

## El Dorado Hills Community Services District

### THIRD AMENDMENT TO JOINT USE AGREEMENT #303-O1511

**THIS THIRD AMENDMENT** to that Joint Use Agreement #303-O1511 is made and entered into by and between the County of El Dorado, a political subdivision of the State of California (hereinafter referred to as "County") and the El Dorado Hills Community Services District, a special district of the State of California whose principal place of business is 1021 Harvard Way, El Dorado Hills, California, 95762 (hereinafter referred to as "CSD"), (collectively herein after referred to as the Parties) and is hereby amended as follows:

### R E C I T A L S

**WHEREAS**, the County owns that certain real property commonly known as the El Dorado Hills Senior Center, located at 990 Lassen Way, El Dorado Hills, California 95667 ("Senior Center");

**WHEREAS**, the Parties entered into Joint Use Agreement #303-O1511, dated September 15, 2015, to permit CSD to occupy sections of the Senior Center for CSD programs and services related to senior recreational activities and senior nutrition;

**WHEREAS**, on April 16, 2018 (Option #1) the CSD exercised the option to extend Joint Use Agreement 303-O1511 for an additional three (3) year term;

**WHEREAS**, on May 24, 2021 (Option #2) the CSD exercised the option to extend Joint Use Agreement 303-O1511 for an additional three (3) year term;

**WHEREAS**, the parties hereto desire to update Subsections 1B, 1E, 2B, 2F, and 3A of **ARTICLE I, Property Use** removing alarm training, key cards, and updating name from Cornerstone Church to Vintage Grace Church;

**WHEREAS**, the parties hereto desire to amend the Joint Use Agreement to extend the expiration date of June 30, 2024, for one (1) additional year, amending **ARTICLE II, Term**;

**WHEREAS**, the parties hereto desire to fully-replace specific Articles and add new Articles to include updated contract provisions;

**NOW, THEREFORE**, in consideration of the foregoing and the mutual promises and covenants hereinafter contained, County and CSD mutually agree to amend the terms of the Joint Use Agreement in this Third Amendment to the Joint Use Agreement #303-O1511 on the following terms and conditions:

- I. The following Subsections of ARTICLE I of the Joint Use Agreement are fully replaced in their entirety to read as follows:

**ARTICLE 1, County Responsibilities. Subsection 1, B and E**

- B. Provide CSD with all necessary keys to enable CSD access to the Senior Center for opening and closing as needed. Other than designated County employees, no other County employee shall have key/alarm access without the knowledge of CSD.
- E. Provide parking spaces for the County staff, CSD staff and participant use in the Vintage Grace Church parking lot or other alternative location.

**ARTICLE 1, CSD Responsibilities. Subsection 2, B and F**

- B. Reimburse County for CSD's portion, currently set at 52.13%, of the actual costs of additional rented parking stalls at Vintage Grace Church parking lot or other alternative locations, third-party costs incurred by County for security alarm and fire alarm and suppression systems, utilities, refuse disposal, and janitorial services. Payment shall be made quarterly, within forty-five (45) days of receipt of invoice.
- F. Issue keys on a temporary basis to part-time personnel who assist with managing the facility and volunteers and/or instructors responsible for senior activities and maintain a log indicating the date, time and person the keys were issued to and when they were or are to be returned.

**ARTICLE 1, General Provisions. Subsection 3, A**

- A. Parking. County will have five (5) reserved parking stalls for Senior Day Care staff and will park the Senior Nutrition food delivery truck next to the hallway exit door leading to the kitchen area. Parking by CSD employees, volunteers, and contractors on-site shall be limited by availability, with participants in the senior activities, services and programs having priority parking. The County will work directly with Vintage Grace Church or other alternative locations, to provide for additional parking needs for Senior Center staff, patrons and volunteers.

II. **ARTICLE II**

**Term**, of the Joint Use Agreement is amended in its entirety to read as follows:

**ARTICLE II**

**Term:** This Joint Use Agreement shall become effective when fully executed by both parties and shall cover the period of July 1, 2015, through June 30, 2025.

- III. The following Articles of the Joint Use Agreement are fully replaced in their entirety to read as follows:

#### ARTICLE V

##### Default, Termination, and Cancellation:

- A. 1. Termination by Default: If either party becomes aware of an event of default, that party shall give written notice of said default to the party in default (notice) that shall state the following:
- a. The alleged default and the applicable Joint Use Agreement provision, and
  - b. That the party in default has ten (10) days upon receiving the notice to cure the default (Time to Cure).

If the party in default does not cure the default within ten (10) days of the Time to Cure, then such party shall be in default and the party giving notice may terminate the Joint Use Agreement by issuing a Notice of Termination. The party giving notice may extend the Time to Cure at their discretion. Any extension of Time to Cure must be in writing, prepared by the party in default for signature by the party giving notice, and must specify the reason(s) for the extension and the date in which the extension of Time to Cure expires.

2. If County terminates this Joint Use Agreement, in whole or in part, for default:
- a. County reserves the right to procure the goods or services, or both, similar to those terminated, from other sources and CSD shall be liable to County for any excess costs for those goods or services. County may deduct from any payment due, or that may thereafter become due to CSD, the excess costs to procure from an alternate source.
  - b. County shall pay CSD the sum due to CSD under this Joint Use Agreement prior to termination, unless the cost of completion to County exceeds the funds remaining in the Joint Use Agreement. In which case the overage shall be deducted from any sum due CSD under this Joint Use Agreement and the balance, if any, shall be paid to CSD upon demand.
  - c. County may require CSD to transfer title and deliver to County any completed work under the Joint Use Agreement.

3. The following shall be events of default under this Joint Use Agreement:

- a. Failure by either party to perform in a timely and satisfactory manner any or all of its obligations under this Joint Use Agreement.

- b. A representation or warranty made by CSD in this Joint Use Agreement proves to have been false or misleading in any respect.
  - c. CSD fails to observe and perform any covenant, condition or agreement on its part to be observed or performed under this Joint Use Agreement, unless County agrees, in writing, to an extension of the time to perform before that time period expires.
- B. Bankruptcy: County may terminate this Joint Use Agreement immediately in the case of bankruptcy, voluntary or involuntary, or insolvency of CSD.
- C. Ceasing Performance: County may terminate this Joint Use Agreement immediately in the event CSD ceases to operate as a business or otherwise becomes unable to substantially perform any term or condition of this Joint Use Agreement.
- D. Termination or Cancellation without Cause: County may terminate this Joint Use Agreement in whole or in part, for convenience upon thirty (30) calendar days' written Notice of Termination. If such termination is effected, County will pay for satisfactory services rendered before the effective date of termination, as set forth in the Notice of Termination provided to CSD, and for any other services that County agrees, in writing, to be necessary for contract resolution. In no event, however, shall County be obligated to pay more than the total amount of the Joint Use Agreement. Upon receipt of a Notice of Termination, CSD shall promptly discontinue all services affected, as of the effective date of termination set forth in such Notice of Termination, unless the Notice directs otherwise.

#### **ARTICLE VI**

**Notice to Parties:** All notices to be given by the parties hereto shall be in writing and served by depositing same in the United States Post Office, postage prepaid and return receipt requested. Notices to County shall be in duplicate and addressed as follows:

To County:

County of El Dorado  
Chief Administrative Office  
Facilities Division  
3000 Fairlane Court, Suite One  
Placerville, California 95667

Attn.: Charles Harrell  
Facilities Division Manager

With a copy to:

County of El Dorado  
Health and Human Services Agency  
935 Spring Street  
Placerville, California 95667

Attn.: Yvette Wencke  
Program Manager

or to such other location as County directs.

Notices to CSD shall be addressed as follows:

El Dorado Hills Community Services District  
1021 Harvard Way  
El Dorado Hills, California 95762

Attn.: Mark Hornstra, Interim General Manager

or to such other location as CSD directs.

#### **ARTICLE XIII**

**California Forum and Law:** Any dispute resolution action arising out of this Joint Use Agreement, including, but not limited to, litigation, mediation, or arbitration, shall be brought in El Dorado County, California, and shall be resolved in accordance with the laws of the State of California.

#### **ARTICLE IX**

**Contract Administrator:** The County Officer or employee with responsibility for administering this Joint Use Agreement is Charles Harrell, Facilities Division Manager, Chief Administrative Office, or successor.

### **III. The following Articles of the Joint Use Agreement are added to read as follows:**

#### **ARTICLE XIV**

**Change of Address:** In the event of a change in address for CSD's principal place of business, CSD's Agent for Service of Process, or Notices to CSD, CSD shall notify County in writing as provided in ARTICLE VI, Notice to Parties. Said notice shall become part of this Joint Use Agreement upon acknowledgment in writing by County's Contract Administrator, and no further amendment of the Joint Use Agreement shall be necessary provided that such change of address does not conflict with any other provisions of this Joint Use Agreement.

#### **ARTICLE XV**

**Force Majeure:** Neither party will be liable for any delay, failure to perform, or omission under this Joint Use Agreement that is due to any cause that it is beyond its control, not due to its own negligence, and cannot be overcome by the exercise of due diligence. In that event, the affected party will:

1. Promptly give written notice to the other of the fact that it is unable to so perform and the cause(s) that is beyond its control.
2. Once the cause(s) has ceased, provide written notice to the other party and immediately resume its performance under this Joint Use Agreement.

For purposes of this Article, "cause that is beyond its control" includes labor disturbances, riots, fires, earthquakes, floods, storms, lightning, epidemics, war, disorders, hostilities, expropriation or confiscation of properties, failure of and delays by carriers, interference by civil or military authorities, whether legal or de facto, and whether purporting to act under some constitution, decree, or law, or otherwise, or acts of God.

#### **ARTICLE XVI**

**Waiver:** No failure on the part of the parties to exercise any rights under this Joint Use Agreement, and no course of dealing with respect to any right hereunder, shall operate as a waiver of that right, nor shall any single or partial exercise of any right preclude the exercise of any other right. The remedies herein provided are cumulative and are not exclusive of any other remedies provided by law.

#### **ARTICLE XVII**

**Electronic Signatures:** Each party agrees that the electronic signatures, whether digital or encrypted, of the parties included in this Joint Use Agreement, are intended to authenticate this writing and to have the same force and effect as manual signatures. Electronic Signature means any electronic visual symbol or signature attached to or logically associated with a record and executed and adopted by a party with the intent to sign such record, including facsimile or email electronic signatures, pursuant to the California Uniform Electronic Transactions Act (Civil Code sections 1633.1 to 1633.17) as amended from time to time.

#### **ARTICLE XVIII**

**Counterparts:** This Joint Use Agreement may be executed in one or more counterparts, each of which shall be an original and all of which together shall constitute one and the same instrument.

Except as herein amended, all other parts and sections of the Joint Use Agreement #303-O1511 shall remain unchanged and in full force and effect.

**Requesting Contract Administrator Concurrence:**

By: Charles Harrell  
Charles Harrell (May 30, 2024 16:04 PDT)

Dated: 05/30/2024

Charles Harrell,  
Facilities Division Manager  
Chief Administrative Office

**Requesting Department Head Concurrence:**

By: Olivia Byron-Cooper  
Olivia Byron-Cooper (May 30, 2024 16:22 PDT)

Dated: 05/30/2024

Olivia Byron-Cooper  
Director  
Health and Human Services Agency

IN WITNESS WHEREOF, the parties hereto have executed this Third Amendment to Agreement for Services #303-O1511 on the dates indicated below.

--COUNTY OF EL DORADO--

By: Michelle Wernke

Dated: 06/26/2024

Purchasing Agent  
Chief Administrative Office  
"County"

--EL DORADO HILLS COMMUNITY  
SERVICES DISTRICT--

By: Mark Hornstra  
Mark Hornstra (Jun 5, 2024 15:18 PDT)

Dated: 06/05/2024

Mark Hornstra  
Interim General Manager  
El Dorado Hills Community Services District  
"CSD"