



**UNIVERSITY  
OF  
CALIFORNIA**

**AGREEMENT FOR USE OF FACILITY**

This Agreement is made and entered into this \_\_\_th day of March, 2022 by and between the City of Merced, a California Charter Municipal Corporation whose address of record is 678 West 18<sup>th</sup> Street, Merced, California 95340 (hereinafter referred to as "City") and The Regents of the University of California, on behalf of its Merced Campus, whose address of record is 5200 North Lake Road, Merced, California 95344, (hereinafter referred to as "Project Sponsor" or "University"). Collectively, University and City are deemed the "Parties")

**RECITALS**

**WHEREAS**, Project Sponsor desires to temporarily use a City-owned park located at West Main Street and Canal Street (Bob Hart Square) on Friday, May 6, 2022, from 7:00pm to 10:00 pm for the UC Merced Graduation Reception for the Class of 2022. On Friday March 6, 2022, Set-Up time shall be from 10:00am to 7:00pm and tear-down time shall be from 10:00pm to 12:00am.

**NOW THEREFORE**, the parties hereto, in consideration of the mutual covenants, promises and agreement herein contained, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged and agreed, the parties hereto do hereby agree as follows:

**SCOPE OF THE PROJECT:** Project Sponsor represents that the scope of the Project is limited to the temporary use of a City-owned park located at West Main Street and Canal Street (Bob Hart Square) on Friday, May 6, 2022, from 7:00pm to 10:00 pm for up to 500 guests for the UC Merced Graduation Reception for the Class of 2022. The stage includes a 16' x 8' Riser with microphone, podium and speakers and signage inside and outside the venue (directional and congratulatory). All entrances into venue will be blocked and check-in will be limited to RSVP only. Project Sponsor represents and warrants that alcoholic beverages will be served, as permitted by City Council, and security will be provided by the UC Merced Police Department (6-8 officers total). Project Sponsor represents and warrants that in no event shall the scope of the Project be exceeded beyond the representations made in this Agreement or the limitations imposed by this Agreement. Project Sponsor further understand and agrees that should the scope of the Project be exceeded for any reason whatsoever, the City shall have all the rights and remedies available at law or in equity, including injunctive relief, that the Project Sponsor will not contest or object to the City's pursuit of any rights or remedies hereunder.

**AGREEMENT**

- I. **CLEAN UP SITE AFTER EVENT.** After the event occurs, Project Sponsor shall be University shall be responsible for restoring the site used for the Project to the condition that existed before the setup for the event occurred. Such restoration shall include, but not be limited to, refuse and clean-up of debris.



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- II. **USE OF ELECTRICAL SYSTEM.** UNIVERSITY has indicated that it does wish to connect to Bob Hart Square's electrical system. Sponsor shall be responsible for making arrangement with the City's Public Works' staff to turn on and off the power supply in the park before and after the event.
- III. **PORTABLE TOILETS.** UNIVERSITY shall provide a minimum of two portable toilets for the Project.
- IV. **APPLICABLE LAWS.** Any provision required to be included in a contract of this type by any applicable and valid federal, state or local law, ordinance, rule or regulations will be deemed to be incorporated herein.
- V. **INDEMNIFICATION**
  - A. CITY shall defend, indemnify, and hold UNIVERSITY, its officers, employees, and agents harmless from and against any and all liability, loss, expense (including reasonable attorneys' fees), or claims for injury or damages arising out of the performance of this Agreement but only in proportion to and to the extent such liability, loss, expense, attorneys' fees, or claims for injury or damages are caused by or result from the negligent or intentional acts or omissions of CITY, its officers, employees or agents.
  - B. UNIVERSITY shall defend, indemnify, and hold CITY, its officers, employees, and agents harmless from and against any and all liability, loss, expense (including reasonable attorneys' fees), or claims for injury or damages arising out of the performance of this Agreement but only in proportion to and to the extent such liability, loss, expense, attorneys' fees, or claims for injury or damages are caused by or result from the negligent or intentional acts or omissions of UNIVERSITY, its officers, employees or agents.
- VI. **INSURANCE**
  - A. University, at its sole cost and expense, shall insure its activities in connection with this Agreement by maintaining programs of self-insurance as follows:
    - i. General Liability, Sexual Abuse Liability, Employer's Liability, Professional Liability and Automobile Liability insurance. General Liability (including broad form property damage and contractual liability) insurance on a per occurrence basis with a single limit of not less than One Million Dollars (\$1,000,000); Sexual Abuse Liability Insurance on a per occurrence basis with a single limit of not less than One Million Dollars (\$1,000,000); Employer's Liability insurance on a per occurrence basis with a single limit of not less than One Million Dollars (\$1,000,000); Professional Liability insurance on a per occurrence basis with a single limit of not less than One Million Dollars (\$1,000,000); and automobile liability insurance for owned, hired and non-owned vehicles on a per occurrence basis with a combined single limit of not less than One Million Dollars (\$1,000,000).
    - ii. Workers' Compensation as required under California State Law.
  - B. University evidence of insurance coverages as set forth above and are detailed in the attached UC Certificate of Self Insurance and shall provide that no cancellation or expiration will be made during the term of this Agreement.



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## VII. INDEPENDENT

None of the provisions of this Agreement are intended to create nor shall be deemed or construed to create any relationship between CITY and UNIVERSITY other than that of independent entities contracting with each hereunder, solely for the purpose of effecting the provisions of this Agreement.

## VIII. AUTHORIZATION WARRANTY

- A. CITY hereby represents and warrants that the person executing this Agreement for the CITY is an authorized agent who has actual authority to bind CITY to each and every term, condition and obligation set forth in this Agreement and that all requirements of CITY have been fulfilled to provide such actual authority.
- B. UNIVERSITY hereby represents and warrants that the person executing this Agreement for UNIVERSITY is an authorized agent who has actual authority to bind UNIVERSITY to each and every term, condition and obligation set forth in this Agreement and that all requirements of UNIVERSITY have been fulfilled to provide such actual authority.

## IX. NON-WAIVER

In the event that the City or Project Sponsor shall at any time or times waive any breach of this Agreement by the other, such waiver shall not constitute a waiver of any other or succeeding breach of this Agreement, whether of the same or any other covenant, condition or obligation. Waiver shall not be deemed effective until and unless signed by the waiving party. breach of any term or provision of this Agreement shall be construed to be, nor shall be, a waiver of any other breach of this Agreement. No waiver shall be binding unless in writing signed by the PARTY waiving the breach.

## X. SEVERABILITY

In the event that any provision of this Agreement shall be held void, voidable, or unenforceable, the remaining provisions of this Agreement shall remain in full force and effect in accordance with its terms disregarding such unenforceable or invalid provision.

## XI. GOVERNING LAW

This Agreement will be governed by and construed in accordance with the laws of the State of California. In the event of any dispute or litigation concerning or arising out of this Agreement, both PARTIES agree to seek resolution of the dispute or litigation within the venue of the appropriate courts in the County of Merced, State of California.

## XII. NO THIRD PARTY RIGHTS

Nothing in the Agreement, express or implied, is intended to make any person or entity that is not a signed to the Agreement a third-party beneficiary of any right created by this Agreement or by operation of law.

## XIII. ASSIGNMENT



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Neither PARTY shall assign its rights or delegate its duties under this Agreement without the prior written consent of the other PARTY.

XIV. ENTIRE AGREEMENT/AMENDMENTS

This Agreement represents the PARTIES' final and complete agreement with regard to the subject matter contained herein. As such, it supersedes all other understandings, discussions and/or agreements between the PARTIES with regard to the subject matter of the Agreement. Any change in, modification of or addition, amendment or supplement to this Agreement shall be valid only if set forth in writing, signed and dated by all PARTIES hereto the Agreement.

XV. COUNTERPARTS

The PARTIES may execute this Agreement in two or more counterparts, which shall, in the aggregate be signed by all of the PARTIES; each counterpart shall be deemed an original instrument as against any PARTY who has signed it. The PARTIES further agree that signatures sent by electronic mail, in .PDF format, shall be treated as original signatures to this Agreement.

IN WITNESS WHERE OF, the PARTIES hereto on the day and year written below have executed this Agreement.

CITY OF MERCED

THE REGENTS OF THE UNIVERSITY OF CALIFORNIA

Authorized Signature

Theresa Mason-Cline

Authorized Signature

Theresa Mason-Cline

Name (Printed or Typed)

Name (Printed or Typed)

Senior Contract Manager

Title

Title

Date

3/29/2022 Date

APPROVED AS TO FORM:

Rimsey Madry 3/25/22 Date

Deputy City Attorney

# UNIVERSITY OF CALIFORNIA

## PROOF OF SELF-INSURANCE COVERAGE

The Regents of the University of California are often requested by outside parties to provide evidence of the University's self-insurance coverage in conjunction with agreements and contracts negotiated by its employees on UC campuses and medical centers. Examples of situations where the University may be required to provide evidence of insurance include:

- Using an off-campus location to host an event, ceremony, athletic event, theatre production, practice space, job fair, educational outreach event, etc.
- Leasing or renting equipment, motor vehicle(s), or real estate
- Research grant sub-awards
- Affiliation (non-healthcare/medical related) and Professional Services Agreements

The University of California self-funds its liability exposures, so does not issue individual certificates of insurance. The UC Office of Risk Services has developed a Certificate of Self-Insurance Coverage document (COC) to illustrate the self-funded retention levels maintained for each liability program. The COC is available on-line for use by entities conducting business with the university as evidence of the self-funded retention levels, coverage terms, and limits routinely requested. The self-insurance limits accepted in each specific written agreement or contract shall be the limits that apply should a loss arise, regardless of the limits provided in the on-line Certificate of Self-Insurance Coverage document.

The UC COC Site is solely for the use and benefit of the vendors and organizations which contract with the University of California and not for resale or other transfer to or use by or for the benefit of any other person or entity. You may print copies for use within your organization, provided that you do not modify the COC in any way, nor distribute any copies outside your organization. You may not use any of the University of California's names or marks in any manner that creates the impression such names or marks belong to or are associated with you or imply any endorsement by the University of California, and you acknowledge that you have no ownership rights in and to any of these names or marks. You will not use the Site, the information contained therein or any of the University's names or marks in unsolicited mailings or spam material. You may not link directly to the COC ("deep link") or bring up or present the COC or other content of this site within another web site ("frame").

Official Correspondence must be sent via postal mail to:

Chief Risk Officer

Office of Risk Services

Office of the President

University of California

1111 Franklin St., 10th Floor

Oakland, CA 94607-5200

510-987-9832

RiskServices@ucop.edu

Please contact the local Risk Manager at the specific University of California location where you are contracting if you have insurance coverage questions:

- [Campus Risk Managers Directory](#)
- [Hospital Risk Managers Directory](#)

# CERTIFICATE OF SELF-INSURANCE COVERAGE

Date: June 7, 2021

**PRODUCER/INSURED**

The Regents of the University of California  
Office of the President  
Office of Risk Services  
1111 Franklin St., 10<sup>th</sup> Floor  
Oakland, CA 94607-5200  
510-987-9832

This Certificate is issued as a matter of information only to authorized viewers for their internal use only and confers no rights upon any viewer of this Certificate. The Certificate does not amend, extend or alter the coverage described below. This Certificate may only be copied, printed and distributed by an authorized viewer for its internal use. Any other use, duplication or distribution of the Certificate without the written consent of the Regents of the University of California is prohibited.

**ENTITIES AFFORDING COVERAGE**

COMPANY LETTER A The Regents of the University of California PARTICIPATION  
100 %

**COVERAGES**

THIS IS TO CERTIFY THAT THE REGENTS OF THE UNIVERSITY OF CALIFORNIA IS A GOVERNMENTAL ENTITY THAT HAS A SELF-FUNDED RETENTION FOR LIABILITIES DESCRIBED BELOW, NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY WRITTEN CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY PERTAIN. THIS SELF-FUNDED PROGRAM IS SUBJECT TO ALL PROVISIONS OF THE BYLAWS AND STANDING ORDERS OF THE REGENTS OF THE UNIVERSITY OF CALIFORNIA, WHICH DOES NOT PERMIT ANY ASSUMPTION OF LIABILITY WHICH DOES NOT RESULT FROM THE NEGLIGENT ACTS OR OMISSIONS OF ITS OFFICERS, AGENTS OR EMPLOYEES.

CO LTR	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE	POLICY EXPIRATION DATE	LIMITS
A	<b>GENERAL LIABILITY</b>	Self-Insured	July 1, 2021	July 1, 2022	GENERAL AGGREGATE \$ Not applicable
	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY				PRODUCTS-COMP/OP AGG \$ 5 000 000
	<input type="checkbox"/> CLAIMS MADE <input checked="" type="checkbox"/> OCCURRENCE				PERSONAL & ADV INJURY \$ 5 000 000
					CONTRACTUAL LIABILITY \$ 5 000 000
					EACH OCCURRENCE \$ 5 000 000
A	<b>AUTOMOBILE LIABILITY</b>	Self-Insured	July 1, 2021	July 1, 2022	COMBINED SINGLE LIMIT \$ Not applicable
	<input type="checkbox"/> ANY AUTO				BODILY INJURY (PER PERSON) \$ 2 500 000
	<input checked="" type="checkbox"/> ALL OWNED AUTOS				BODILY INJURY (PER ACCIDENT) \$ 2 500 000
	<input type="checkbox"/> SCHEDULED AUTOS				PROPERTY DAMAGE \$ 2 500 000
	<input checked="" type="checkbox"/> HIRED AUTOS				
<input checked="" type="checkbox"/> NON-OWNED AUTOS					
<input type="checkbox"/> GARAGE LIABILITY					
A	<b>PROPERTY</b>	Self-Insured	July 1, 2021	July 1, 2022	EACH OCCURRENCE \$ 7 500 000
	<input checked="" type="checkbox"/> FIRE & EXTENDED PERILS				AGGREGATE \$ Not applicable
A	<b>WORKERS' COMPENSATION AND EMPLOYERS LIABILITY</b>	Self-Insured	July 1, 2021	July 1, 2022	STATUTORY LIMITS
					EACH ACCIDENT \$ As required by California Law
					DISEASE - POLICY LIMIT \$ As required by California Law
					DISEASE - EACH EMPLOYEE \$ As required by California Law

DESCRIPTION OF OPERATIONS/LOCATIONS/VEHICLES/SPECIAL ITEMS

**ADDITIONAL COVERED PARTY - AS REQUIRED BY WRITTEN CONTRACT OR AGREEMENT WITH RESPECT TO GENERAL LIABILITY AND AUTOMOBILE LIABILITY**

**LOSS PAYEE - AS REQUIRED BY WRITTEN CONTRACT OR AGREEMENT WITH RESPECT TO PROPERTY COVERAGE**

**CERTIFICATE HOLDER  
APPLICABLE PARTY AS REQUIRED BY WRITTEN CONTRACT OR AGREEMENT**

**CANCELLATION**  
SHOULD THE REGENTS ELECT TO DISCONTINUE SELF-INSURING ITS LIABILITIES, THE REGENTS WILL UPDATE PROOF OF SELF-INSURANCE ON ITS WEBSITE. THE REGENTS SHALL NOT BE OBLIGATED TO PROVIDE INDIVIDUAL NOTICE TO VENDORS OR OTHERS.

By:

*Cheryl Ann Lloyd*

CHERYL A. LLOYD, AVP & CHIEF RISK OFFICER