



MEMORANDUM OF UNDERSTANDING FOR USE OF FACILITIES IN THE EVENT OF EMERGENCY OR DISASTER

This Agreement is made and entered into _____, by and between the City of San Marcos, Texas ("City), a Texas home rule municipality, and the San Marcos Consolidated Independent School District ("District"), a Texas public independent school district, and jointly referred to as the " Parties."

Recitals.

Whereas, in the event of a catastrophic disaster or emergency, resources may be needed to provide shelter or provide necessary services;

Whereas, the City desires to enter into a Memorandum of Understanding ("MOU") with the District; and

Whereas, the City and the District desire to enter into this MOU for the purpose of use of designated District facilities by the City as alternative evacuation shelter in the event of an emergency or disaster; and

Whereas, the District finds that entering into this MOU with the City serves a public purpose by providing temporary shelter to the citizens of San Marcos, Hays County Texas; and

For the reasons stated in these Recitals and the mutual benefits and obligations herein, the Parties wish to enter into this Agreement

Now, Therefore, in consideration of the foregoing recitals and the terms, conditions, covenants, and agreements set forth herein, the Parties agree as follows:

1. **Purpose.** The purpose and intent of this Agreement is to provide for the emergency use of the following District facilities for the purpose of providing an alternative temporary shelter for evacuees due to an emergency or government declared disaster.
2. **Duration.** This Agreement shall be for a term of three of years from the date of the initial agreement. Following the initial three-year term, the Parties may agree in writing to renew the MOU for a period of two additional years. Either party may terminate this agreement with or without cause by providing the other party with thirty (30) days written notice to the designated representative of the other party. unless terminated earlier upon a breach of this Agreement by a party pursuant to Section 2.1 below.

- 2.1 Upon breach of this Agreement by either party, the other party shall give written notice of the intent to terminate the Agreement specifying the claimed breach and

action required to cure the breach. If the breaching party fails to cure the breach within five (5) calendar days from receipt of said written notice, the other party may terminate the Agreement upon written notification to the breaching party.

3. Facilities and Equipment.

- 3.1 District Facilities are comprised of those shown in Exhibit A.
- 3.2 District Equipment and resources potentially available are shown in Exhibit B

4. Use of Facilities and Equipment.

- 4.1 City will make every effort to notify the District's Superintendent or designee, of its request to use District facilities as an alternative evacuation site. Such notification will include a description of the emergency requiring the notification, the number of persons who will be evacuated to the site, the approximate length time for the use of the facility, and the names and contact information of City personnel responsible for coordinating the use of the alternative evacuation site.
- 4.2 The City will ensure there is adequate supervision and security of persons at all times during the temporary sheltering at the District facility.
- 4.3 Use of the District's buses may be used to assist the City in the event of an emergency or disaster at the discretion of the District.
- 4.4 The City agrees that it shall exercise reasonable care in the conduct of activities in said facilities and further agrees to replace or reimburse the District for any items, materials, equipment, or supplies that may be used by the District in the conduct of its sheltering activities.
- 4.5 The City will be responsible for replacing, restoring, or repairing damage occasioned by the use of the District facility, or equipment belonging to the District.
- 4.6 The City will reimburse the District for expenditures of personnel required to maintain the facility during the emergency or disaster, including overtime costs, upon production of receipts or time sheets.
- 4.7 The City's use of the District Facilities is subject to the rules in Exhibit C.

5. Liability.

- 5.1 To the extent permitted by law, and without waiving any limitations on liability, or immunity from liability or suit, each party agrees to hold harmless, from and against any and all claims, demands, suits, causes of action, and judgments for (a) damages to the loss of property of any person; and/or (b) death, bodily injury, illness, disease, loss of services, or loss of income or wages to any person, arising out of incident to, concerning or resulting from the negligent or willful act or omissions of the other party, its agents, officers, and/or employees in the performance of activities or duties pursuant to this Agreement.

6. Insurance.

- 6.1 6.1 The City shall procure and maintain for the duration of the Agreement, general liability insurance covering premises, products-completed operations, and contractual liability with limits no less than \$1,000,000 each occurrence, \$2,000,000 general aggregate against claims for injuries to persons or damage to property which may arise from or in connection with the use of the District Facilities. The City shall also secure general liability insurance coverage for participant liability with limits of not less than \$250,000 per occurrence. The City shall provide a certificate of insurance evidencing the required insurance before using the District Facilities. The City shall also provide workers compensation insurance of not less than the statutory limits, including Employer's Liability coverage of minimum limits of \$1,000,000 each-occurrence each accident/\$1,000,000 by disease each-occurrence/\$1,000,000 by disease aggregate. Commercial Automobile Liability insurance at a minimum combined single limit of \$1,000,000 per-occurrence for bodily injury and property damage, including owned, non-owned, and hired car coverage.
- 6.2 The City's membership in a self-insured, governmental risk pool shall satisfy all conditions set forth in Paragraph 9.1.

7. Cost and Fees.

- 7.1 In the event certain improvements are needed to ensure the District's facility is adequate to provide temporary shelter, the City shall bear the sole cost of such improvements.
- 7.2 No permanent improvements to the District's facility shall be made unless approved in writing by the District's Board of Trustees. The Superintendent or designee may authorize limited non-permanent improvements to the facility.
8. **Inspection.** Upon at least three (3) business days' notice, City's authorized officers, agents, and employees may be provided the opportunity to inspect the facilities for purposes of reviewing the adequacy of the District facilities for the purposes of providing temporary emergency shelter.
9. **No Third Party Benefits.** The Parties hereto do not intend to confer on any third parties any benefits hereunder. Therefore, no third party may utilize any provision hereof as a third party beneficiary or otherwise.
10. **Entire Agreement.** The terms and conditions written herein constitute the entire understanding between the Parties. This Agreement shall not be modified or amended except in writing and executed by the Parties hereto.
11. **Governing Law and Venue.** This Agreement shall be construed and interpreted in accordance with the laws of the State of Texas, and the venue of any action brought hereunder shall be in the state courts having jurisdiction in Hays County, Texas.
12. **Waiver.** The failure of a party to this Agreement to insist, on any occasion, upon strict performance of any provision of this Agreement will not be considered a waiver of any

obligation, right, or duty of, or imposed upon, such party. Any waiver at any time by either party of its rights with respect to this Agreement shall not be deemed a continuing waiver or a waiver with respect to any other failure to comply with any other obligation, right, duty of this Agreement. Any waiver of the terms and conditions of this Agreement shall, if requested, be provided in writing.

EXECUTED by the Parties to be effective as of the date first written above.

CITY:

By: _____ **Date:** _____
Stephanie Reyes, City Manager

SAN MARCOS CONSOLIDATED INDEPENDENT SCHOOL DISTRICT:

By: _____ **Date:** _____
Dr. Michael Cardona
Superintendent of Schools

EXHIBIT A

Designated areas of the San Marcos High School located at 2601 Rattler Road, San Marcos, Texas 78666. In the event of an emergency, the Superintendent or designee shall designate those areas of the high school that may be utilized for the purpose of providing temporary shelter.

Designate undamaged areas of the high school, or undamaged District buildings in the event the high school is unusable can be named at the determination of the district.

EXHIBIT B

In the event of an emergency or government declared disaster, the Superintendent or designee will designate the equipment and resources to be provided to the City.

EXHIBIT C

RULES AND REGULATIONS FOR USE OF SCHOOL FACILITIES AND RESOURCES

The building, grounds, and equipment of the School District (“District”) are primarily for public school purposes, which include all activities of the school involved in carrying out its mission and programs. No other use shall be permitted to interfere with the primary purpose for which these buildings and grounds are intended.

- A. The District reserves the right to discontinue use of the facility or its resources by the applicant/user at any time if, in their sole discretion, the use of a facility is in the conflict with District use policies or regulations.
- B. Adequate supervision, which may include police and/or security personnel, shall be required of all activation within District facilities. Emergency use of space and resources is only permitted during times of disaster.
- C. It is the responsibility of the user to report to the District by the close of the next business day all non-emergency injuries and damage due to the activities of the user. If the incident (damage to the facility or injury to an individual) is an emergency, the incident is to be reported immediately.

CONDITIONS

- 1. Keys to buildings of facilities shall not be issued to any individual or group for entering a district facility without authorization. Unless previously arranged, facilities must be opened and closed by custodians or other authorized District personnel at the times arranged.
- 2. Signage or equipment that may create damage to walls, ceilings, floors, or furniture are not allowed in district facilities. Nails, tacks, duct tape, glue and other adhesives, are not permitted. Open flames including, candles, briquettes, and wood fires are not permitted on District property. All costs for such removal or damages caused by signage, equipment, or open flame shall be directly billed to the city.
- 3. At least one employee from the district nutrition staff would have to be paid to come in when kitchen or feeding areas are in use.

RESPONSIBILITIES

- 1. Organizations using District facilities shall remain with their groups throughout activation and shall be financially responsible for the proper care of the facility used, and any District materials, furniture, or equipment therein.
- 2. In the event of damage or loss of District property, the city must accept the District's estimate of replacement/repair and pay all costs associated therein within 30 days. The District is not responsible for property lost by individuals or groups using school facilities.

RESTRICTIONS

1. The following items shall be strictly prohibited in all District facilities and upon all District properties:
 - All forms of smoking and tobacco use, and other nicotine delivery products;
 - Alcoholic beverages; and All illegal drugs.
2. Food is limited to certain facilities and the vending and/or serving of such must be approved in advance.
3. Only service animals will be permitted in the facility. Pets will not be allowed.
4. All State and local laws and fire codes are in effect for use of District facilities. All aisles, corridors, passages, vestibules, elevators, and stairways will be kept free and clear of obstructions and will not be used other than for ingress or egress.