessor shall not be liable for any damages as a result of such termination under this Section.
- (C) Lessee shall not be permitted to advertise the performance contracted under this Lease Agreement until full deposit and executed Lease Agreement is received by Lessor.
- (D) Neither Lessee, nor its representatives, agents, or employees shall permit, without the prior written consent of Lessor, the broadcasting, recording, transmission, photographing or any other transmission or reproduction of the event or portion thereof, for which the Lessee has leased the Theatre, by any means or media now or hereafter known, including, without limitation, audio, visual, or audio-visual.

SECTION 12. TICKETS

- (A) Lessee shall not sell or dispose of, or permit to be sold or disposed of, more than 198 tickets or number currently allowable per Santa Clara County Health Department guidelines or admit a larger number of persons than can safely and freely move about in the Theatre in accordance with the fire laws of the County of Santa Clara, regardless of whether such persons have valid ticket. **Maximum capacity includes infants in laps.**

- (B) At no time may Lessor allocate tickets to be made available on consignment to any ticket agency or sold for higher than face value printed on the ticket plus applicable service charge.

SECTION 13. CONCESSIONS AND MERCHANDISE

- (A) Lessee shall not sell any merchandise and/or promotional material or permit any third party to do so on Lessee's behalf, directly or indirectly, in connection to the event described in Section 2, subsection A, without the prior written consent of Domus. The sale of such merchandise and/or promotional materials shall be conducted in such a manner as to not create undue noise or disturb performances. Lessor advises that there are limited areas where merchandise may be sold. Arrangements for the sale of merchandise must be made with Lessor fifteen (15) days in advance of performance. An inventory of all merchandise to be sold shall be conducted between Lessor and Lessee, or the Lessee's concessionaire, and stored only in those areas designated by Lessor.
- (B) Lessee agrees to collect and pay all federal, state, and/or city taxes required to be collected and paid on any items sold in the Theatre by or on behalf of Lessee.
- (C) Lessee agrees that a fee of \$150 will be assessed if Lessee's catering is beyond cookies, water and coffee/tea. If caterer/concessionaire does not sufficiently clean catering/reception area, an additional \$100 fee will be assessed. This cleaning must include emptying of all trash cans, sweeping, and mopping of all spilled food or beverage items, replacing of trashcan liners, and removal of all catering generated trash from property.

SECTION 14. PARKING

- (A) Access to backstage loading dock area will be made available to Lessee for the short-term loading and unloading of buses, trucks, and vehicles. Arrangements for long term parking of cargo vehicles must be arranged at the time of show advance with Facility Manager.
- (B) Two (2) vehicle parking spaces are available backstage for Lessee's use during the term of the Lease Agreement. Any requirements for additional backstage parking must be coordinated at least two (2) weeks in advance with Facility Manager.
- (C) Lessee's guests should be directed to park in parking lot on corner of Sandringham and Park or Naglee and Park. They may also utilize street parking on Park Ave.

SECTION 15. RELEASE

Lessee acknowledges that it is voluntarily and freely entering into this License and deciding to perform use the Theater for its purposes described herein, and that Lessor's use of the Theater includes the possible exposure to and illness from infectious disease including, but not limited to, MSRA, influenza and COVID-19 (collectively "**Infectious Disease**"). Lessee further acknowledges the dangers involved and with full knowledge of these dangers, voluntarily agrees to assume all risks of bodily injury, death, or property damage, whether those risks are known or unknown. Lessee hereby releases Domus and the District, their agents, representatives, officers, consultants, employees, trustees, and volunteers (the "**indemnified parties**") from any and all liabilities, causes of action, lawsuits, claims, demands, or damages of any kind whatsoever that Lessee, its employees, participants, relatives, children, spouse, partner, household members, family members, employees, guests, invitees, volunteers, agents, subcontractors and any other person tracing exposure or illness to Lessee, now have, or may have in the future, for injury, trauma, illness, loss, unwanted contact, harassment, disability, death or property damages related to being exposed to or contracting an Infectious Disease while using the Theater pursuant to Lessee's rights under this License.

SECTION 16: INDEMNIFICATION

- (A) Lessee agrees that it will, from and after the date hereof, pay, defend, indemnify, reimburse and hold harmless Lessor and its representatives, employees and agents (collectively, the "Indemnified Parties", and individually, an "Indemnified Party"), for, from and against any loss, damage, claim, liability, debt, obligation or expense (including, without limitation, interest, reasonable attorney's fees, expenses of

litigation or of any other nature) incurred or suffered or paid by, imposed upon, resulting to or threatened against an Indemnified Party and which directly or indirectly results from, arises out of or in connection with, is based upon, or exists by reason of Lessee's occupancy and use of the Theatre and/or Lessee's obligation hereunder.

- (D) If the matter for which an Indemnified Party is indemnified involves a claim by a third party, the Lessee shall, as part of such indemnity, pay any interest, penalties or fees becoming due to such third party.
- (E) An Indemnified Party shall notify Lessee of any matter with respect to which such Indemnified Party has rights pursuant to Section 15 (A), and shall endeavor to give such notice as soon as practicable after determining that such right exists with respect to such matter. If such matter involves a claim, action, suit, or proceeding by a third party against an Indemnified Party, then such Indemnified Party shall afford Lessee the opportunity to undertake the defense of such matter through counsel retained by Lessee at its expense (which counsel must be, however, reasonable satisfactory to Indemnified Party). If Lessee fails to elect to undertake such defense within a reasonable time after the Indemnified Party submits notice of such claim to Lessee or, having undertaken such defense, Lessee thereafter fails to continue to do so diligently and in good faith, then the Indemnified Party may undertake the defense of same through counsel of its or his own choosing, and all fees and expenses in connection herewith shall be reimbursed to the Indemnified Party by Lessee. Lessee shall be entitled to compromise any claim by a third party against an Indemnified Party the defense of which is, at the time of such compromise, being undertaken by Lessee, except that no such compromise shall be made without the prior written consent of the Indemnified Party.
- (F) Claims for indemnification involving the payment of money by Lessee to an Indemnified Party shall be paid by Lessee within ten (10) days after notification thereof; claims for indemnification involving amounts due to third parties shall be promptly paid by Lessee when due, subject to Lessee's right to contest the same in good faith.
- (G) The remedies provided by this Section 15 shall be in addition to, and not in lieu of, such other remedies as may be available under applicable laws. Without limitation, an Indemnified Party shall be entitled to enforce the provisions of the Section 15 by specific performance without the necessity of demonstrating inadequacy of damages or irreparable harm.

SECTION 17. NON-DISCRIMINATION

Lessee agrees that in conducting its operations hereunder, it will not, and it will cause its representatives, agents, and employees not to, discriminate against any employee, applicant for employment, or patron on the basis of race, color, religion, sex, national origin, or disability.

SECTION 18. MISCELLANEOUS

- (A) Nothing herein shall be construed as creating a joint venture or partnership between Lessor and Lessee, or as constituting Lessee as an agent of Lessor, or as giving the Lessee authority to bind Lessor in any manner. Neither Lessor nor Lessee shall be responsible or liable for the debts, obligations or actions of the other, except as specifically provided herein.
- (B) Lessor may act under this Lease Agreement through its General Manager, or such other person as the General Manager shall designate in writing. Lessee may act under this Lease Agreement through _____, or such other person as said representative may designate in writing.
- (C) Lessee may not assign its interest in the Lease Agreement without the prior written consent of the Lessor.
- (D) If Lessee shall be in default in the performance of any of the covenants or conditions hereof, and shall fail to remedy such default within ten (10) days following the receipt of written notice thereof Lessor, except that no notice shall be required for the failure to pay any money due hereunder, or if Lessee shall be adjudicated bankrupt, or make any assignment for the benefit of creditors, or if the interest of the Lessee herein shall be sold under execution or other legal process, Lessor may enter upon the premises and again repossess the same as if this Lease Agreement had not been entered into, and shall thereupon have the right to cancel this lease, without prejudice, however, to the right of Lessor to recover all moneys due to the time of such entry. In case of any such default and entry, Lessor may relet said premises from time to time during the remainder of the term hereof for the highest rent obtainable and may recover from Lessee any deficiency between such amount and rent payable hereunder. In the event that Lessee shall fail to pay any moneys due under this

lease, no notice of default shall be given, with Lessee specifically waiving any notice of default, and Lessor shall have the right to avail itself of the remedies granted hereunder. If Lessor employs an attorney to enforce any of the obligations or covenants hereunder or to collect any rentals, deposits, fees charges or sums which may be due hereunder, the Lessee shall be obligated to pay all reasonable attorneys fees and costs associated with said enforcement or collection.

(E) If the event(s) for which Lessee has entered into the Lease Agreement is (are) cancelled, Lessee shall nonetheless be required to pay and reimburse Lessor for any and all expense and/or costs incurred by Lessor, directly or indirectly, as a result of cancellation, including the Basic Rental Fee as outlined in Section 3 of the Lease Agreement. Further, Lessor shall not be liable for any interruption or termination of any performances or events in progress at the Theatre resulting from the receipt of threats against, or information relating to imminent danger to the Theatre, parts thereof, and/or any occupants reported as about to be caused by explosives, inflammables, and/or otherwise. Any interruption or termination of any scheduled activity at the Theatre either prior to or during any activity of any type resulting from the receipt of such information or threats, shall not invalidate this Lease Agreement, nor shall Lessor ever be liable for the failure of any activity resulting from any such termination or cancellation.

(F) Any notice or other communication pursuant to the Lease Agreement shall be in writing and shall be deemed to have been duly given when sent by express 24-hour guaranteed courier or delivery service, or at the expiration of two (2) business days after the time when mailed by United States Postal registered mail, return receipt requested, postage prepaid, to the following persons and address: (i) if to Lessor, Hoover Theatre, 1635 Park Avenue, San José , CA 95126 Attention: General Manager, with copy mailed on the same date by certified mail, return receipt requested, postage prepaid, to Domus Aurea, Inc., 59 Washington Street #146, Santa Clara CA 95050; Attention: Paula Davis; (ii) if to Lessee, to _____; Attention: _____.

The address to which notices are to be mailed, if mailed, and the persons to receive the same or copies of the same, may be changed by notice given in accordance with this Section 17 (F).

(G) This Lease Agreement constitutes the entire agreement between the parties with respect to the subject matter hereof. This Lease Agreement supersedes all prior and contemporaneous oral and written agreements, understandings, negotiations and discussion of the parties hereto relating to the use and occupancy of the Theatre. This Lease Agreement may be amended only in writing, which writing must be executed by each party hereto.

(H) This Lease Agreement shall be binding upon and shall inure to the benefit of the Lessor and the Lessee and their respective successors, assigns, and representatives. Nothing contained herein is intended or shall be construed to confer upon or give any person other than the Lessor and the Lessee, and their respective successors, assigns, and representatives, any rights or remedies under or by the Lease Agreement.

(I) The headings of the sections of the Lease Agreement are merely for convenience of reference and shall have no substantive significance. Such headings shall be disregarded in the interpretation of this Lease Agreement.

(J) This Lease Agreement shall be construed in accordance with the internal laws of the State of California without regard to principles of conflict of law.

(K) No waiver of any of the provisions of this Lease Agreement shall constitute a waiver of any other provision hereof or of a continuation of the violation waived. Each party shall be entitled to rely upon one or more provisions of the Lease Agreement without waiving any right to rely upon any other provision at the same time or at any other time.

(L) Each provision of this Lease Agreement shall be interpreted in such manner as to be effective and valid under applicable law, but if any provision hereof is held to be prohibited by or invalid under applicable law, such provision shall be ineffective only to the extent of such prohibition or invalidity, without invalidating the remainder of the Lease Agreement.

(M) The Lessee shall appoint an individual to be designated as "Person in Charge" , and shall represent the Lessee in all arrangements with Lessor and its employees for the successful administration and operation of this event.

NAME	_____	PHONE (W)	_____
ADDRESS	_____	PHONE (H)	_____
		FAX	_____
CITY	_____	STATE	_____ ZIP _____

(N) This Lease Agreement will become null and void unless executed and returned by:
_____.

IN WITNESS THEREOF, the parties hereto have executed this Lease Agreement as of the date first above written.

DOMUS AUREA, INC., Lessor

BY: _____
Susan Rojas
Facility Manager

_____, Lessee

BY: _____
ITS: _____

EXHIBIT D
FEE SCHEDULE

Rental Information - Rates & Application

(Rates effective July 1, 2023)

Historic Hoover Studios, Green Room and Courtyard Rental Fees:

Studios A/B/C Rental:

Non Profit Clients: \$75/4 hours, \$150/day

For Profit Clients: \$100/4 hours, \$200/day

Dance Studio Rental:

Non Profit Clients: \$100/4 hours, \$200/Day

For Profit Clients: \$150/4 hours, \$250/Day

Courtyard & Green Room Rental:

Non Profit Clients: \$200/Day

For Profit Clients: \$250/Day

Historic Hoover Theatre*

(Includes Dressing Rooms, Courtyard and Green Room)

Non Profit Clients: \$900/Day - \$1,850/Week

For Profit Clients: \$1,000/Day - \$2,250/Week

*Includes all House Sound and Lights

Limited 6 week (4 hrs/3x/week) rehearsal run leading to theatre rental \$900

Staffing Fees*

Technical Director \$500/Day

* If Required by Management or Requested by Client

Equipment Rental Fees

Tables: \$5.00 Each

Skirted Tables: \$10.00 Each

Easels: \$5.00 Each

Podium w/MIC: \$50/Day

Piano (Yamaha U3 Upright): \$100/Day - \$150 tuning, if required

Please download [rental application](#) and email to: hoovertheatre@sjusd.org

EXHIBIT E
PROGRAMMING GUIDELINES

In licensing the Hoover Theater for use by third parties, Contractor shall not discriminate on the basis of sex, race, color, religion, national origin, ancestry, age, sexual orientation, or physical or mental disability in violation of state or federal law.

The Hoover Theater shall not be used for any of the following activities:

- 1) Any performance or use that would constitute the commission of a crime or an act prohibited by law.
- 2) Any performance or use that would be inconsistent with the District's educational mission, including, but not limited to, performances or uses containing excessive profane language, fighting, sexually explicit material, nudity or gambling.

EXHIBIT F
CONTRACTOR CERTIFICATION

THE UNDERSIGNED EXECUTE THIS FORM AND HEREBY CERTIFIES TO THE GOVERNING BOARD OF THE DISTRICT THAT UNDERSIGNED IS:

- (1) A representative of the Contractor,
- (2) Familiar with the facts herein certified,
- (3) Authorized and qualified to execute this certificate on behalf of Contractor and that by executing this Agreement is certifying the following items.

Fingerprint and Background Certification. Business entities entering into a Service Agreement with the District shall comply with Education Code section [45125.1](#). Such entities are responsible for ensuring full compliance with the requirements of this statute and should thoroughly review the requirements thereunder.

The Contractor and the Contractor parties shall at all times comply with the fingerprint and background certification requirements as set forth below. Specifically, by checking an applicable option below, Contractor hereby represents and warrants to District the following:

- Contractor and/or Contractor parties will not be present on a District site or will not have contact with District students when District students are present during the term of this Agreement.
- The Contractor shall conduct the required criminal background check(s) of all persons who will be providing services to the San José Unified School District on behalf of Contractor, and that none of those persons have been reported by the Department of Justice ("DOJ") as having been convicted of a serious or violent felony as specified in Penal Code Sections [667.5](#) and/or [1192.7\(c\)](#). I understand that this Certificate is not to be signed and submitted until I have received clearance from DOJ regarding those persons named. Upon request, Contractor will provide a list of the names of the employees who may come in contact with pupils while providing Services under this Agreement. This list shall be regularly maintained and updated by Contractor and shall be available to District upon request or audit.
- Arrange to have a Certificated District Employee continually monitor and supervise the Contractor at all times while services are provided on site such that Contractor will have no interaction with any District student outside the immediate supervision and control of a District employee. As supported by California Education Code Section 45125.1.

Certificated District Employee:

Signature: _____ Date: _____ Principal Initials: _____

Megan's Law (Sex Offenders). I have verified and will continue to verify that the employees of the Contractor and the Subcontractor(s) having contact with District students under this agreement are **not** listed on California's "Megan's Law" Website (<http://www.meganslaw.ca.gov/>).

Tuberculosis Certification. The Contractor and the Contractor parties shall at all times comply with the certification requirements as set forth below. Specifically, by checking the one applicable option below, Contractor hereby represents and warrants to District the following:

- Contractor and/or Contractor parties will not be present on a District school site and will not have contact with District students when District students are present during the term of this Agreement.
- District has determined that Contractor will not have frequent or prolonged contact with students. District's determination is in compliance with and supported by California Education Code Section [49406\(m\)](#).



- The following Contractor and/or Contractor parties shall or may be on a District school site and have contact with District students during the term of this Agreement and, at no cost to District, they have received a tuberculosis risk assessment that complies with the requirements of California Education Code Section [49406](#). In addition, the Contractor shall maintain on file the certificates showing that the Contractor parties were examined and found free from active tuberculosis. These forms shall be regularly maintained and updated by Contractor and shall be available to District upon request or audit.

Contractor further agrees and acknowledges that all new personnel hired after the effective date of this Agreement are subject to the tuberculosis certification requirements and shall be prohibited from having any contact with District students until the tuberculosis certification requirements have been satisfied and District determines whether any such contact is permissible.

COVID-19 Certification. The Contractor and the Contractor parties shall at all times comply with the Covid-19 certification requirements as set forth below. Contractor hereby represents and warrants to District the following:

I acknowledge and am aware of all applicable requirements and recommendations to mitigate the spread of COVID-19, including [COVID-19 Public Health Guidance for K–12 Schools to Support Safe In-Person Learning for the School Year](#) and [San José Unified’s COVID Health and Safety Information](#).

Contractor further agrees and acknowledges that District may at its sole discretion modify the requirements of this COVID-19 certification to ensure the health and safety of students.

Lobbyist Certification. The Contractor and the Contractor parties shall at all times comply with the lobbyist certification requirements as set forth below. Specifically, by checking the one applicable option below, Contractor hereby represents and warrants to District the following:

- Contractor and/or Contractor parties are not a “Lobbying Coalition,” “Lobbying Firm,” “Lobbyist” or “Lobbyist Employer” as those terms are defined in the Political Reform Act of 1974 (Gov. Code §§ 81000) (collectively “Lobbyist”) and are not performing Services hereunder that would require registering as a Lobbyist.
- Contractor and/or Contractor parties Services hereunder shall or may include lobbying. Contractor and/or Contractor parties shall comply with all applicable District, local, state and/or federal policies, rules, regulations, statutes and requirements governing Lobbyists. In addition, the Contractor shall maintain on file registering and reporting records for Lobbyists. These records shall be regularly maintained and updated by Contractor and shall be available to District upon request or audit.

Conflict of Interest Certification. The Contractor and the Contractor parties shall at all times comply with the conflict of interest certification requirements as set forth below. Specifically, by checking the one applicable option below, Contractor hereby represents and warrants to District the following:

- Contractor and/or Contractor parties have read and understand the District’s Conflict of Interest Code (Board Bylaw 9270) and, to the best of Contractor’s knowledge, there are no conflicts of interest that must be disclosed pursuant to the Conflict of Interest Code.
- Contractor and/or Contractor parties have read and understand the District’s Conflict of Interest Code and, Contractor knows or has reason to believe that Contractor has a conflict of interest that requires disclosure and Contractor and/or Contractor parties shall comply with the applicable disclosure requirements of the District’s Conflict of Interest Code. In addition, the Contractor shall maintain on file statements of economic interests in accordance with applicable disclosure requirements. These records shall be regularly maintained and updated by Contractor and shall be available to District upon request or audit.

I acknowledge and certify under penalty of perjury that I am duly authorized to legally bind the Contractor to all provisions and items included in this certification, that the contents of this certification are true, and that this certification is made under the laws of the State of California.

Domus Aurea, Inc.

Date: 12/3/2024

Signature: 92EFE4F215A5413...

Paula Davis

CEO

EXHIBIT F CONTINUATION
WORKERS' COMPENSATION CERTIFICATION

Labor Code Section 3700 in relevant part provides that every employer except the State shall secure the payment of compensation in one or more of the following ways:

- By being insured against liability to pay compensation by one or more insurers duly authorized to write compensation insurance in this State.
- By securing from the Director of Industrial Relations a certificate of consent to self-insure, which may be given upon furnishing proof satisfactory to the Director of Industrial Relations of ability to self-insure and to pay any compensation that may become due to its employees.

I am aware of the provisions of Section 3700 of the Labor Code which require every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of that code, and I will comply with such provisions before commencing the performance of the Work of this Agreement.

Domus Aurea, Inc.

Date: 12/3/2024

Signature: 92EFE4F215A5413...

Paula Davis

CEO

(In accordance with Article 5 – commencing at Section 1860, Chapter 1, part 7, Division 2 of the Labor Code, the above certificate must be signed and filed with the District prior to performing any Work under this Agreement.)

EXHIBIT F CONTINUATION
STUDENT DATA CONFIDENTIALITY CERTIFICATION

The Contractor acknowledges his/her responsibility to respect the confidentiality of Covered data and information (CDI) and to act in a professional manner in the handling of student performance data. The Contractor will ensure that confidential data, including data on individual students, is not created, collected, stored, maintained, or disseminated in violation of state and federal laws. (CDI) includes paper and electronic student education record information supplied by Institution, as well as any data provided by Institution's students to the Contractor.

Furthermore, the Contractor agrees to the following guidelines regarding the appropriate use of student data collected by myself or made available to me from other school/system employees, Infinite Campus, TES or any other file or application to which the Contractor has access:


- Contractor will comply to abide by the limitations on re-disclosure of personally identifiable information from education records set forth in The Family Educational Rights and Privacy Act (34 CFR § 99.33 (a)(2)) and with the terms set forth below. 34 CFR 99.33 (a)(2) states that the officers, employees, and agents of a party that receive education record information from the Institution may use the information, but only for the purposes for which the disclosure was made.
- Contractor acknowledges that the Agreement allows the Contractor access to (CDI) for whom the Contractor has a legitimate educational interest and will be used for the sole purpose of improving student achievement and providing academic advisement to the student.
- The Contractor shall develop, implement, maintain and use appropriate administrative, technical and physical security measures to preserve the confidentiality, integrity and availability of all electronically maintained or transmitted (CDI) received from, or on behalf of Institution or its students. The Contractor acknowledges that it is illegal for a student to have access to another student's data and will not share (CDI) from any source with another student.
- Contractor agrees to hold (CDI) in strict confidence. Contractor shall not use or disclose (CDI) received from or on behalf of Institution (or its students) except as permitted or required by the Agreement, as required by law, or as otherwise authorized in writing by Institution. Contractor agrees not to use (CDI) for any purpose other than the purpose for which the disclosure was made.
- Contractor shall, within one day of discovery, report to Institution any use or disclosure of (CDI) not authorized by this agreement or in writing by Institution. Contractor's report shall identify: (i) the nature of the unauthorized use or disclosure, (ii) the (CDI) used or disclosed, (iii) who made the unauthorized use or received the unauthorized disclosure, (iv) what the Contractor has done or shall do to mitigate any deleterious effect of the unauthorized use or disclosure, and (v) what corrective action the Contractor has taken or shall take to prevent future similar unauthorized use or disclosure.

California Consumer Privacy Act. To the extent applicable, Contractor shall comply with the requirements of the California Consumer Privacy Act ("CCPA"). The CCPA, however, shall not preempt the requirements of the Family Educational Rights and Privacy Act (20 U.S.C. §1232g; 34 C.F.R. Part 99), the Children's Online Privacy Protection Act (Pub.L.No. 106-554 and 47 U.S.C. §254(h)), the Children's Internet Protection Act (15 U.S.C. §6501 et seq.), California Education Code sections 49073.1 and 49073.6, and/or the Student Online Personal Information Protection Act (California Business and Professions Code §22584). Notwithstanding the above, to the extent that a "consumer" as that term is defined by the CCPA, contacts Contractor to receive Covered Data and Information provided to Contractor pursuant to this Agreement, to delete consumer's personal information or to access information collected by Contractor hereunder, Contractor shall refer the consumer to the District, and the District will provide the necessary and proper procedures regarding the requested information.

Domus Aurea, Inc.

Date: 12/3/2024

Signature:

DocuSigned by:

 92EFE4F215A5413...

Paula Davis
 CEO