



**CITY OF SAN DIEGO
PARKS AND RECREATION DEPARTMENT**

SPECIAL USE PERMIT AGREEMENT

TABLE OF CONTENT

1. Definitions	Page 4
2. Occupancy	Page 5
3. Non-Exclusive Use	Page 5
4. Term	Page 5
5. CITY's Consent, Discretion	Page 5
6. The Director's Prior Written Approval	Page 5
7. Processing Fee	Page 6
8. Use of Premises	Page 6
9. No Assignment or Sublicense without CITY's Prior Written Consent	Page 6
10. Criminal Background Requirements and Mandated Training	Page 6
11. Use of Funds	Page 7
12. Annual Meeting	Page 7
13. Governmental Approvals	Page 7
14. Permits and Approvals	Page 7
15. Early Termination of this SUP	Page 7
16. Revocable License	Page 8
17. No Holdover	Page 8
18. Restore and Vacate	Page 8
19. Superior Interests	Page 8
20. Maintenance, Installation, Improvements and Repairs of the Premises	Page 8
21. Structures	Page 9
22. Security and Safety of Premises	Page 10
23. Vehicular Traffic	Page 10
24. Grading and Barriers	Page 10
25. Inspections	Page 10
26. Storm Water Program Quality Assurances	Page 10
27. Utilities	Page 10
28. Campaigning	Page 11
29. Budget, Records, and Inspection	Page 11
30. Nondiscrimination	Page 11
31. Smoke/Vape/Drug Free Environment	Page 11
32. Insurance	Page 11
33. Indemnification and Hold Harmless	Page 14
34. Accessibility Compliance	Page 15
35. Accessibility Assessment	Page 15
36. PERMITTEE's Risk	Page 16
37. No Nuisance	Page 16
38. Signs	Page 16
39. California Public Records Act	Page 16
40. Encumbrances	Page 17
41. Compliance with Laws	Page 18
42. Taxes	Page 18

43. Hazardous Substances	Page 18
44. Alcohol	Page 20
45. Special Events	Page 20
46. Exclusive Beverage Vending Machine	Page 21
47. Music	Page 21
48. Waiver	Page 22
49. Cumulative Remedies	Page 22
50. Survival	Page 22
51. Exhibits	Page 22
52. Joint and Several Liability	Page 22
53. No Affiliation	Page 22
54. Entire Agreement	Page 22
55. Amendments	Page 22
56. Notices	Page 23
57. Counterparts	Page 23
58. Authority to Contract	Page 23
59. Acceptance of Premises	Page 24
Exhibit A – Permit Use	Page 26
Exhibit B – Premises	Page 29
Exhibit C – Facility Inspection Form	Page 33
Exhibit D – Equal Employment Opportunity Policy	Page 35

CITY OF SAN DIEGO
SPECIAL USE PERMIT

THIS CITY OF SAN DIEGO SPECIAL USE PERMIT (SUP) is entered into by and between THE CITY OF SAN DIEGO, a California Municipal Corporation (CITY) and SAN DIEGO COMMUNITY COLLEGE DISTRICT, a California community college district (PERMITTEE), to be effective as of the Effective Date.

WHEREAS, CITY desires to provide facilities to its citizens, guests, non-commercial local societies, clubs, and organizations engaged in civic, social, educational, cultural, recreational, or philanthropic work or activities; and

WHEREAS, PERMITTEE is such an organization and, in the promotion and sponsorship of such activities, generates revenues from voluntary contributions, special events, membership dues, and fund-raising projects.

NOW, THEREFORE, it is hereby mutually agreed by and between CITY and PERMITTEE as follows:

1. Definitions. As used in this SUP, the following terms are defined as follows:
 - 1.1 **"CITY Contact"** means CITY's Parks and Recreation Department staff. For the purpose of this SUP, CITY Contact is currently District Manager Anthony Harrington, who can be contacted at 619-235-1106.
 - 1.2 **"Director"** means CITY's Parks and Recreation Department Director or designee.
 - 1.3 **"Effective Date,"** as referenced on signature page and in opening paragraph above, means the start of this SUP will begin once it is signed by all parties and approved by the City of San Diego City Attorney.
 - 1.4 **"Hazardous Substance"** means any substance listed by the Environmental Protection Agency or the State of California as a hazardous substance, and all types of petroleum-related substances and their chemical constituents.
 - 1.5 **"Party" or "Parties"** means the signatories to this SUP, both individually and collectively.
 - 1.6 **"Permit Use"** means commencement ceremonies and related activities as further described in **Exhibit A: Permit Use, attached hereto.**
 - 1.7 **"Premises"** means that certain CITY-owned real property within Balboa Park Palisades commonly known as the Spreckels Organ Pavilion located at 2125 Pan American Road E, San Diego, CA 92101, as more particularly described in

Exhibit B: Premises, attached hereto.

- 1.8 **“Release”** includes without limitation any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or otherwise disposing of a Hazardous Substance.
- 1.9 **“Sublicensee”** means any person, organization, commercial enterprise, or entity providing services consistent with the Permit Use on the Premises under a contract agreement with PERMITTEE. PERMITTEE’s use of Sublicensees is regulated under sections 9 of this SUP.
- 1.10 **“Term,”** as referenced in section 4 below, the term will be for a period of five years, beginning on the Effective Date.
- 1.11 **“Volunteer”** means an instructor, person or entity providing free Permit Use related activities on the Premises who has completed the criminal offender record information review.
2. Occupancy. CITY hereby grants PERMITTEE this non-exclusive SUP for the use and occupancy of the Premises, specifically for the purposes stated in this SUP, and for no other purposes.
3. Non-Exclusive Use. This SUP does not guarantee that the Premises requested or assigned will always be available at the date and time requested by PERMITTEE. PERMITTEE must not wholly or permanently exclude the general public from the Premises or any activity or event thereon, other than those exclusions identified in this SUP, without prior written approval from the Director. PERMITTEE, with the prior written approval of the Director, may develop reasonable and non-discriminatory restrictions for the use of facilities located on the Premises and participation in certain activities held by PERMITTEE on the Premises that are consistent with the rights of the general public, designed to enable the use of the Premises for the purposes granted herein, and are in compliance with all applicable laws.
4. Term. The Term will be for a period of five years, beginning on the Effective Date. No extension may be granted for this SUP.
5. CITY’s Consent, Discretion. CITY’s consent or approval under this SUP means the advanced written consent or approval of the Mayor of the City of San Diego, or the Mayor’s designee (“Mayor”), unless otherwise required by law or expressly provided and will be made in the Mayor’s discretion, subject to all applicable laws, rules, regulations, and directives of competent governmental authorities.
6. The Director’s Prior Written Approval. In all cases where the Director’s prior written approval is required in this SUP, PERMITTEE must submit a written request to the Director prior to engaging in such activity. The Director may, in the Director’s sole discretion, approve or deny PERMITTEE’s request. If the request is approved by the

Director, PERMITTEE must maintain the approval in PERMITTEE's files at all times during the Term.

7. Processing Fee. Consideration to CITY for granting this SUP is an annual \$149 non-refundable processing fee due on the Effective Date and every year thereafter during the Term.
8. Use of Premises. The use of Premises, as depicted in Exhibit B, by PERMITTEE will be limited to the Permit Use, as described in Exhibit A, and for no other purpose whatsoever without obtaining the prior written approval of the Director. Premises must be supervised at all times when in use during the Term. PERMITTEE must be responsible for all of PERMITTEE's directors, officers, members, partners, agents, board members, employees, Volunteers, Sublicensees, attorneys, and all other persons or legal entities whom PERMITTEE authorizes or allows to use or occupy the Premises and ensure that they adhere to all conditions as stated in this SUP.
9. No Assignment or Sublicense without CITY's Prior Written Consent. PERMITTEE must not assign or sublicense any rights granted by this SUP, or any interest in this SUP without CITY's prior written consent in each instance, which may be withheld, delayed, or denied in CITY's sole and absolute discretion. Any assignment by operation of law or sublicense without CITY's prior written consent will automatically terminate this SUP.
10. Criminal Background Requirements and Mandated Training. PERMITTEE may utilize employees to offer programs and activities in accordance with the Permit Use on the Premises.
 - 10.1 PERMITTEE must complete the criminal offender record information review, including fingerprinting and background, of all employees engaging in activities on the Premises as required by federal and state laws, or in accordance with this SUP.
 - 10.2 PERMITTEE must not employ nor utilize anyone, including employees with criminal convictions that would bar their work with or supervision of minors or people with disabilities under federal or state laws.
 - 10.3 PERMITTEE must ensure that anyone employed or utilized by PERMITTEE, including all employees and those engaged in any activities authorized under this SUP, have received all trainings, and will comply with all laws required to ensure the safety, security, and well-being of members of the public, including minors and people with disabilities.
 - 10.4 Upon request by CITY, PERMITTEE must provide CITY with access to PERMITTEE's records showing that these requirements have been met.
 - 10.5 Failure of PERMITTEE to comply with these requirements is grounds for immediate revocation of this SUP.

11. Use of Funds. All funds collected by PERMITTEE from the use of the Premises pursuant to this SUP must be used in a fiscally responsible manner and to further PERMITTEE's activities or other services related to the Permit Use and the operation, maintenance, and improvement of the Premises.
12. Annual Meeting. During the Term, PERMITTEE must hold an annual meeting with CITY Contact to review and discuss PERMITTEE's facility maintenance, activities, and receipt and resolution of any complaints received, if necessary.
13. Governmental Approvals. By entering into this SUP, neither CITY nor CITY's City Council is obligating itself to PERMITTEE or any governmental agent, board, commission, or agency regarding any other discretionary action relating to PERMITTEE's occupancy, use, development, maintenance or restoration of the Premises. "Discretionary action" includes without limitation re-zonings, variances, environmental clearances, and all other required governmental approvals.
14. Permits and Approvals. PERMITTEE, at PERMITTEE's sole cost and expense, must obtain all required permits and approvals from the applicable local, state, and federal authorities, including without limitation from CITY.
15. Early Termination of this SUP. This SUP will automatically terminate or have cause for immediate termination in the event of the following, this list is not all-inclusive of automatic terminations or causes for immediate termination of this SUP:
 - 15.1 PERMITTEE's failure to carry and maintain the insurance required by this SUP will be cause for immediate termination.
 - 15.2 PERMITTEE's commencement of a voluntary case or other proceeding seeking liquidation, reorganization, or other relief under any bankruptcy, insolvency, or similar law, or PERMITTEE making a general assignment for the benefit of creditors, or PERMITTEE having an involuntary case or other proceeding instituted against it seeking similar relief will automatically terminate this SUP.
 - 15.3 PERMITTEE's commission of a criminal or illegal act, which brings CITY's name into disrepute, or otherwise substantially affects the reputation of CITY will be cause for immediate termination.
 - 15.4 PERMITTEE's failure to comply with laws, as required in section 41, will be cause for immediate termination.
 - 15.5 PERMITTEE's violation of section 24 of this SUP will be cause for immediate termination.
 - 15.6 PERMITTEE's violation of section 10 of this SUP will be cause for immediate termination.

16. Revocable License. This SUP is not a lease. This SUP is a non-exclusive license to use CITY-owned property and may be revoked at will by CITY, in its sole discretion: (a) immediately upon written notice delivered to PERMITTEE if PERMITTEE breaches or defaults any of PERMITTEE's obligations under this SUP, or in case of an emergency; or (b) upon reasonable prior written notice, but not less than 30 days, delivered to PERMITTEE if for CITY's convenience. CITY, in its sole discretion, may provide PERMITTEE a reasonable opportunity to cure a breach or default of this SUP prior to revocation by delivering to PERMITTEE written notice of the breach or default indicating time allotted to cure such breach or default before revocation becomes effective. CITY will not be obligated for any loss or burden, financial or otherwise, which may be incurred by PERMITTEE as a result of such revocation or termination of this SUP. PERMITTEE expressly waives any claim for expense or loss which PERMITTEE might incur as a result of CITY's revocation or termination of this SUP.
17. No Holdover. If PERMITTEE continues to occupy the Premises after the expiration or earlier termination of this SUP, such occupancy will neither constitute a renewal or extension of this SUP, nor give PERMITTEE any rights in or to the Premises. If PERMITTEE continues to occupy the Premises after the expiration or earlier termination of this SUP, PERMITTEE will pay to CITY a fee established by CITY. CITY's acceptance of such fees will neither constitute a renewal or extension of this SUP, nor give PERMITTEE any rights in or to the Premises.
18. Restore and Vacate. Prior to the expiration or earlier termination of this SUP, PERMITTEE will restore the Premises to its condition on the Effective Date, excepting therefrom normal wear and tear and all authorized improvements, and upon such expiration or earlier termination immediately vacate the Premises.
19. Superior Interests. This SUP is subject to all liens, encumbrances, covenants, conditions, restrictions, reservations, contracts, permits and licenses, easements, and rights-of-way pertaining to the Premises, whether or not of record. PERMITTEE will obtain all licenses, permits, and agreements from such third parties as may be or become necessary or reasonably advisable to allow its use of the Premises, relative to any such superior interest. If PERMITTEE's use of the Premises is or becomes inconsistent or incompatible with a preexisting, superior interest, PERMITTEE will take such actions and pay all costs and expenses necessary to remove such inconsistency or incompatibility to the satisfaction of the holder of the superior interest.
20. Maintenance, Installations, Improvements and Repairs of the Premises. PERMITTEE agrees that CITY will not be required to perform or assume the cost of any maintenance, repairs, or services to the Premises, other than those identified in this SUP.
 - 20.1 Maintenance. PERMITTEE must at PERMITTEE's sole cost and expense and to CITY's satisfaction, maintain the Premises in good order and repair and in a safe, healthy, and sanitary condition at all times during the Term, subject to normal wear and tear. PERMITTEE must keep the Premises free and clear of rubbish, debris, and litter at all times during the Term.

- 20.2 Installations, Improvements and Repairs. PERMITTEE must not make or cause any improvements, installations, repairs, changes, or alterations to the Premises or to any improvements or installations thereon, other than those identified in this SUP, without prior written approval of CITY. Any improvements, installations, repairs, changes, and alterations made to the Premises by PERMITTEE will become the sole property of CITY.
- 20.3 Damages. PERMITTEE must report damages to the Premises to CITY Contact as soon as possible. PERMITTEE is responsible, at PERMITTEE's sole cost and expense, for the repair or replacement of any damage caused by PERMITTEE's use, maintenance, installations, or improvements of the Premises, including items that CITY staff determines to be damaged. PERMITTEE must comply with the direction of CITY Contact or other competent CITY staff with respect to the method of any repairs or replacement arising under this SUP.
- 20.4 Inspection and Cleaning. PERMITTEE must inspect the Premises during the commencement ceremonies and rehearsals and ensure the Premises is clean and free of rubbish, debris, litter, and graffiti. PERMITTEE must clean the Premises as needed and/or correct or remove any hazard or debris immediately. Commencement ceremony and rehearsal inspection records must be kept for one year.
- 20.5 Water Regulation. All cleaning required under this SUP and all activities on the Premises must comply, at all times, with the Emergency Water Regulations (Chapter 6, Article 7, Division 38 of the San Diego Municipal Code, as amended from time to time) with respect to water usage and all applicable water restrictions relating to water quality assurance and storm water management.
- 20.6 Pest Management. PERMITTEE must regularly inspect all buildings and landscaped areas in the Premises for the presence of disease, and/or insect or rodent infestation. If any disease, insect, or rodent infestation is discovered, PERMITTEE must immediately notify CITY Contact of discovery in order to remedy the issue in a timely manner. PERMITTEE is responsible for pest management within the Premises, and must comply, at all times, with the current standard practices accepted by the State of California Department of Food and Agriculture. PERMITTEE must implement the approved control measures until the disease, insect infestation or rodent infestation is controlled to the satisfaction of CITY Contact. PERMITTEE must utilize all safeguards necessary during disease, insect, or rodent control operations to ensure the safety of the public, Volunteers, and employees. PERMITTEE agrees that CITY will not be required to perform or assume the cost of any Pest Management services.
21. Structures. Under no circumstances will PERMITTEE or PERMITTEE's agents place, store, or allow temporary or permanent structures of any kind in the Premises, including but not limited to cargo containers, trailers, storage sheds, recreational vehicles, etc.,

without the prior written approval of CITY and obtaining all permits required by competent governmental entities. Any structure violating this section will be subject to immediate and summary removal at PERMITTEE's sole cost and expense.

22. Security and Safety of Premises. PERMITTEE must bear sole responsibility for the security and safety of the Premises affected by or relating to the Permit Use during the Term. PERMITTEE will be responsible for the maintenance, cleanup, and securing of the Premises, as appropriate, to ensure security and safety. CITY has no obligation to provide oversight of the Permit Use or staffing or resources for the Permit Use in the Premises during the Term.
23. Vehicular Traffic. All vehicular traffic must be confined to concrete, asphalt or decomposed aggregate surfaces unless otherwise approved in writing by CITY Contact.
24. Grading and Barriers. PERMITTEE must not change the surface grade or construct any permanent barriers within the Premises. Any violations must be corrected by PERMITTEE at its sole expense to the satisfaction of CITY and are grounds, at CITY's option, for immediate termination of this SUP.
25. Inspection. CITY may at all times enter and inspect the Premises, without prior notice to PERMITTEE. A Premises inspection will be conducted by CITY at least once a year or as needed to verify CITY's maintenance standards are being met. CITY's inspection may include inspection of those items listed in the Facility Inspection Form, attached hereto as **Exhibit C: Facility Inspection Form.**
26. Water Quality – Best Management Practices. CITY and PERMITTEE are committed to the implementation of controls (best management practices, or BMPs) to manage activities in the Premises in a manner which aids in the protection of CITY's precious water resources. It is PERMITTEE's responsibility, at its sole cost and expense, to identify and implement an effective combination of BMPs so as not to cause pollutant discharges to the storm drain system in violation of San Diego Storm Water Management and Discharge Control Ordinance (Chapter 4, Article 3, Division 3 of the San Diego Municipal Code, as amended from time to time).
 - 26.1 Therefore, PERMITTEE will, at a minimum, implement and comply, as applicable, with the Minimum Industrial and Commercial BMPs adopted under the San Diego Municipal Code section 43.0307(a).
 - 26.2 It is ultimately PERMITTEE's responsibility to prevent pollutant discharge to the storm drain system. Therefore, PERMITTEE will identify and implement any additional BMPs that may be required to avoid the discharge of pollutants to the storm drain system.
27. Utilities. CITY will provide the following utilities and services at the Premises: gas, electric, and water. Any other utilities or services not mentioned will be the sole responsibility of PERMITTEE.

28. Campaigning. The Premises must not be utilized for the purpose of working or campaigning for the nomination or election to any public office, whether partisan or non-partisan, or for the adoption or defeat of any ballot measure; provided however, that PERMITTEE will not be precluded from providing a forum for open public debate by candidates such as occurs at a “candidates forum” and similar events.
29. Budget, Records, and Inspection. PERMITTEE must keep accurate and complete books of account indicating all financial transactions made in connection with the Premises. On April 30th of each year during the Term, PERMITTEE must prepare and submit to the Director a proposed budget for PERMITTEE’s use of the Premises for the following fiscal year detailing estimated revenues and expenditures to include details regarding salaried positions (if any), salaries and wages, personnel expenses (if any), non-personnel expense, and capital outlay. A financial report showing all revenue by source and all expenditures in connection with the Premises must be submitted to the Director on a semi-annual basis by January 31st and July 31st of each year during the Term. Financial reporting will be in a format approved by CITY. In the event of early termination of this SUP, PERMITTEE will submit a financial report within 30 days of the date of said termination. PERMITTEE’s books of account will be subject to inspection by CITY at all reasonable times. PERMITTEE must maintain all such records and accounts for a minimum period of five years.
30. Nondiscrimination. This SUP is made and accepted upon and subject to the covenant and condition, which will run with the land, that PERMITTEE or any person claiming under or through PERMITTEE will not establish or allow any discrimination against or segregation of any person or groups of persons on account of race, color, religion, gender, gender identity, gender expression, disability, sexual orientation, marital status, medical status, national origin, age, ancestry, familial status or source of income in the possession, use or occupancy of the Premises or in the selection, location, number, use or occupancy of Sublicensees in the Premises, including without limitation the provision of goods, services, facilities, privileges, advantages and accommodations, and the hiring and retention of employees and contractors. Unless an exception applies, PERMITTEE must comply with the Equal Benefits Ordinance (Chapter 2, Article 2, Division 43 of the San Diego Municipal Code, as amended from time to time). PERMITTEE is expected to support and adhere to the principles of the City of San Diego’s Equal Employment Opportunity (EEO) policy and the standards of conduct stated in this EEO policy, a copy of which is attached hereto as **Exhibit D: Equal Employment Opportunity Policy**.
31. Smoke/Vape/Drug Free Environment. The Premises provided under this SUP will be utilized and operated in a smoke, vape, and drug-free environment. PERMITTEE must make this fact known, both in writing and in oral communication, to participants periodically throughout the Term. PERMITTEE must document such written or oral communication and provide copies of such to CITY on an annual basis.
32. Insurance. Prior to the execution of this SUP, PERMITTEE must: (a) provide to CITY insurance certificates reflecting evidence of all insurance required below; however, CITY

reserves the right to request, and PERMITTEE must submit, copies of any policy upon reasonable request by CITY; (b) obtain CITY approval of each insurance company or companies; and (c) confirm with CITY that all policies contain the specific provisions required below. PERMITTEE's liabilities, including but not limited to PERMITTEE's indemnity obligations, under this SUP, must not be deemed limited in any way to the insurance coverage required herein. Maintenance of specified insurance coverage is a material element of this SUP and PERMITTEE's failure to maintain or renew coverage or to provide evidence of renewal during the Term may be treated as a material breach of contract by CITY. PERMITTEE must not modify any policy or endorsement thereto which increases CITY's exposure to loss.

32.1 Types of Insurance. At all times during the Term of this SUP, PERMITTEE must maintain insurance coverage and will deliver to CITY current certificates of insurance for:

- a. Commercial General Liability (CGL). Insurance written on an ISO Occurrence form CG 00 01 07 98 or an equivalent form providing coverage at least as broad which must cover liability arising from all personal injury or property damage in the amount of \$1 million per occurrence and subject to an annual aggregate of \$2 million. There must be no endorsement or modification of the CGL limiting the scope of coverage for either insured vs. insured claims or contractual liability. All defense costs must be outside the limits of the policy.
- b. Automobile Liability Insurance. For all of PERMITTEE's automobiles including owned, hired and non-owned automobiles, PERMITTEE must keep in full force and effect, automobile insurance written on an ISO form CA 00 01 12 90 or a later version of this form or an equivalent form providing coverage at least as broad for bodily injury and property damage for a combined single limit of \$1 million per occurrence. Insurance certificate must reflect coverage for any automobile (any auto).
- c. Workers' Compensation. For all of PERMITTEE's employees who are subject to this SUP and to the extent required by the applicable state or federal law, PERMITTEE must keep in full force and effect, a Workers' Compensation policy. That policy must provide a minimum of \$1 million of employers' liability coverage, and PERMITTEE must provide an endorsement that the insurer waives the right of subrogation against CITY and its respective elected officials, officers, employees, agents and representatives.
- d. Causes of Loss - Special Form Property Insurance. PERMITTEE must obtain and maintain, at its sole cost, Causes of Loss - Special Form Property Insurance on all of PERMITTEE's insurable property related to the Permit Use of the Premises under this SUP or the Premises in an amount to cover 100% of the replacement cost.

32.2 Required Endorsements. The following endorsements to the policies of insurance are required to be provided to CITY before any work is initiated under this SUP.

a. Commercial General Liability Insurance Endorsements.

- i. Additional Insured. To the fullest extent allowed by law including but not limited to California Insurance Code section 11580.04, the policy or policies must be endorsed to include as an Additional Insured the City of San Diego and its respective elected officials, officers, employees, agents and representatives with respect to liability arising out of (a) ongoing operations performed by PERMITTEE or on PERMITTEE's behalf, (b) PERMITTEE's products, (c) PERMITTEE's work, including but not limited to PERMITTEE's completed operations performed by PERMITTEE or on PERMITTEE's behalf, or (d) premises owned, leased, controlled or used by PERMITTEE.
- ii. Primary and Non-Contributory Coverage. The policy or policies must be endorsed to provide that the insurance afforded by the Commercial General Liability policy or policies is primary to any insurance or self-insurance of the City of San Diego and its elected officials, officers, employees, agents, and representatives as respects operations of the Named Insured. Any insurance maintained by the City of San Diego and its elected officials, officers, employees, agents, and representatives must be in excess of PERMITTEE's insurance and must not contribute to it.
- iii. Severability of Interest. The policy or policies must be endorsed to provide that PERMITTEE's insurance must apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability and must provide cross-liability coverage.

b. Workers' Compensation Insurance Endorsements.

- i. Waiver of Subrogation. The Workers' Compensation policy or policies must be endorsed to provide that the insurer will waive all rights of subrogation against CITY and its respective elected officials, officers, employees, agents, and representatives for losses paid under the terms of this policy or these policies which arise from work performed by the Named Insured for CITY.

32.3 Acceptability of Insurers. Except for the State Compensation Insurance Fund, all insurance required by this SUP must only be carried by insurance companies with a rating of at least "A-, VI" by A.M. Best Company, that are authorized by the

California Insurance Commissioner to do business in the State of California, and that have been approved by CITY. CITY will accept insurance provided by non-admitted, "surplus lines" carriers only if the carrier is authorized to do business in the State of California and is included on the List of Eligible Surplus Lines Insurers (LESLI list). All policies of insurance carried by non-admitted carriers are subject to all of the requirements for policies of insurance provided by admitted carriers described herein.

- 32.4 Deductibles. All deductibles on any insurance policy are the sole responsibility of PERMITTEE and must be disclosed and acceptable to CITY at the time evidence of insurance is provided.
- 32.5 Continuity of Coverage. All policies must be in effect on or before the first day of the Term. At least 30 days prior to the expiration of each insurance policy, PERMITTEE must furnish a certificate(s) showing that a new or extended policy has been obtained which meets the requirements of this SUP.
- 32.6 Modification. To assure protection from and against the kind and extent of risk existing on the Premises, CITY, at its discretion, may require the revision of amounts and coverage at any time during the Term by giving PERMITTEE 30 days prior written notice. PERMITTEE must also obtain any additional insurance required by CITY for new improvements, changed circumstances, or CITY's reasonable re-evaluation of risk levels related to PERMITTEE's use of the Premises.
- 32.7 Accident Reports. PERMITTEE must immediately report to CITY any accident causing property damage or injury to persons in the Premises or otherwise related to the Permit Use. Such report must contain the names and addresses of the involved parties, a statement of the circumstances, the date and hour of the accident, the names and addresses of any witnesses, and other pertinent information.
33. Indemnification and Hold Harmless. PERMITTEE will protect, defend, indemnify, and hold CITY and its elected officials, officers, employees, representatives, and agents harmless from and against any and all claims asserted or liability established for damages or injuries to any person or property, including injury to PERMITTEE's officers, employees, invitees, guests, agents, or contractors, which arise out of or are in any manner directly or indirectly connected with this SUP, entering into this SUP, the Permit Use, or PERMITTEE's occupancy, use, development, maintenance, improvement, or restoration of the Premises, and all expenses of investigating and defending against same, including without limitation attorneys' fees and costs; provided, however, that PERMITTEE's duty to indemnify and hold harmless will not include any claims asserted or established liability arising from the sole negligence, or willful misconduct of CITY and its elected officials, officers, employees, representatives, and agents. CITY may, at its own discretion, conduct the defense or participate in the defense of any claim related in any way to this indemnification. If CITY elects to conduct its own defense, participate

in its own defense, or obtain independent legal counsel in defense of any claim related to this indemnification, PERMITTEE will pay CITY for all costs related thereto, including, without limitation, reasonable attorneys' fees, and costs.

34. Accessibility Compliance. PERMITTEE will, as applicable to the Premises and PERMITTEE's possession, use, and occupancy of the Premises, comply with all accessibility requirements under California Government Code sections 11135 through 11139.5; Title 24 of the California Code of Regulations; the Federal Rehabilitation Act of 1973, Section 504, Title V; the Americans with Disabilities Act of 1990 (ADA); and all other applicable state and federal laws, rules, and regulations of competent governmental authority protecting the rights of individuals with disabilities. When a conflict exists between any federal or state accessibility requirements, PERMITTEE will follow the most restrictive accessibility requirement (i.e., that which provides the most access). PERMITTEE's compliance will include without limitation the following:
- 34.1 PERMITTEE will not discriminate against qualified persons with disabilities in any aspects of employment, including recruitment, hiring, promotions, conditions and privileges of employment, training, compensation, benefits, discipline, layoffs and termination of employment.
 - 34.2 No qualified individual with a disability may be excluded on the basis of disability from participation in, or be denied the benefits of, services, programs or activities of PERMITTEE.
 - 34.3 PERMITTEE will post a statement addressing the requirements of the ADA in a prominent place at the work site.
 - 34.4 Where required by law, all improvements, fixtures, structures, or installations on the Premises will comply with municipal, state, and federal accessibility requirements by bringing up to code and making accessible any areas of the Premises which deny access to individuals with disabilities. All improvements and alterations will be at PERMITTEE's sole expense.
 - 34.5 PERMITTEE must include language in each Sublicensee's agreement indicating the Sublicensee agrees to abide by the foregoing sections.
 - 34.6 PERMITTEE and each of its Sublicensees will be individually responsible for their own ADA compliance program. PERMITTEE's failure to comply with the above requirements and/or submitting false information in response to those requirements will be a default under this SUP.
35. Accessibility Assessment. In accordance with California Civil Code section 1938, CITY hereby states that the Premises has not been inspected by a Certified Access Specialist (CAsp).
- 35.1 Further, pursuant to California Civil Code section 1938(e), CITY is required to

state: "A Certified Access Specialist (CAsp) can inspect the subject premises and determine whether the subject premises comply with all of the applicable construction-related accessibility standards under state law. Although state law does not require a CAsp inspection of the subject premises, the commercial property owner or lessor may not prohibit the lessee or tenant from obtaining a CAsp inspection of the subject premises for the occupancy or potential occupancy of the lessee or tenant, if requested by the lessee or tenant. The parties must mutually agree on the arrangements for the time and manner of the CAsp inspection, the payment of the fee for the CAsp inspection, and the cost of making any repairs necessary to correct violations of construction-related accessibility standards within the premises."

36. PERMITTEE's Risk. PERMITTEE will bear all risks and liability arising out of or in any manner directly or indirectly connected with PERMITTEE's occupancy, use, development, maintenance, repair and restoration of the Premises and any damages to the improvements on, under, or in the vicinity of the Premises resulting directly or indirectly thereby.
37. No Nuisance. PERMITTEE must not use the Premises in any manner which, in the opinion of CITY, creates a nuisance or disturbs the quiet enjoyment of persons in and to the surrounding area or that violates CITY's Noise Abatement and Control Ordinance (Chapter 5, Article 9.5 of the San Diego Municipal Code, as amended from time to time).
38. Signs. PERMITTEE must not erect or display any banners, pennants, flags, posters, signs, decorations, marquees, awnings or similar devices or advertising in the Premises without CITY's prior written consent. If any such unauthorized item is found in the Premises, PERMITTEE must remove the item at its sole cost and expense within 24 hours after notice from CITY, or CITY may thereafter summarily remove the item at PERMITTEE's sole cost and expense. Notwithstanding the foregoing, PERMITTEE may erect temporary canopies, and temporary table(s) or equivalent after written authorization from CITY Contact. PERMITTEE must comply with CITY's sign regulations in Chapter 14, Article 2, Division 12 of the San Diego Municipal Code, as amended from time to time. For all signs proposed, PERMITTEE will provide to CITY Contact prior to installing such sign, a copy of all applicable approvals, authorizations, and permits. These materials will be located where they will not obstruct public access to the Premises and where they will not impact any park resources, e.g., wildlife habitat, and will be removed at the end of the day.
39. California Public Records Act. Under California Government Code section 7921.005, CITY will determine, in its sole discretion, whether this SUP or information provided to CITY by PERMITTEE pursuant to this SUP is or is not a public record subject to disclosure under the California Public Records Act (CPRA). PERMITTEE will hold CITY, and its elected officials, officers, employees, representatives, and agents, harmless for CITY's disclosure of any such information in response to a request for information under the CPRA.

- 39.1 CITY will not be liable or obligated for any burden or loss (financial or otherwise) incurred by PERMITTEE as a result of CITY's disclosure or non-disclosure of this SUP or PERMITTEE information requested pursuant to the CPRA. PERMITTEE expressly waives any claim against CITY, and its elected officials, officers, employees, representatives, and agents for any burden, expense, or loss which PERMITTEE incurs as a result of CITY's disclosure or non-disclosure of this SUP, or any PERMITTEE information requested pursuant to the CPRA.
- 39.2 If PERMITTEE submits information clearly marked confidential or proprietary, CITY may protect such information and treat it with confidentiality to the extent permitted by law. However, it will be the responsibility of PERMITTEE to provide to CITY the specific legal grounds on which CITY can rely in withholding information requested under the CPRA should CITY choose to withhold such information. General references to sections of the CPRA will not suffice. Rather, PERMITTEE must provide a specific and detailed legal basis, including applicable case law, that clearly establishes the requested information is exempt from disclosure under the CPRA. If PERMITTEE does not provide a specific and detailed legal basis for requesting CITY to withhold PERMITTEE's confidential or proprietary information, CITY will release the information as required by the CPRA and PERMITTEE will hold CITY, its elected officials, officers, and employees harmless for release of this information. It will be PERMITTEE's obligation to defend, at PERMITTEE's expense, any legal actions or challenges seeking to obtain from CITY any information requested under the CPRA withheld by CITY at PERMITTEE's request. Furthermore, PERMITTEE must indemnify and hold harmless CITY, its elected officials, officers, and employees from and against any claim or liability, and defend any action brought against CITY, resulting from CITY's refusal to release information requested under the CPRA which was withheld at PERMITTEE's request. Nothing in this SUP creates any obligation on the part of CITY to notify PERMITTEE or obtain PERMITTEE's approval or consent before releasing information subject to disclosure under the CPRA.
40. Encumbrances. PERMITTEE must keep the Premises, any CITY-owned property of which the Premises is a part, and all improvements thereon, free from all encumbrances and liens of any nature which arise out of or are in any manner directly or indirectly connected with this SUP or PERMITTEE's occupancy, use, development, maintenance, repair, or restoration of the Premises. PERMITTEE will protect, defend, indemnify, and hold CITY harmless from and against any and all such encumbrances and/or liens, and from and against any claim, liability, cost or expense, including without limitation all attorney fees and costs, relating to or charged against the Premises, including without limitation PERMITTEE's failure or the failure of any contractor or subcontractor hired by PERMITTEE to pay any person or persons entitled to record a lien or encumber the Premises or City-owned property pursuant to of the California Civil Code or other applicable sections thereof.

41. Compliance with Laws. PERMITTEE must, at PERMITTEE's sole cost and expense, comply with all the all rules, regulations, ordinances, laws and direction of all CITY, county, state, and federal governing authorities now in effect or which may hereafter be in effect, which pertain to PERMITTEE's occupancy, use, development, maintenance and restoration of the Premises. Violation of this section will be cause for immediate revocation of this SUP.
42. Taxes. PERMITTEE must pay, before delinquency, all taxes, assessments, and fees assessed or levied upon PERMITTEE or the Premises including the land, any buildings, structures, machinery, equipment, appliances, or other improvements or property of any nature whatsoever erected, installed, or maintained by PERMITTEE, or levied by reason of PERMITTEE's occupancy, use, development, maintenance or restoration of the Premises, including any licenses or permits. PERMITTEE acknowledges that this SUP may create a possessory interest subject to property taxation, and that PERMITTEE may be subject to the payment of taxes levied on that interest. PERMITTEE will be solely responsible for and pay all such possessory interest taxes. PERMITTEE's payment of such taxes, fees, and assessments will not reduce any payment due CITY.
43. Hazardous Substances. PERMITTEE must not allow the illegal installation, storage, utilization, generation, sale or release of any Hazardous Substance or otherwise regulated substances in, on, under, or from the Premises. PERMITTEE and PERMITTEE's officers, employees, agents, contractors, invitees, and guests must not install, store, utilize, generate, or sell any Hazardous Substance in the Premises without CITY's prior written consent. PERMITTEE must, prior to initiating any operations, obtain all required permits from applicable regulatory agencies, including without limitation the San Diego County Department of Environmental Health, local fire agencies, the San Diego County Department of Weights and Measures, the San Diego County Air Pollution Control District, and the San Diego Regional Water Quality Control Board. Installing, utilizing, storing, or any other presence of a Hazardous Substance includes boxes, bags, bottles, drums, cylinders, above or below ground tanks, equipment with tanks, or any other type of container, equipment or device which holds or incorporates a Hazardous Substance or hazardous waste.
- 43.1 Remediation. If PERMITTEE's occupancy, use, development, maintenance, repair or restoration of the Premises results in a release of a Hazardous Substance, PERMITTEE must pay all costs of remediation and removal to CITY's satisfaction for unrestricted reuse of the Premises, and in accordance with all applicable laws, rules and regulations of governmental authorities.
- 43.2 Removal. If PERMITTEE or PERMITTEE's officers, employees, agents, contractors, invitees, and guests has received approval and permits to store, utilize, generate or install, or otherwise bring Hazardous Substances to the Premises, PERMITTEE must remove all Hazardous Substances in any type of container, equipment or device from the Premises immediately upon or prior to the expiration or earlier termination of this SUP. CITY reserves the right to conduct inspections of the Premises and/or request documentation demonstrating

the legal removal and/or disposal of the hazardous materials, wastes or other containers, equipment, or devices from the Premises. PERMITTEE must be responsible for any and all costs incurred by CITY to remove any container, equipment or device requiring disposal or removal as required by this subsection.

- 43.3 Hazardous Substances Indemnity. In addition to any other indemnification set forth herein, PERMITTEE must protect, defend, indemnify, and hold CITY harmless from any and all claims, costs, and expenses related to environmental liabilities resulting from PERMITTEE's occupancy, use, development, maintenance, repair or restoration of the Premises, including without limitation: (i) costs of environmental assessments; (ii) costs of regulatory remediation oversight; (iii) costs of remediation and removal; (iv) any necessary CITY response costs; (v) all fines, penalties or fees assessed by any regulatory agency; (vi) damages for injury to natural resources, PERMITTEE's officers, employees, invitees, guests, agents or contractors, or the public; and (vii) all costs of any health assessments or health effect studies.
- 43.4 Notice of Release. If PERMITTEE knows or has reasonable cause to believe that a Hazardous Substance has been released on, from or beneath the Premises, PERMITTEE must immediately notify CITY and any appropriate regulatory or reporting agency in compliance with California Code of Regulations Title 19 and all other applicable laws or regulations. PERMITTEE must deliver a written report thereof to CITY within three days after receipt of the knowledge or cause for belief and submit any required written reports to regulatory or reporting agencies as required by regulation or law. If PERMITTEE knows or has reasonable cause to believe that such substance is an imminent release or is an imminent substantial danger to public health and safety, PERMITTEE must take all actions necessary to alleviate the danger. PERMITTEE must immediately notify CITY in writing of any violation, notice to comply, or notice of violation received or the initiation of environmental actions or private suits related to the Premises.
- 43.5 Environmental Assessment. Upon reasonable cause to believe that PERMITTEE's occupancy, use, development, maintenance, or restoration of the Premises resulted in any Hazardous Substance being released on, from or beneath the Premises, CITY may cause an environmental assessment under regulatory oversight of the suspect area to be performed by a professional environmental consultant registered with the State of California as a Professional Engineer, Certified Engineering Geologist or Registered Civil Engineer. The environmental assessment must be obtained at PERMITTEE's sole cost and expense, and must establish what, if any, Hazardous Substances have more likely than not been caused by PERMITTEE's occupancy, use, development, maintenance, or restoration of the Premises, and in what quantities. If any such Hazardous Substances exist in quantities greater than allowed by CITY, county, state or federal laws, statutes, ordinances or regulations, or require future restricted re-use of the Premises, then the environmental assessment must include a discussion of

such substances with recommendations for remediation and removal necessary to effect unrestricted re-use and in compliance with those laws or statutes, and estimates of the cost of such remediation or removal. PERMITTEE must cause, or if PERMITTEE fails to do so within a reasonable period of time, as determined by CITY in its sole discretion, then CITY may cause the remediation and/or removal recommended in the environmental assessment such that unrestricted re-use of the Premises and compliance with environmental laws and regulations are achieved, and PERMITTEE must pay all costs and expenses therefor.

44. Alcohol. No alcohol may be served at the Premises without the written permission of the Director obtained in advanced, which permission may be reasonably withheld or delayed in the Director's sole discretion. PERMITTEE must obtain a special event permit under Municipal Code section 56.54, as amended from time to time, and as referenced in this section. PERMITTEE must follow and will bear full responsibility for compliance with all alcohol laws, special event permit conditions, and SUP conditions whenever PERMITTEE obtains permission to serve alcohol pursuant to this section. All state and local regulations regarding the consumption of alcohol must be followed at all times at the Premises, at PERMITTEE's sole risk and cost.
45. Special Events. If PERMITTEE's event meets the definition of a Special Event under San Diego Municipal Code section 22.4003, PERMITTEE must submit a Special Event permit application. CITY's Office of Special Events is responsible for the overall management of the Citywide Special Event Permitting Process for all Special Events taking place on public right-of-way as well as events taking place on park property that include event components that are considered complex.
 - 45.1 Examples of complex event elements include alcohol, road closures, major structural elements, events that require two additional regulatory or public safety permits aside from a Parks permit, and commercial vending activity.
 - 45.2 As it relates to the Special Event permit application, all required information, documents, and application fee are required no later than 60 days prior to the actual date of the event. Permit applications submitted and/or incomplete with less than 60-days' notice will incur late fees per business day. A map of the event layout will be required, as part of the permit process, to ensure the event will take place within the Premises. For more information on the Citywide Special Event Permit Process and to submit a permit application, refer to the Special Events & Filming website: <https://www.sandiego.gov/specialevents-filming>.
 - 45.3 Any event that will take place on CITY park property outside the Premises of this SUP will require a Park Use Permit issued through Parks and Recreation staff. All events must be in compliance of Parks and Recreation Park Use Rules and Regulations including undergoing a California Environmental Quality Act (CEQA) review if the event is over park capacity. Park Use Rules and Regulations including Park Capacities can be found at: <https://www.sandiego.gov/park-and-recreation/parks/rules>.

46. Exclusive Beverage Vending Machine. PERMITTEE acknowledges and understands that Compass Group USA, Inc., a Delaware corporation doing business as Canteen San Diego, is the exclusive “vending machine” provider for CITY and must be used for all machine vending at the Premises. PERMITTEE will not procure, use, or otherwise allow any vending services at the Premises other than CITY’s designated exclusive provider. If at any time CITY changes its exclusivity pertaining to the provision of vending machines, PERMITTEE will be informed in writing by CITY and will comply with whomever has been designated the exclusive vendor as set forth by CITY.
47. Music. PERMITTEE must only perform music for which CITY has obtained a “non-dramatic” (as hereinafter defined) performance license from ASCAP, Broadcast Music, Inc. (BMI), SESAC, or any other musical industry licensing entity (Licensing Entity). For a list of approved music and artists, PERMITTEE may contact the respective Licensing Entity. CITY will notify PERMITTEE in writing of any other approved Licensing Entity and any additional PERMITTEE requirements (hereinafter, Additional Requirements) imposed upon PERMITTEE by CITY by virtue of its licensing agreement with Licensing Entity.
- 47.1 For the purposes of this SUP a “non-dramatic” performance includes live performances and recorded performances (CD, tapes, radio and television over loudspeakers). PERMITTEE must not perform music with any “dramatic” performances. A “dramatic” performance includes, but is not be limited to, the following: (a) performance of a “dramatico-musical work” (as hereinafter defined) in its entirety; (b) performance of one or more musical compositions from a “dramatico-musical work” (as hereinafter defined) accompanied by dialogue, pantomime, dance, stage action, or visual representation of the work from which the music is taken; (c) performance of one or more musical compositions as part of a story or plot, whether accompanied or unaccompanied by dialogue, pantomime, dance, stage action or visual presentation; and (d) performance of a concert version of a “dramatico-musical work” (as hereinafter defined). The term “dramatico-musical work” as used in this SUP, will include, but is not limited to, a musical comedy, opera, and a play with music, revue, or ballet.
- 47.2 PERMITTEE must not perform music from a coin operated phonorecord (or CD) player commonly known as a “juke-box” or a computer on-line service or electronic bulletin board in the Premises.
- 47.3 It will be PERMITTEE’s sole responsibility to ensure it only performs music for which CITY has obtained a valid music license. Should PERMITTEE desire to perform music for which CITY does not have a license, PERMITTEE must obtain its own license from the appropriate Licensing Entity before PERMITTEE performs the desired music. PERMITTEE must ensure that (1) CITY is named in the license; (2) each CITY premises/location where PERMITTEE intends to perform the music is identified in the license; and (3) PERMITTEE has provided

CITY with a fully executed copy of the license at least ten days prior to the performance of the music.

48. Waiver. The property constituting the Premises is publicly owned and held in trust for the benefit of CITY's citizens. CITY's failure to insist upon the strict performance of any of PERMITTEE's obligations under this SUP, in one or more instance, will not be construed as a waiver of any such obligation, and the same will remain in full force and effect. CITY's waiver of a default will not be a waiver of any other default. Any waiver of a default must be in a writing executed by CITY to constitute a valid and binding waiver. CITY's delay or failure to exercise a right or seek a remedy will not be deemed a waiver of that or any other right or remedy under this SUP, at law or in equity. The exercise of any particular right or the use of any particular remedy for any default will not waive the use of any other right or remedy for the same default or for another or later default. CITY's acceptance of any fees will not be a waiver of any default preceding the fee payment. CITY's failure to discover a default or take prompt action to require the cure of any default will not result in an equitable estoppel, but CITY may at any and all times require the cure of the default.
49. Cumulative Remedies. CITY's rights and remedies under this SUP are cumulative and will not limit or otherwise waive or deny any of CITY's rights or remedies at law or in equity.
50. Survival. Any obligation which accrues under this SUP prior to its expiration or termination will survive such expiration or termination.
51. Exhibits. All exhibits referenced in this SUP are incorporated into this SUP by this reference. In the event of a conflict between this SUP and any exhibit to this SUP, the terms, conditions, and obligations of this SUP will control.
52. Joint and Several Liability. If PERMITTEE is comprised of more than one person or legal entity, such persons, and entities, and each of them, will be jointly and severally liable for the performance of each and every obligation of PERMITTEE under this SUP.
53. No Affiliation. Nothing contained in this SUP will be deemed or construed to create a partnership, joint venture or other affiliation between CITY and PERMITTEE or between CITY and any other entity or party, or cause CITY to be responsible in any way for the debts or obligations of PERMITTEE or any other party or entity.
54. Entire Agreement. This SUP including the exhibits attached hereto, constitutes the entire agreement between the parties and supersedes any and all prior understandings, representations, warranties, and agreements between them pertaining to this SUP and PERMITTEE's occupancy, use, development, maintenance, and restoration of the Premises. Any modification, alteration, or amendment of this SUP must be in writing and signed by all the parties hereto.
55. Amendments. Neither this SUP nor any section hereof may be changed, modified,

amended, or waived except by a written agreement executed by duly authorized representatives of CITY and PERMITTEE. Any alleged oral amendments have no force or effect.

56. Notices. Any notice required or permitted to be given under this SUP will be in writing and may be served personally or delivered by United States mail, postage prepaid, and addressed to PERMITTEE as follows:

San Diego Community College District
Attn: Kelly Rosas, Business Manager
3375 Camino Del Rio South
San Diego, CA 92108

San Diego City College
Attn: Itza Vilaboy
1313 Park Boulevard
San Diego, CA 92101

San Diego College of Continuing Education
Attn: Neill Kovrig
4343 Ocean View Boulevard
San Diego, CA 92113

And to CITY as follows:
THE CITY OF SAN DIEGO
Attn: Jon Richards, Deputy Director
City of San Diego
Parks and Recreation Department
2125 Park Boulevard, 2nd Floor
San Diego, CA 92101

57. Counterparts. This SUP may be executed in one or more counterparts, each of which will be deemed to constitute an original, but all of which, when taken together, will constitute one and the same.
58. Authority to Contract. Each individual executing this SUP on behalf of another person or legal entity represents and warrants that he/she is authorized to execute and deliver this SUP on behalf of such person or entity in accordance with duly adopted resolutions or other authorizing actions which are necessary and proper and under such legal entity's articles, charter, bylaws, or other written rules of conduct or governing agreement, and that this SUP is binding upon such person or entity in accordance with its terms. Each person executing this SUP on behalf of another person or legal entity must, upon request, provide CITY with evidence, satisfactory to CITY, that such authority is valid and that such entity is a valid, qualified corporation, limited liability company, partnership, or other unincorporated association in good standing in its home state and that such entity is qualified to do business in California.

59. Acceptance of Premises. By signing this SUP, PERMITTEE represents and warrants that it has independently inspected the Premises and made all tests, investigations, and observations necessary to satisfy itself as to the condition of the Premises and its suitability for the Permit Use. PERMITTEE further represents and warrants that it is not relying on any representation by CITY as to the condition of the Premises or its suitability for the Permit Use, and that PERMITTEE is relying solely on its own and independent inspections, tests, investigations, and observations of the Premises in entering into this SUP. PERMITTEE accepts the Premises in its current condition and acknowledges and agrees that CITY has fulfilled all obligations it may have had to improve, modify, repair, replace, alter, or otherwise develop the Premises prior to the Effective Date. PERMITTEE will not hold CITY responsible for any defects in the Premises. PERMITTEE accepts and assumes all risk of harm to all persons and property, including without limitation PERMITTEE's employees, from any defects in the Premises, and will be solely responsible, therefore.

(REMAINDER OF PAGE PURPOSELY LEFT BLANK)

IN WITNESS WHEREOF, this SUP is executed by CITY, acting by and through its Deputy Chief Operating Officer whose authority is delegated by the Mayor of the City of San Diego pursuant to San Diego Charter sections 260 and 28, authorizing such execution, and by PERMITTEE.

PERMITTEE:

San Diego Community College District

By: **Kelly Rosas** Digitally signed by Kelly Rosas
Date: 2025.05.05 12:58:37 -07'00' Date 5/5/2025
Kelly Rosas, Business Manager

CITY:

By: Kristina Peralta Date 9 May 25
Kristina Peralta, Deputy Chief Operating Officer

Approved as to form
this 19 day of May, 20 25.

HEATHER FERBERT, City Attorney

By: Alma Robbins
Alma Robbins
Deputy City Attorney

Attachments: Exhibit A – Permit Use
Exhibit B – Premises
Exhibit C – Facility Inspection Form
Exhibit D - Equal Employment Opportunity Policy

SPECIAL USE PERMIT
Exhibit A – Permit Use

1. Scope of Permit Use. The Permit Use consist of commencement ceremonies and rehearsals (collectively referred to as, “the event”) for graduating San Diego City College and San Diego College of Continuing Education students.
 - 1.1 The event dates and times are described in Table 1, below.
 - 1.2 PERMITTEE may change the event dates and times with the prior written approval of the Director.
 - a. PERMITTEE must submit requests to change the event dates and times a minimum of two years prior to the requested date change.
2. PERMITTEE Responsibilities.
 - 2.1 PERMITTEE must provide a diagram of the event layout to CITY Contact 30-days prior to the event dates listed as Exhibit A, Table 1.
 - a. Layout should include placement of benches, booths, stage setup, and any other equipment associated with the event.
 - 2.2 PERMITTEE must ensure to not block:
 - a. sidewalks,
 - b. walkways,
 - c. streets,
 - d. fire lanes,
 - e. the Japanese Friendship Garden loading dock and gate, and
 - f. access to the Spreckels Organ Pavilion.
 - 2.3 PERMITTEE must ensure no vehicle access the Spreckels Organ Pavilion.
3. Parking.
 - 3.1 Reserved parking stalls, depicted in Exhibit B, Figure 2 of this SUP, will be designated for PERMITTEE’s equipment storage and dignitary parking for the event during the dates and times described in Table 1, below.
 - a. PERMITTEE must only store equipment necessary for the event.
 - b. Overnight storage is strictly prohibited, any equipment remaining on the Premises outside the dates and times described in Table 1, below, will be summarily removed by CITY at PERMITTEE’s sole cost and expense.
 - 3.2 PERMITTEE is responsible for monitoring the reserved parking stalls.
 - 3.3 PERMITTEE is responsible for posting the reserve parking stalls with “no park” signs.
 - a. Signs must be placed at least 72 hours (3 days) prior to the start of the event.
 - 3.4 PERMITTEE must direct the event traffic to the general parking, depicted in Exhibit B, Figure 3 of this SUP.
 - a. Parking in the general parking is on a first come, first serve basis and may not be reserved.
 - 3.5 PERMITTEE will create and post large signs identifying the general parking for the event.

- 3.6 PERMITTEE must not block access to Permit Parking in the Organ Pavilion Parking Lot and the road behind the Spreckels Organ Pavilion leading to the Japanese Friendship Garden loading dock and gate.
 - 3.7 ADA accessible passenger drop-off and pick-up, depicted in Exhibit B, Figure 4 of this SUP, is located north of the Spreckels Organ Pavilion, identified by a white curb.
 - a. Drop-off or pick-up outside of this area is not permitted.
 - b. Parking is not permitted in the ADA accessible passenger drop-off and pick-up.
 - 3.8 No additional reserved parking spaces will be permitted.
4. Loading and Unloading.
- 4.1 PERMITTEE loading and unloading zone, depicted in Exhibit A, Figure 2 of this SUP, is located behind the Spreckels Organ Pavilion.
 - 4.2 No other loading and unloading area will be permitted.
 - 4.3 Loading and unloading must not block:
 - a. sidewalks,
 - b. walkways,
 - c. streets,
 - d. fire lanes,
 - e. the Japanese Friendship Garden loading dock and gate, and
 - f. access to the Spreckels Organ Pavilion
 - 4.4 No vehicle access will be permitted on the Spreckels Organ Pavilion.
 - 4.5 After unloading, PERMITTEE must move all vehicles from the loading and unloading zone.
5. Portable Restrooms.
- 5.1 If portable restrooms are required, it will be provided at the sole cost and expense of PERMITTEE.
 - 5.2 Portable restrooms must be placed in the designated area as shown in Exhibit A, Figure 2, of this SUP.
6. Building Access.
- 6.1 The Green Room, described in Exhibit B, Figure 1 of this SUP, is subject to availability.
 - 6.2 No food is permitted in the Green Room. Drinks must be limited to water.
 - 6.3 Access to the roof or upper level is not permitted.

SPECIAL USE PERMIT
Exhibit A – Permit Use

Table 1: The event schedule for San Diego City College and the San Diego College of Continuing Education is as follows:

1. San Diego City College: Use of Premises from 7:00 a.m. to 10:00 p.m.

- Thursday, May 22, 2025
- Thursday, May 21, 2026
- Thursday, May 27, 2027
- Thursday, May 25, 2028
- Thursday, May 24, 2029

2. College of Continuing Education: Use of Premises for rehearsal from 2:00 p.m. to 5:00 p.m.

- Thursday, June 5, 2025
- Monday, June 1, 2026
- Tuesday, June 1, 2027
- Wednesday, May 31, 2028
- Monday, June 4, 2029

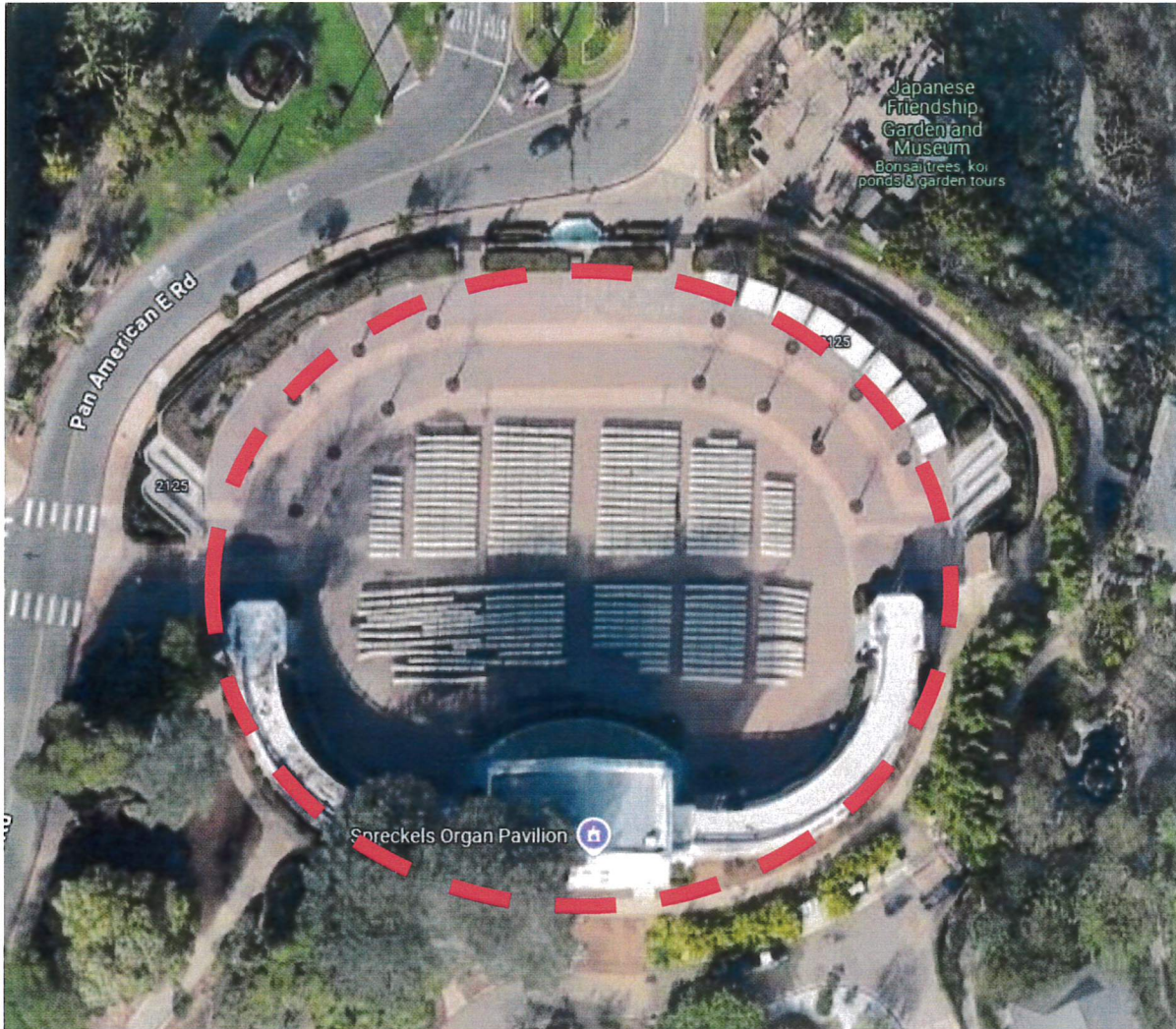
3. College of Continuing Education: Use of Premises for commencement ceremony from 8:00 a.m. to 9:00 p.m.

- Friday, June 6, 2025
- Tuesday, June 2, 2026
- Wednesday, June 2, 2027
- Thursday, June 1, 2028
- Tuesday, June 5, 2029

SPECIAL USE PERMIT
Exhibit B - Premises

Figure 1: Spreckels Organ Pavilion

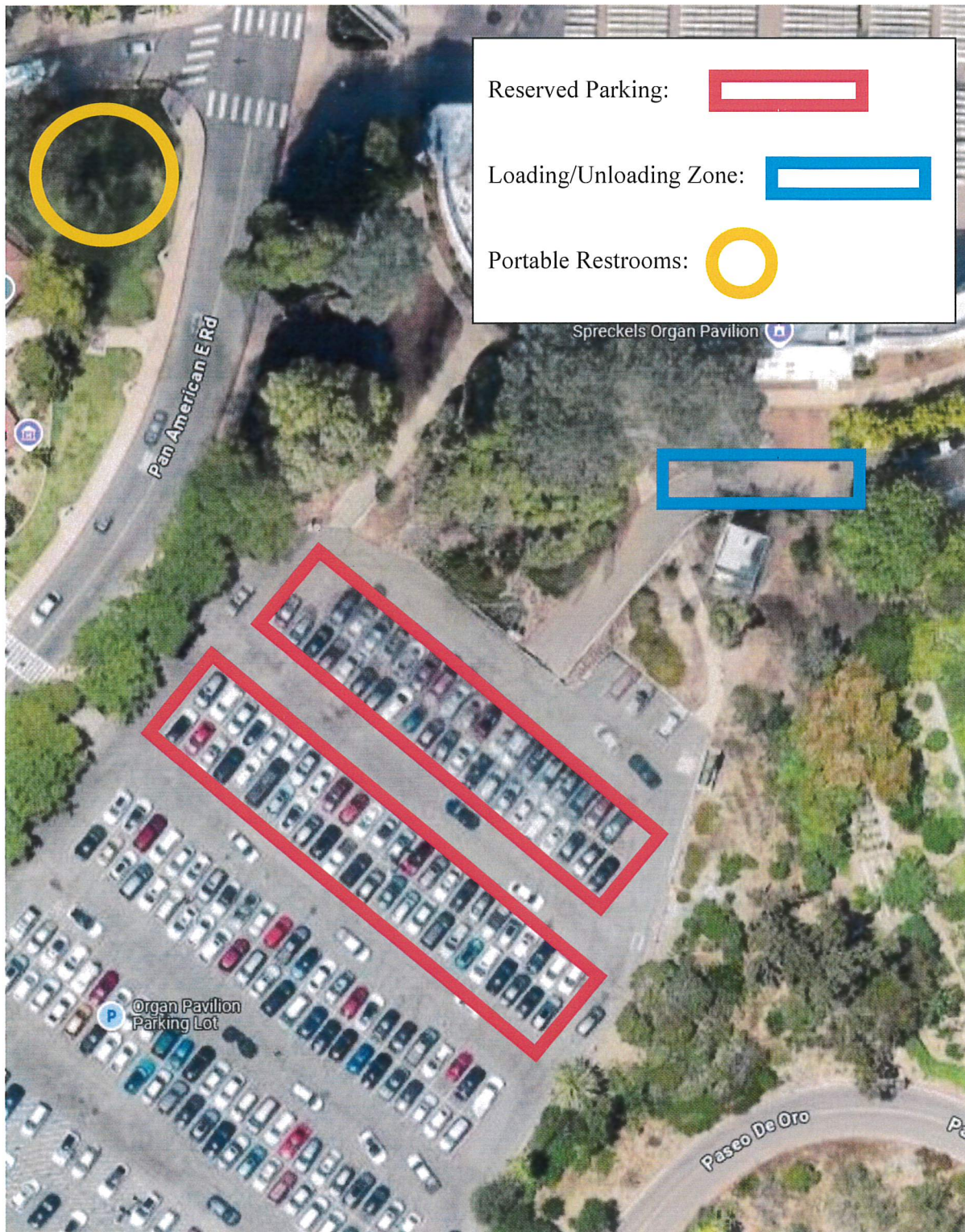
Description: The Premises consists of the building commonly known as the Spreckels Organ Pavilion. This includes the performance stage, park benches, large pavilion area, covered walkway, and a two-story building, including the Green Room located within.



SPECIAL USE PERMIT
Exhibit B – Premises

Figure 2: Parking, Loading Zone, and Portable Restroom Location

Description: The Premises includes reserved parking, loading and unloading zone, and portable restroom location as depicted below.



SPECIAL USE PERMIT
Exhibit B – Premises

Figure 3: Event Parking

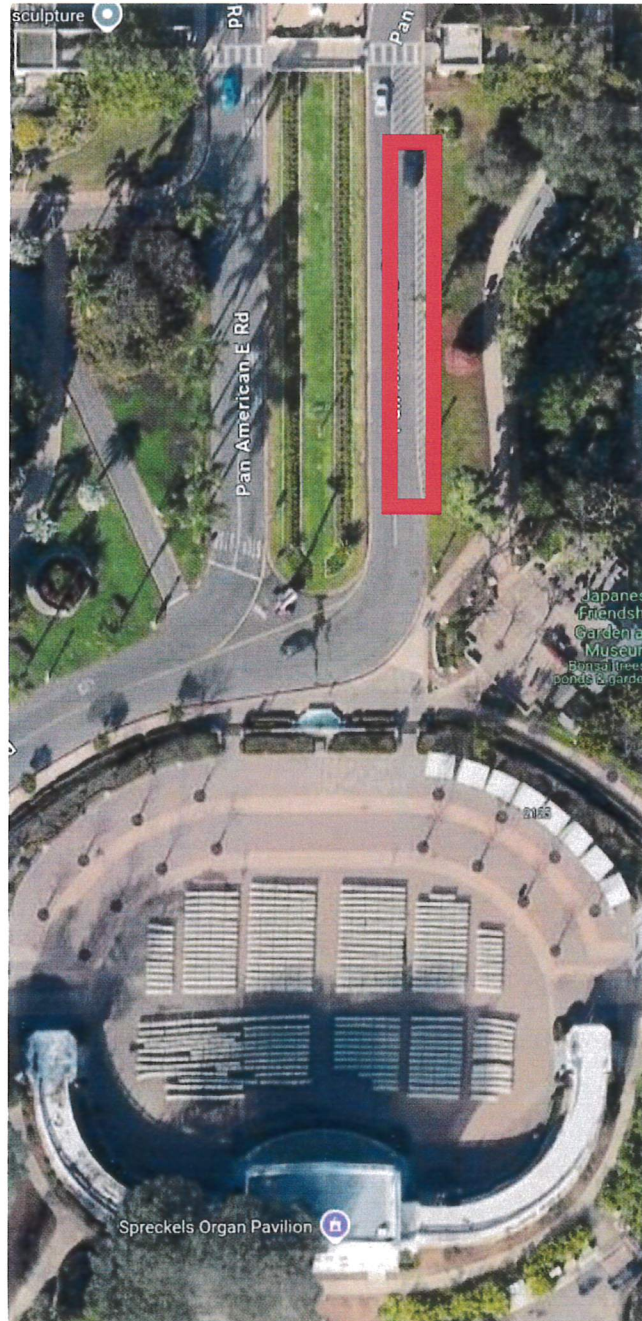
Description: The Premises includes the location for general parking in the parking lot located east of Park Boulevard, commonly known as the Inspiration Parking Lot.



SPECIAL USE PERMIT
Exhibit B – Premises

Figure 4: ADA Accessible Passenger Drop-off and Pick-up

Description: The Premises includes the location for ADA accessible passenger drop-off and pick-up for the event.



SPECIAL USE PERMIT

Exhibit C – Facility Inspection Form

SAN DIEGO PARK AND RECREATION DEPARTMENT WEEKLY

Facility, Furnishings & Grounds Safety Inspection

DEPARTMENT INSTRUCTION 6.6
P = Pass F = Fail N/A = Not Applicable

Location Inspected _____ Date of Inspection _____

Name (print) _____

Signature of Inspector _____ Title _____ Time Req'd _____

1.) GENERAL ENVIRONMENT

	P	F	N/A		P	F	N/A
A. Picnic Tables	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	B. Picnic Shelters	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
C. Benches	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	D. Barbecue Grills	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
E. Hot Coal Containers	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	F. Drinking Fountains	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
G. Signs	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	H. Telephones	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
I. Graffiti	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	J. No Obstructions	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
K. Other _____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>				

2.) RESTROOM

	P	F	N/A		P	F	N/A
A. Clean & Free of Debris	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	B. Doors Free of Obstacles	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
C. Fixtures (Shower Heads, Sink, Bowls, Hand Dryer)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	D. Graffiti	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
E. Drinking Fountains	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	F. Floor Surfaces	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
				G. Other _____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

3.) PARKING LOTS/SIDEWALKS (Cracks, Chips, Sand) STAIRWAYS

	P	F	N/A		P	F	N/A
A. Pot Holes	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	B. Signs	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
C. Lights	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	D. Sidewalk	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
E. Railings	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	F. Stairs	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
G. Landings	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	H. Other _____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

4.) TURF AREAS/ATHLETIC FIELDS/MULTI-PURPOSE COURTS

	P	F	N/A		P	F	N/A
A. Free of Debris	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	B. Exposed or Broken Sprinkler Heads	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
C. Holes	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	D. Base Anchors/Plates	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
E. Dugout Benches/Bleachers	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	F. Backboard/Rims	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
G. Nets	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	H. Cables	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
I. Surfacing	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	J. Other _____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

5.) TREES

(Broken Limbs, Stubs, etc.)	P	F	N/A
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

6.) FENCING

	P	F	N/A		P	F	N/A
A. Holes	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	B. Protruding Wire	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
C. Gates (Operational, Locks Functional)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>				

7.) TRAILS

	P	F	N/A		P	F	N/A
A. Free of Debris	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	B. Erosion	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
C. Hand Rails	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	D. Trail Markers	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
E. Railroad Ties/Telephone Post	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	F. Obstructions	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
G. Stairs/Steps	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	H. Other _____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

8.) BUILDINGS			P	F	N/A		P	F	N/A
<u>Fire Prevention</u>									
A. Flammable Liquids stored properly	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	B. Fire extinguishers full	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		
C. Other _____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>						
<u>Electrical</u>			P	F	N/A		P	F	N/A
A. All junction boxes, outlets, switches installed & covered	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	B. Only one electrical plug per outlet	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		
C. Electrical panel accessible (nothing within 30" in front of panel)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	D. Other _____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		
<u>Building, Restrooms & General</u>									
A. All rooms clean & free of debris	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	B. Panic hardware in working order	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		
C. Fixtures, (Shower Heads, Sink, Bowls, Hand Dryer)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	D. Doors free of obstacles & properly hinged	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		
E. Floor Surfaces	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	F. Drinking Fountains	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		
G. Graffiti	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	H. Other _____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		
<u>First Aid Treatment</u>									
A. Minimum Supply on hand according to standard first aid list	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	B. Other _____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		

9.) SHORELINE			P	F	N/A		P	F	N/A
A. Irrigation Exposed	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	B. Wash Outs	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		
C. Rip Rap	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	D. Erosion	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		
E. Drain Outlets	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	F. Sign	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		
G. Above Grade Drain Swales	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	H. Beach Mooring Bars (Weeds, Signs, Wash Outs)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		
I. Coastal Bluffs (Stability, Slumps, Park Improvements)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	J. Volleyball Courts (Nets, Poles)/ Basketball Courts	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		
K. Fire Rings	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	L. Street End Barricades	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		
M. Offshore Buoys	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	N. Other _____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		

10.) BOAT RAMP/DOCKS			P	F	N/A		P	F	N/A
A. Railings	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	B. Deck	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		
C. Cleats	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	D. Signs	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		
E. Ramps	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	F. Bolts	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		
G. Hinges	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	H. Chains	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		
I. Rollers	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	J. Nails	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		
K. Nonskid	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	L. Other _____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		

PLEASE EXPLAIN ANY "FAILED" RATINGS AND ACTIONS TAKEN

COMMENTS: _____

District Manager (if required) _____ Date _____

Grounds Maintenance Manager/Area Manager _____ Date _____

Grounds Maintenance Supervisor _____ Date _____

SPECIAL USE PERMIT
EXHIBIT D – Equal Employment Opportunity Policy



THE CITY OF SAN DIEGO

M E M O R A N D U M

DATE: July 1, 2022

TO: All City Employees, Applicants, Elected Officials, Interns, Volunteers, and Contract Workers

FROM: Todd Gloria, Mayor
Mara W. Elliott, City Attorney
Jay Goldstone, Chief Operating Officer
Julie Rasco, Human Resources Director
Douglas Edwards, Personnel Director
Elizabeth Maland, City Clerk

SUBJECT: Equal Employment Opportunity (EEO) Policy – Annual Statement

The opportunity to seek, obtain, and hold employment without discrimination is a civil right. Through this Policy, we reaffirm our commitment to the principles of Equal Employment Opportunity (EEO). The City is committed to providing all City employees, applicants, elected officials, interns, volunteers, and contract workers with fair and equal treatment in the workplace, equal opportunities to succeed, and a work environment free of discrimination, harassment, and retaliation. The City has a Zero Tolerance Policy regarding discrimination, harassment, and retaliation, regardless of whether the behavior meets legal thresholds under state and federal law, such as needing to be severe or pervasive. Allegations of conduct contrary to the principles of EEO or the standards of conduct stated in this Policy will be taken seriously and investigated in a prompt, thorough, and objective manner. If misconduct is found, the City will take all appropriate remedial measures. Violations of this Policy will result in disciplinary action, up to and including termination, even if it is the first time such conduct has occurred.

We are committed to ensuring that the principles of fair and equal treatment are understood, respected, and practiced throughout the workplace. Federal and state laws make it unlawful to discriminate on the basis of any protected classification, including age, ancestry, color, creed, physical or mental disability, gender, gender identity, gender expression, genetic information, marital status, medical condition, veteran or military status, national origin, pregnancy (including childbirth, breastfeeding, or related medical conditions), race, traits historically associated with race (including hair texture and protective hairstyles such as braids, locks, and twists), religion, religious belief, observance, or practice, religious creed, sex, sex stereotype, sexual orientation, transgender status or transitioning, use of family or medical leave, or any other classification protected by federal, state, or local law (including being perceived or regarded as or associated with any protected classification). This Policy

reflects the City's commitment to preventing discrimination, harassment, and retaliation from occurring, promptly correcting any improper conduct through appropriate remedial measures, and providing a workplace that promotes the highest level of performance, professionalism, and civility. Conduct may violate the City's EEO Policy, but not rise to the level of unlawful conduct. All City employees, applicants, elected officials, interns, volunteers, and contract workers are expected to support and adhere to the principles of EEO and the standards of conduct stated in this Policy.

Manager and Supervisor Responsibilities. Managers and supervisors must understand the importance of EEO principles and standards, support, adhere to, and enforce them, and work diligently to provide every City employee, applicant, elected official, intern, volunteer, and contract worker with fair and equal treatment in the workplace, equal opportunities to succeed, and a work environment free of discrimination, harassment, and retaliation. Managers and supervisors will be held accountable to ensure that EEO practices and standards are adhered to in their work units. Managers and supervisors must be mindful of their comments or actions that may have the effect of discouraging employees from coming forward with complaints. Comments or actions calculated to have a chilling effect on employee complaints are prohibited and will not be tolerated.

1. FAIR AND EQUAL TREATMENT

All City employees, applicants, elected officials, interns, volunteers, and contract workers are entitled to equal opportunities and fair and equal treatment in all employment actions (e.g., pre-employment inquiries, hiring and firing, promotions, discipline, transfers, job rotations, work assignments, training, overtime, merit increases, and rewards) and other terms, conditions, and privileges of employment, without regard to age, ancestry, color, creed, physical or mental disability, gender, gender identity, gender expression, genetic information, marital status, medical condition, veteran or military status, national origin, pregnancy (including childbirth, breastfeeding, or related medical conditions), race, traits historically associated with race (including hair texture and protective hairstyles such as braids, locks, and twists), religion, religious belief, observance, or practice, religious creed, sex, sex stereotype, sexual orientation, transgender status or transitioning, use of family or medical leave, or any other classification protected by federal, state, or local law (including being perceived or regarded as or associated with any protected classification). These classifications are the "protected classifications" covered under this Policy. The City also supports the reasonable accommodation of employees with disabilities or sincerely held religious beliefs, observances, or practices.

2. WORK ENVIRONMENT FREE OF DISCRIMINATION, HARASSMENT, AND RETALIATION

All City employees, applicants, elected officials, interns, volunteers, and contract workers are entitled to a work environment free of discrimination, harassment, and retaliation. Therefore, discrimination, harassment, and retaliation in any form will not be tolerated.

All City employees, applicants, elected officials, interns, volunteers, and contract workers are strictly prohibited from engaging in discrimination or harassment in the workplace based on a protected classification. In addition, all City employees, applicants, elected officials, interns, volunteers, and contract workers are prohibited from engaging in retaliation against any City employee, applicant, elected official, intern, volunteer, or contract worker who

requests accommodation or reports, opposes, complains of, provides a statement or testimony, or otherwise participates in an investigation or other proceeding regarding an alleged act of discrimination, harassment, or retaliation in violation of this Policy.

Discrimination is when a person's protected classification is a substantial motivating reason for an adverse employment action. Some examples of adverse employment actions include termination of employment, discipline, a negative performance evaluation, denial of promotion, demotion, or reduction in pay.

Harassment includes any unwelcome, unsolicited, or unwanted conduct because of a person's protected classification that offends, demeans, humiliates, embarrasses, intimidates, or otherwise causes the person distress. Harassment creates a negative work atmosphere, which reduces work productivity and morale, undermines the integrity of the workplace, and destroys professionalism. Harassment also creates a hostile, offensive, oppressive, or intimidating work environment, and deprives a person of their right to work in a place free of discrimination, when the harassing conduct sufficiently offends, humiliates, distresses, or intrudes upon the person so as to disrupt the person's emotional tranquility in the workplace, affect the person's ability to perform the job as usual, or otherwise interfere with and undermine the person's personal sense of well-being. Some examples of harassment include derogatory comments, slurs, demeaning jokes, threats, unwanted touching, offensive pictures, cartoons, or posters, or sexual advances.

Retaliation includes threatening, intimidating, or harassing conduct or an adverse employment action because a person opposed or reported discrimination, harassment, or retaliation in violation of this Policy; filed or assisted another with a complaint under this Policy; provided a statement or testimony or otherwise participated or assisted in an investigation or other proceeding arising from an alleged violation of this Policy; or requested accommodation for a disability or religious belief, observance, or practice. Subtle retaliation (e.g., an unwarranted change in work assignment or location, an unreasonable denial of a leave request, or uncooperativeness) is also prohibited and will not be tolerated. Managers and supervisors are reminded that employees have a right to report any conduct or employment action that an employee reasonably believes violates this Policy.

Good faith employment actions do not constitute unlawful discrimination, harassment, or retaliation. Good faith employment actions taken by a manager or supervisor, such as offering constructive feedback or criticism, holding an employee accountable, or providing discipline, where appropriate, do not constitute, and should not be mistaken for, discrimination, harassment, or retaliation. These employment actions are aimed at enhancing workplace productivity, or addressing work performance or conduct, and are within the responsibilities and obligations of City managers and supervisors.

The City has a 100% Response Policy regarding claims of discrimination, harassment, and retaliation. This means the City will respond to all reports and complaints of discrimination, harassment, or retaliation in the workplace, conduct fair, timely, and thorough investigations, as needed, and take all appropriate action. The City's action may range from training and informal counseling to more severe disciplinary action, up to and including termination, even if it is the first time such conduct has occurred. Prior incidents may be considered when assessing the facts and circumstances and determining the appropriate corrective action. Every City employee, applicant, elected official, intern, volunteer, and contract worker is expected to support, adhere to, and enforce the EEO Policy.

Manager and Supervisor Responsibilities. Managers or supervisors who receive a report or complaint, observe, or otherwise become aware of possible discrimination, harassment, or retaliation against an employee, applicant, elected official, intern, volunteer, or contract worker, including by a third-party (e.g., a member of the public), must report the alleged conduct to their department management and the department's Human Resources Department liaison, and take prompt corrective action, as appropriate. Managers or supervisors who fail to properly report possible misconduct or fail to respond and take prompt corrective action, when appropriate, may be disciplined even if the harassment did not take place in their work units.

3. SEXUAL HARASSMENT

All City employees, applicants, elected officials, interns, volunteers, and contract workers are prohibited from engaging in sexual harassment in the workplace. Sexual harassment is harassing conduct that creates an intimidating, hostile, or offensive working environment on the basis of sex or gender, including gender identity, gender expression, or sexual orientation. Sexual harassment is a form of discrimination based on sex, gender, gender identity, gender expression, or sexual orientation. Sexual harassment is unprofessional and detrimental to the work environment. As with other forms of harassment based on a protected classification, the City has a 100% Response Policy and a Zero Tolerance Policy regarding sexual harassment.

Sexual harassment can be unlawful and includes verbal, physical, and visual harassment, as well as unwanted sexual advances. Sexually harassing conduct need not be motivated by sexual desire. A person alleging sexual harassment is not required to sustain a loss of tangible job benefits or productivity in order to establish harassment. It suffices that a reasonable person subjected to the conduct would find, as the harassed person did, that the harassment so altered their working conditions as to make it more difficult to do their job.

Sexually harassing conduct may be either "quid pro quo" or "hostile work environment" sexual harassment:

- "Quid pro quo" (Latin for "this for that") sexual harassment is when a person explicitly or implicitly conditions a job, promotion, or other work benefit on submission to sexual advances or other conduct based on sex.
- "Hostile work environment" sexual harassment occurs when unwelcome comments or conduct based on sex, gender, gender identity, gender expression, or sexual orientation unreasonably interferes with a person's work performance or creates an intimidating, hostile, or offensive work environment.

To be unlawful, the harassment must be severe or pervasive. That means that it alters the conditions of employment and creates a hostile or abusive work environment. A single incident of harassing conduct may be sufficiently severe so as to create an unlawful hostile work environment, if the harassing conduct unreasonably interfered with the person's work performance or created an intimidating, hostile or offensive working environment. To be unlawful, the harassment must also be both subjectively and objectively offensive. Sexually harassing conduct can violate the City's EEO Policy, however, even if it does not rise to the level of unlawful conduct.

The existence of a hostile work environment depends upon the totality of the circumstances. In determining whether harassing conduct was severe or pervasive, the totality of the circumstances is considered, including any or all of the following:

- The nature of the conduct;
- How often, and over what period of time, the conduct occurred;
- The circumstances under which the conduct occurred;
- Whether the conduct was physically threatening or humiliating;
- The extent to which the conduct unreasonably interfered with an employee's work performance.

Sexually harassing conduct can be verbal, physical, visual, or written, and can occur between people of the same or opposite sex. Individuals of any gender can be the target of sexual harassment. Sexual harassment may involve harassment of a person of the same gender as the harasser, regardless of either person's sexual orientation or gender identity. Sexual harassment can occur in any working relationship, such as between peers, supervisor to subordinate, subordinate to supervisor, by a member of the public toward an employee, elected official to employee, contract worker to employee, within or across departments, as well as in other situations.

Verbal harassment may include sexual comments, obscene language, or sexually degrading words; insults, slurs, threats, or derogatory or demeaning comments; sexual jokes; graphic comments about a person's appearance or physique; conversations or comments with sexual undertones; recounting one's sexual exploits or inquiring about a person's sex life; starting or spreading rumors about the sex life of another person; or remarks or jokes about a person's ability to do a job because of the person's gender, gender identity, or sexual orientation.

Physical harassment may include unwelcome touching, hugging, kissing, groping, or massaging; sexually suggestive leering or vulgar gestures; physically blocking, cornering, or impeding movement; or revealing parts of the body, when such exposure violates common decency.

Visual or written forms of harassment may include displaying derogatory, sexually suggestive, offensive, or explicit objects or pictures, including cartoons, posters, drawings, or computer graphics; sending letters, notes, e-mails, text or electronic messages, or social media invitations; or posting on social media, in some circumstances, when it may be perceived as sexually suggestive, demeaning, offensive, or obscene.

Sexually harassing conduct may also include:

- Unwanted sexual advances;
- Job actions taken to pressure a person into accepting sexual advances; or
- In some circumstances, repeatedly asking a person for a date after being turned down.

Sexually harassing conduct by managers or supervisors can include offering employment benefits in exchange for sexual favors; sexual advances that condition an employment benefit upon an exchange of sexual favors; or a statement or insinuation that a refusal to

provide sexual favors, or a rejection of sexual favors or advances, will cause reprisal, lack of support for appointments, promotions, or transfers, failure of probation, change of assignment, poor performance rating, or some other adverse employment action.

In addition, sexual favoritism can create a hostile work environment under certain circumstances. "Sexual favoritism" means that an employee has received preferential treatment in regard to promotion, work hours, assignments, or other significant employment benefit or opportunity because of a sexual relationship with a manager or supervisor who was in a position to grant or influence the granting of those preferences.

Whether alleged harassing conduct constitutes sexual harassment is determined on a case-by-case basis by assessing the entire situation and the totality of the circumstances. Factors such as the nature of the conduct and the context in which the alleged conduct occurred will be considered in assessing the allegations and in determining the resolution.

It is the impact of the conduct that is determinative, not whether the conduct was intended to cause harm. For example, a person who teases in a sexual manner or tells sexual jokes may create an offensive work environment for another person even though the comments or actions were intended to be merely "in good fun." This applies to all types of job classifications and work environments. If a person's conduct is harassing to an individual or group of individuals, it does not matter that the person failed to recognize their conduct as unwelcome, offensive, or harassing.

This Policy does not prohibit mutually consensual social relationships between employees.¹ However, persons involved in consensual relationships must exercise caution to prevent the development of harassing conduct or the use of authority inappropriately. For example, if a consensual relationship changes and is no longer mutual, conduct once welcome by both individuals may become offensive and harassing to one. Sexually harassing conduct can occur in relationships that began as reciprocal relationships, but later cease to be reciprocal.

It is unlawful and prohibited under this Policy to retaliate or threaten retaliation against a person for rejecting sexual advances or complaining about harassment.

All City employees, including elected officials, are required to complete the City's Sexual Harassment Prevention Training within the first six months of hire or assuming their positions, and then again once every two years. Interns and volunteers are also required to complete sexual harassment prevention training. The California Civil Rights Department (CRD) (formerly known as the California Department of Fair Employment and Housing) has created sexual harassment prevention training courses which are available online at no cost: <https://calcivilrights.ca.gov/shpt/>.

4. PERSONS WITH DISABILITIES

The Americans with Disabilities Act (ADA) and California Fair Employment and Housing Act (FEHA) are the federal and state laws that protect employees with disabilities. Under these

¹ Administrative Regulation 95.60, Conflict of Interest and Employee Conduct, prohibits employees from supervising or influencing employment decisions associated with immediate family members or other persons with whom they have a close personal relationship.

laws, the City will provide reasonable accommodations to employees and qualified applicants with a disability, unless doing so would cause undue hardship.

The City determines reasonable accommodations for employees with disabilities through timely, good faith interactive processes involving the Human Resources Department's Reasonable Accommodations Manager, an appropriate manager, supervisor, or designee, and the employee with a disability.² Additionally, the City will engage in timely, good faith interactive processes with qualified job applicants who request accommodation.

5. RELIGIOUS ACCOMMODATION

Title VII of the Civil Rights Act of 1964 and the FEHA are the federal and state laws that protect employees from discrimination based on religion. In accordance with these laws, the City will provide reasonable accommodations to employees, interns, and qualified applicants with a sincerely held religious belief, observance, or practice that conflicts with a job requirement or policy, unless doing so would cause undue hardship.

The City determines reasonable accommodations for employees and interns with religious conflicts through timely, good faith interactive processes involving the Human Resources Department, an appropriate manager, supervisor, or designee, or both, and the employee or intern requesting accommodation. Additionally, the City will engage in timely, good faith interactive processes with qualified applicants who request accommodation.

6. FAMILY AND MEDICAL LEAVE

The federal Family and Medical Leave Act (FMLA) and the California Family Rights Act (CFRA) allow eligible employees who have been employed with the City for at least a total of 12 months, and have actually worked at least half-time during the previous 12-month period, to request up to 12 workweeks of unpaid, job-protected leave in a 12-month period to care for themselves or a family member (child, parent, grandparent, grandchild, sibling, spouse, or domestic partner) because of a serious health condition, or to care for the employee's child after birth or placement for adoption or foster care. California law also allows an employee disabled by pregnancy, childbirth, or a related medical condition to request up to four months (the working days in 17 and 1/3 weeks) of additional unpaid, job-protected pregnancy disability leave per pregnancy. An employee's medical leave of absence may be extended as a reasonable accommodation under the ADA and FEHA, depending on the circumstances.

In addition, the FMLA and CFRA provide leave rights related to military service. Eligible employees are entitled to up to 12 workweeks of unpaid, job-protected leave during a 12-month period because of a qualifying exigency related to the covered active duty or call to covered active duty of an employee's covered family member in the Armed Forces. The FMLA further provides for up to 26 workweeks of unpaid, job-protected leave in a single 12-month period for an eligible employee to care for a covered family member recovering from a serious illness or injury sustained in the line of duty.

² Administrative Regulation 96.21, City Policy for People with Disabilities: Employment, describes the disability reasonable accommodation process and consultation provided by the Human Resources Department, Reasonable Accommodations Office, which may be reached at (619) 236-5521.

It is unlawful and a violation of this Policy to interfere with, restrain, or deny an employee's exercise or attempt to exercise any right provided under these leave laws. An employee who exercises their rights under any of these laws shall not be subject to discrimination, harassment, or retaliation.

7. CITY EMPLOYEE RECRUITMENTS

The Mayor, through the Human Resources Department, and the heads of all independent City departments will ensure that the recruitment methods and strategies for unclassified City recruitments and appointments follow this Policy. The Civil Service Commission, through the Personnel Director, will ensure that the recruitment methods and strategies for all classified City recruitments follow this Policy.

8. INTERVIEWS AND SELECTIONS BY APPOINTING AUTHORITY

All interviews and selections by an appointing authority must be conducted in a non-discriminatory manner (Personnel Manual, Index Code F-1). Interview questions and selection materials must be based on job-relevant criteria and carefully designed to not discriminate or have an adverse impact on applicants based on age, ancestry, color, creed, physical or mental disability, gender, gender identity, gender expression, genetic information, marital status, medical condition, veteran or military status, national origin, pregnancy (including childbirth, breastfeeding, or related medical conditions), race, traits historically associated with race (including hair texture and protective hairstyles such as braids, locks, and twists), religion, religious belief, observance, or practice, religious creed, sex, sex stereotype, sexual orientation, transgender status or transitioning, or any other classification protected by federal, state, or local law (including being perceived or regarded as or associated with any protected classification).

9. PERFORMANCE EVALUATIONS OF MANAGERS AND SUPERVISORS

Job performance evaluations of managers and supervisors should include a review of their support of and adherence to this Policy.

10. ENFORCEMENT OF THE EEO POLICY

The City's procedures for consideration, investigation, and resolution of reports and complaints of potential violations of this Policy are described in Administrative Regulation 96.50 (Equal Employment Opportunity Policy and Complaint Resolution Procedures), Civil Service Rule XVI (Discrimination Complaints), and the Personnel Manual, Index Code K-2 (Non-Discrimination Policy and Complaint Procedures), and apply to all City employees, applicants, elected officials, interns, volunteers, and contract workers. To constitute a potential violation of this Policy, the alleged conduct or employment action must be based on a protected classification (e.g., race, gender, age, disability, etc.) or protected conduct under this Policy (e.g., filing an EEO complaint or requesting accommodation).

11. REPORTING A VIOLATION

Any City employee, applicant, elected official, intern, volunteer, or contract worker who believes that a violation of this Policy has occurred or is occurring should immediately bring the matter to the attention of any of the individuals or offices listed below:

- Any supervisor (it is not necessary to follow the chain of command).
- Any Department Director, Assistant Director, Deputy Director, or other department appointing authority.
- Any Human Resources staff within a department.
- Any Human Resources Department Liaison: [Human Resources Department Liaison Contact List](#).
- The City's Equal Employment Investigations Office (EEIO) in the Personnel Department, (619) 236-7133 or EEIO@sanidiego.gov.

City employees, applicants, elected officials, interns, volunteers, and contract workers may also file a complaint with the following external agencies:

- California CRD, (800) 884-1684 or <https://calcivilrights.ca.gov/>.
- U.S. Equal Employment Opportunity Commission, (800) 669-4000 or www.eeoc.gov.

Complaints to the CRD must be filed within three years of the alleged harassment, discrimination, or retaliation. If the CRD finds sufficient evidence, and efforts to resolve the dispute fail, the CRD may file a civil complaint in state or federal court on behalf of the complaining party. Complainants can also pursue a private lawsuit in civil court after the CRD issues a Right-to-Sue Notice. Civil remedies can include damages for emotional distress, backpay, reinstatement, promotion, changes in policy or practice, and attorney's fees and costs.

Manager and Supervisor Responsibilities. Managers or supervisors who receive a report or complaint of a violation of this Policy, or observe or otherwise become aware of possible discrimination, harassment, or retaliation against an employee, applicant, elected official, intern, volunteer, or contract worker, including by a third-party (e.g., a member of the public), must immediately report the alleged conduct to their department management and the department's Human Resources Department Liaison.

Retaliation Prohibited. It is unlawful and prohibited under this Policy to retaliate against a person for reporting or filing a complaint of discrimination, harassment, or retaliation, or participating in any investigation or other proceeding under this Policy.

Confidentiality. The City will strive to protect the privacy interests of all individuals involved when responding to a report or complaint of a potential violation of this Policy. However, anonymity and complete confidentiality cannot be guaranteed once inappropriate conduct is reported or a complaint is made. While an individual's expressed desire for confidentiality will be taken into consideration, those interests must be weighed against the responsibility of the City to investigate alleged violations of this Policy and take appropriate corrective and preventive action. Information pertaining to EEO complaints will be maintained in confidence to the fullest extent permitted by law.


Administrative Regulation 96.50 EEO Violation Report Form. Individuals may report any potential violation of this Policy to a City supervisor or manager. When a report is received, the supervisor or manager receiving the report should notify their department management and the department's Human Resources Department Liaison and initiate the A.R. 96.50 EEO Violation Report Form process by completing the first section of the form and obtaining a reference tracking number from the EEIO at (619) 236-7133. The A.R. 96.50 EEO Violation Report Form may be found on the [Personnel Department's](#) CityNet website as well as attached to [Administrative Regulation 96.50](#). Departments may also obtain the form through

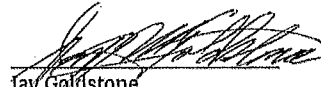
their department management, Human Resources staff, or Payroll Specialist. The department appointing authority, in consultation with the City's EEIO, which tracks and guides the process, will determine appropriate next steps.


EEIO Internal Discrimination Complaint Form. Individuals may report any potential violation of this Policy to the EEIO and may complete and submit the EEIO Internal Discrimination Complaint Form. Upon receiving a report or complaint of a potential violation, the EEIO will follow the processes set forth in the Personnel Manual, Index Code K-2. The EEIO Internal Discrimination Complaint Form may be found on the Personnel Department's CityNet website or by contacting the EEIO at (619) 236-7133 or EEIO@sandiego.gov.

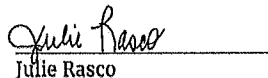
Employee Assistance Program (EAP). City employees have access to confidential emotional support, assistance, and resources to address employees' personal work-life concerns and emotional well-being, at no cost, through the City's EAP. EAP professionals are available 24/7 to discuss employee and household member concerns. For more information about the resources and services available through the EAP, go to citynet.sandiego.gov/hr/eap. The EAP can be reached at (877) 622-4327 or by visiting myCigna.com and entering Employer ID: cosd (for initial registration) to log in. For emergencies, please call 911.

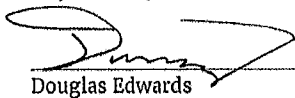
Through this Policy, the City seeks to ensure that all City employees, applicants, elected officials, interns, volunteers, and contract workers know of their rights and responsibilities. Every City employee, applicant, elected official, intern, volunteer, and contract worker is expected to support and adhere to the principles of EEO and the standards of conduct stated in this Policy in order to create and maintain a high-performance, professional work environment at the City, free of any and all discrimination, harassment, and retaliation.



Todd Gloria
Mayor


Jay Goldstone
Chief Operating Officer


Mara W. Elliott
City Attorney


Julie Rasco
Human Resources Director


Douglas Edwards
Personnel Director


Elizabeth Maland
City Clerk