

**AGREEMENT BETWEEN FRANKLIN-MCKINLEY SCHOOL DISTRICT
AND THE CITY OF SAN JOSE,
FOR THE HAPPY HOLLOW PARK & ZOO - ZOO EDUCATION PROGRAM**

This Agreement is entered into this 10th day of May, 2022 by and between Franklin-McKinley School District (hereinafter referred to as “District”) and City of San José, a municipal corporation in the State of California (hereinafter referred to as “City”).

City is authorized by Education Code Section 81644 and Government Code Section 53060 to perform services as described under “General Conditions, 1. Services to be Performed.” The term of this Agreement shall be in effect on the date of execution through June 30, 2025, unless terminated by either party upon thirty (30) days written notice.

GENERAL CONDITIONS

1. Services to be Performed

City’s Happy Hollow Park & Zoo (“HHPZ”) is providing a fee-based school outreach program that teaches curriculum to children with live animals (hereinafter referred to as “Program”). Examples of animals include hedgehogs, turtles, snakes and owls.

In consideration of the payments as described in Section 2, City shall perform services for the District as set forth below:

- a) City’s staff from HHPZ will provide HHPZ animal education presentations to Franklin-McKinley District Elementary and Middle Schools.
- b) HHPZ will provide all educational materials and animal transportation to District Schools.
- c) As an Association of Zoos and Aquariums (AZA) accredited facility, HHPZ must adhere to the highest standard set for the husbandry, training, and transport of exotic and domestic animals. The facility is subject to random USDA and USFW inspection annually, and is required to maintain up-to-date permitting for all species exhibited. All animal handlers are trained professionals employed by the City of San José, who adhere to strict safety guidelines in order to ensure public and animal safety.
- d) Clean-up rules: City’s staff must always carry equipment sufficient to clean up the animal’s waste to immediately remove the waste, and be responsible for the proper disposal of the animal’s waste.

2. Payment in Consideration of the Services and Materials Described in Section 1

Title I schools that are eligible to receive scholarships through the Happy Hollow Foundation Title I Scholarship Fund may be awarded up to six (6) classroom programs or two assembly programs. These scholarships are available on a first-come, first-serve basis, as funds are

available. For additional presentations, or for those schools that do not receive scholarships, District shall pay to City per pricing schedule, two weeks prior to Program date.

PRICING SCHEDULE

HHPZ EDZOOICATION PROGRAM	First Program Cost	Additional Program Cost (Discounted)*	Discount Month Pricing First program (Sep., Nov., Dec., Jan.)	Discount Month Pricing Additional program (Sep., Nov., Dec., Jan.)
Classroom Programs (Up to 35 Students)	\$140 per program	\$125 per program	\$126.00	\$112.50
Assembly Programs (Up to 36-300 Students)	\$325 per program	\$275 per program	\$292.50	\$247.50

*Discounted Program Cost is only available when booking multiple programs within the same transaction, and does not apply to the initial program.

3. Relationship of the Parties

It is understood that this is an agreement by and between City and District and is not intended to, and shall not be construed to create the relationship, of agent, employee, partnership, joint venture or association or any other relationship whatsoever. City is not eligible for and shall not participate in any employer pension plan, health, or other fringe benefit plan of the District.

4. Mutual Indemnification and Insurance

In lieu of and notwithstanding the pro rata risk allocation which might otherwise be imposed between the parties pursuant to Government Code Section 895.6, the parties agree that all losses or liabilities incurred by a party shall not be shared pro rata but instead the District and the City agree that pursuant to Government Code Section 895.4, each party (“indemnifying party”) hereto shall fully indemnify and hold each other’s party, its officers, board members, employees and agents, harmless from any claim, expense or cost, damage or liability imposed for injury (as defined by Government Code Section 810.8) occurring by reason of the negligent acts or omissions or willful misconduct of the indemnifying party, its officers, board members, employees or agents, under or in connection with or arising out of any work, authority or jurisdiction delegated to such party under this Agreement. No party, nor any officer, board member, employee or agent thereof shall be responsible for any damage or liability occurring by reason of the negligent acts or omissions or willful misconduct of other parties hereto, their officers, board members, employees or agents, under or in connection with or arising out of any work, authority or jurisdiction delegated to such other parties under this Agreement.

The City of San José is self-insured covering third-party claims arising out of general operations and is self-insured covering workers' compensation claims.

5. Nonassignability

City shall not assign performance under this Agreement or any portion thereof to a third party without the prior written consent of District. Any attempted assignment without such prior written consent in violation of this Section shall automatically terminate this Agreement.

6. Copyrights

City performing copyrighted musical or literary works is responsible for securing the necessary permission or pay any royalties or fees required to perform such works.

7. Equipment and Facilities

City will provide all necessary equipment and facilities to render City services pursuant to this Agreement unless the parties to this Agreement specifically agree in writing that said equipment and facilities will be provided in a different manner.

City agrees to comply with all federal, state, and local laws regarding business permits and licenses that may be required to carry out the work to be performed under this agreement.

8. Withholding

District shall not withhold or set aside any money on behalf of the City for federal income tax, state income tax, social security tax, unemployment insurance, disability insurance or any other federal or state fund whatsoever. It shall be the sole responsibility of City to account for all of the above according to law.

9. Changes or Alterations

No changes, alternations or variations of any kind to this Agreement are authorized without the written consent of the District.

10. Termination

District may terminate this Agreement and be relieved of the payment of any consideration to City, should City fail to perform the covenants herein contained at the time and in the manner herein provided. In the event of such termination, District may proceed with the work in any manner deemed proper by District. The cost to the District shall be deducted from any sum due City under this Agreement, and the balance, if any, shall be paid to City on demand.

Without cause, either party may terminate this Agreement after giving 30 days' written notice to the other of intent to terminate without cause. The parties shall deal with each other in good faith during the 30-day period after any notice of intent to terminate without cause has been given.

With reasonable cause, either party may terminate this Agreement effective immediately upon the giving of written notice of termination for cause. Reasonable cause shall include: (a)


material violation of this Agreement, (b) any act exposing the other party to liability to others for personal injury or property damage; and (c) improper or unsatisfactory performance.

Any notice given in connection with this Agreement shall be given in writing and shall be delivered either by hand to the party or by certified mail, return receipt requested, to the party at the party's address stated herein. Any party may change its address stated herein by giving notice of the change in accordance with this paragraph.

11. Severability

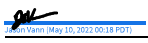
In the event any portion of Agreement shall be finally determined by any court or competent jurisdiction to be invalid or unenforceable, such provision shall be deemed void and the remainder of agreement shall continue in full force and effect.

City Use Only:

 On behalf of Jon Cicirelli 5/10/2022

 Jon Cicirelli, PRNS Director Date

School District Only:

 May 10, 2022

 Authorized Signature Date
 Name: Jason E. Vann
 Title: Assistant Superintendent, Business Services
 Franklin-McKinley School District



LO PROGRAM SP USP ACCOUNT SA

April 21, 2022

Attn: Lou Anne Castillo-Tran
Franklin-McKinley School District

Re: Statement of City of San Jose Self-Insurance for and agreement between Franklin-McKinley School District and the City of San Jose for a fee-based school outreach program that teaches curriculum to children with live animals

To Whom It May Concern:

The City of San José is self-insured covering third party claims arising out of its general operations (by way of example, commercial general liability and automobile liability insurance). Further, the City is self-insured covering workers' compensation claims and has received the necessary consent of the State Department of Industrial Relations to do so.

Each fiscal year, as a part of its budgetary process, the City appropriates funds specifically for the purposes of satisfying valid third-party and workers' compensation claims, which may potentially be brought against the City. Information concerning these appropriations is a matter of public record and can be obtained from visiting the following website

<https://www.sanjoseca.gov/your-government/departments-offices/office-of-the-city-manager/budget/budget-documents>.

Should you need any additional information regarding this letter, please feel free to direct those inquires through the Risk Management Office.

Sincerely,

By **Min Hyuck kim**
Mina Kim
Risk Management

Digitally signed by Min Hyuck kim
DN: cn=Min Hyuck kim, o, ou,
email=minhyuck.kim@sanjoseca.gov, c=US
Date: 2022.04.21 14:00:26 -0700



For any activity where you are required to provide proof of the City’s insurance program, please complete the below information and submit your inquiry to Riskmgmt@sanjoseca.gov. Allow 3-5 business days for (1) review of the contract’s insurance requirements, and (2) completion, if appropriate, of a statement of self-insurance. Attach the contract and exhibits to avoid any delays in your request. If your request for proof of insurance is being made to meet licensing or permit requirements of another public entity, please indicate the permitting requirement in section 3 below with specificity including identifying a link to where the permit requirements are published and can be reviewed.

<i>Detail Description</i>		<i>Event Specific Information</i>
1.	Name and telephone number of person making the request	Alex Niles (408) 793-5592
2.	Name of person to whom the letter should be addressed (name of your contact, if unknown)	Lou Anne Castillo-Tran
3.	Location of event, (full address and designated space for use)	Multiple school sites at Franklin-McKinley School District
4.	A description of event (community meeting, carnival, instructional class, etc.). Include a brief synopsis of whether alcohol is being served, the activity is cosponsored or held in coordination with third parties, food vendors or caterers are present, and whether the activity has bounce houses/jumpers/ obstacle courses, etc.	City's Happy Hollow Park & Zoo staff will provide animal conservation science-based programs to schools at the district's school sites. No alcohol, caterers, third parties will be present; no bounce houses/jumpers/obstacle courses will be in use.
5.	Date and time of event (include set-up and break-down days and times)	Various dates/times during school years FY 23, FY24, and FY 25.

Please note that providing a letter of insurance is not verification that you have met all approvals needed and signatures required to designate this as an official City of San Jose activity or event. Requests for proof of insurance not made by approved City staff will not be considered, i.e. volunteers, cosponsors, or third parties cannot request proof of insurance. Please consult with your representative at the City Attorney’s office, the City Manager’s Office, or the City Clerk for additional information as may be required.

For additional questions and concerns, please do not hesitate to contact the Risk Management Office at (408)535-7047.

