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**OAKLAND UNIFIED
SCHOOL DISTRICT**
Community Schools, Thriving Students

Memo

To Board of Education
From Kyla Johnson-Trammell, Superintendent
Curtiss Sarikey, Chief of Staff

Board Meeting Date September 9, 2020
Subject Agreement for Joint Use of Facilities with Common Vision

Action Requested and Recommendation Approval of Agreement for Joint Use of Facilities between Oakland Unified School District and Common Vision. Common Vision will receive, store, assemble and package fresh produce boxes for OUSD students and families. Common Vision will also distribute the fresh produce boxes to OUSD families for the period May 1, 2020 through August 1, 2020.

Background
(Why do we need these services? Why have you selected this vendor?) As part of OUSD's effort to address food security for students and families during the COVID19 pandemic, OUSD is partnering with Common Vision to augment the student meal program with additional fresh produce for families. This partnership will result in the production and distribution of 16,000 fresh produce boxes.

Fiscal Impact No fiscal impact to the district

Attachments

- Agreement for Joint Use of Facilities

AGREEMENT FOR JOINT USE OF FACILITIES

THIS AGREEMENT, dated this ____ day of May, 2020, is entered by and between the OAKLAND UNIFIED SCHOOL DISTRICT ("District") and COMMON VISION for the joint use of facilities owned by the District.

WHEREAS, the District is the owner of real property, including a warehouse located at 900 High St., Oakland, CA 94601 (together, "the Facilities");

WHEREAS, Common Vision is dedicated to providing fresh produce to Oakland's most vulnerable communities;

WHEREAS, Common Vision requires additional facilities in order to meet these needs.

NOW THEREFORE, the District and Common Vision agree as follows:

I. Use of Facilities

- A. The District shall allow Common Vision, as well as its representatives, agents, employees, and volunteers, to use the Facilities, for the following purposes:
 - 1. Receipt and storage (including cold storage in District refrigerator) of fresh produce;
 - 2. Assembly and packing of fresh produce boxes.
- B. The District, in consultation with Common Vision, shall determine the days and times on which Common Vision representatives, agents, employees, and/or volunteers may be present at the Facilities. Regardless of Common Vision's presence, the District shall be permitted to access and use the Facilities at all days and times.
- C. The District shall ensure that, at the determined days and times, the Facilities are open and accessible to Common Vision representatives, agents, employees, and volunteers.
- D. The District shall provide building management and security at the determined days and times. The District shall bear the cost of providing building management and security, if necessary.
- E. The District shall ensure that the Facilities are regularly cleaned by District custodial staff. Common Vision shall reimburse the District for any additional daily cost the District incurs from providing custodial services for any District facilities

used exclusively by Common Vision on a given day. Common Vision shall reimburse the District on a proportional basis for any additional daily cost the District incurs from providing custodial services for any District facilities shared between the District and Common Vision on a given day.

- F. Common Vision shall use the Facilities solely for the purposes identified in Paragraph A, and shall comply with any and all District directives regarding use of the Facilities.

II. Delivery of Fresh Produce Boxes

- A. Common Vision shall distribute fresh produce boxes prepared at the Facility to District families at distribution sites identified by a District representative.
- B. Common Vision shall be solely responsible for this distribution, including but not limited to loading, delivering, unloading, assembling, and transmitting those boxes.
- C. Common Vision will make every effort to match demand at District's food distribution sites.

III. Allocation of Risk

- A. Common Vision shall immediately inform the District of each Common Vision representative, agent, employee, and/or volunteer who was present on a District facility in connection with this Agreement and who has been diagnosed with COVID-19 or has shown COVID-19-like symptoms.
- B. In the event that the District or Common Vision discovers that a Common Vision representative, agent, employee, and/or volunteer who was present on a District facility in connection with this Agreement has been diagnosed with COVID-19, the District and Common Vision shall share equally the cost of deep cleaning the facility. Common Vision shall be responsible for notifying those who may have been exposed to the diagnosed individual, although nothing prohibits the District, at its discretion, from noticing individuals as well..
- C. Common Vision shall use the Facilities and shall be responsible for using the Facilities in accordance with any shelter-in-place (or similar) orders issued by the District or by local, state, and federal authorities and with any social distancing (or similar) requirements established by the District or by local, state, and federal authorities.

- D. Common Vision shall be responsible for the cost of any repairs to the Facilities necessary based on Common Vision's use or activities.
- E. Common Vision shall defend, indemnify and hold harmless the District (including its governing board and governing board members, its officers, employees, contractors, and volunteers) from any and all claims, demands, actions or damages arising out of Common Vision's use of the Facilities to which the District may be subjected as a direct consequence of this Agreement, except for those claims, demands, actions or damages resulting solely from the negligence of the District.

IV. Term and Termination

- A. The term of this Agreement shall be from the date of execution through August 1, 2020, unless terminated earlier, or extended by amendment.
- B. Either Party may terminate this Agreement at any time, with or without cause.
 - 1. Common Vision recognizes that, if state or federal funding to the District decreases, the District may be forced to terminate this Agreement.
 - 2. In addition, if either Party determines that continued Common Vision use of the Facilities threatens the health or safety of District or Common Vision representatives, agents, employees, and/or volunteers, or the community, they may terminate this Agreement.
- C. Termination shall be effective within two (2) working days of effective notice, except that termination pursuant to subparagraph B.2 shall be effective immediately.

V. Insurance

- A. Common Vision shall maintain in full force and effect throughout the duration of this Agreement a suitable policy or policies of public liability and property damage insurance, insuring against all bodily injury, property damage, personal injury, and other loss or liability caused by or connected with use under this Agreement. Such Insurance shall be in amounts not less than \$1,000,000 for injury to or death of one person; and \$1,000,000 for property damage.
- B. Common Vision shall maintain in full force and effect with regard to any vehicles which brought onto District facilities a suitable policy or policies of automobile liability insurance with a combined single limit of \$1,000,000 per accident.

- C. Common Vision shall maintain, in full force and effect throughout the term of this Agreement, Workers' Compensation insurance in accordance with the laws of California, and employers' liability insurance with a limit of not less than \$1,000,000 per employee and \$1,000,000 per occurrence.

VI. No Property Rights

- A. Common Vision expressly understands and agrees that this Agreement constitutes a non-exclusive license for use of the District's facilities, and is neither intended by the District, nor shall it be legally construed, to convey leasehold, easement, or other interest in real property.

VII. Entire Agreement

- A. This Agreement constitutes the entire understanding between the Parties with respect to the subject matter hereof, superseding all negotiations, prior discussions and preliminary agreements made prior to the date hereof. This Agreement may not be changed except in writing executed by both Parties.

VIII. Miscellaneous

- A. Each Party shall execute and deliver such other and further documents or instruments as may be necessary or appropriate in order to carry out the intentions of the Parties as contained in this Agreement.
- B. This Agreement and all amendments and supplements to it may be executed in two or more counterparts, each of which shall be deemed an original agreement and all of which shall constitute one and the same agreement. Any counterpart may be executed and delivered by facsimile or other electronic signature (including portable document format) by either of the parties and, notwithstanding any statute or regulations to the contrary (including, but not limited to, Government Code section 16.5 and the regulations promulgated therefrom), the counterpart shall legally bind the signing party and the receiving party may rely on the receipt of such document so executed and delivered electronically or by facsimile as if the original had been received. This section constitutes a waiver by each party of the requirements and constraints on electronic signatures found in statute and regulations including, but not limited to, Government Code section 16.5 and the regulations promulgated therefrom.
- C. This Agreement shall be performed in Oakland, California and is governed by the laws of the State of California, but without resort to California's principles and laws regarding conflict of laws. The Alameda County Superior Court shall have jurisdiction over any litigation initiated to enforce or interpret this Agreement.


D. OUSD enters into this Agreement pursuant to Resolution No. 1920-0218, approved on March 19, 2020, which "authorizes the Superintendent or her designee to take any and all actions necessary to ensure the continuation of public education, and the health and safety of the students and staff of OUSD." This Agreement constitutes such an action.

IN WITNESS WHEREOF, the Parties have entered into this Agreement as of the day set forth below.



Kyla Johnson-Trammell, Superintendent
Oakland Unified School District

Date



May 15, 2020

Wanda Stewart, Executive Director
Common Vision

Date

APPROVED AS TO FORM:



5/14/2020

Joanna Powell, Staff Attorney
Oakland Unified School District

Date

RATIFICATION BY BOARD OF EDUCATION



9/10/2020

Jody London, President
Oakland Unified School District Board of Education

Date



9/10/2020

Kyla Johnson-Trammell, Secretary
Oakland Unified School District Board of Education

Date