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## FACILITY USE AGREEMENT

**THIS FACILITY USE AGREEMENT**, hereafter referred to as the “Agreement”, is made and entered into this **22nd Day of January, 2021**, in the State of California, by and between the Trustees of the California State University, which is the State of California acting in a higher education capacity, through its duly appointed and acting officer, on behalf of **CALIFORNIA STATE UNIVERSITY, MONTEREY BAY**, hereinafter referred to as “**CSUMB**” and the **County of Monterey**, a political subdivision of the State of California, hereinafter referred to as “**User**”, for the purposes identified below.

### 1) Duration of Agreement

This Agreement covers the period of January 1, 2021 through June 30, 2022, unless terminated earlier under the provisions of this Agreement.

### 2) Purpose

The provisions recorded below establish the principles and conditions by which CSUMB and User agree to cooperate in allowing User to:

Administer COVID-19 vaccines within Parking Lot 59 (See Attachment A) on CSU Monterey Bay campus.

### 3) CSUMB Responsibilities

CSUMB shall:

- a) Provide use of Parking Lot 59
- b) Provide barricades for the use of blocking off needed areas
- c) Provide the lot and barricades with no charge to User
- d) Supply law enforcement, as necessary

### 4) User deliverables and responsibilities

User shall:

- a) Provide personnel for the administration of COVID-19 vaccines
- b) Independently contract and provide security, if needed
- c) Set up and tear down supplied barricades

Any changes to previously approved dates, times, location, etc. shall be made by CSUMB after consultation with User.

There will be no service fee or monetary charges associated with this agreement.

### 5) Independent Status

User is not to be considered an agent or employee of CSUMB for the purposes of this agreement, and no joint venture or principal-agent relationship exists. User is not entitled to any of the benefits that CSUMB provides its employees.

### 6) Specific Arrangements

This Agreement serves as a blanket Agreement with CSUMB, establishing general provisions and eliminating the need for re-execution of complete agreement documents each time use of facility is requested. If a need for facility use arises, the User will contact CSUMB or send CSUMB an individual written request for the specific services requested. The request may be approved by the CSUMB Point of Contact(s) indicated below. If the specific request contains additional contractual provisions, those provisions must be approved in writing

by an authorized official of CSUMB. In the event of any conflict, the terms of this Agreement shall prevail. CSUMB does not guarantee any minimum amount of business during the term of this Agreement.

**7) Termination**

Either Party may terminate this Agreement without cause by giving 30-days prior written notice. Should this occur, all responsibilities and deliverables described in sections 3 and 4 shall cease to be valid.

**8) Point of Contact**

All notices, requests, or other communications shall be in writing and shall be deemed to have been duly given when delivered in person, by registered or certified mail, or by email, to the respective parties at the following addresses:

CSUMB Point of Contact:

Name: Ken Folsom  
Title: Emergency Manager  
Address: California State University, Monterey Bay  
100 Campus Ctr,  
Seaside, CA 93955-8001  
Phone Number: 831-582-3589  
Email: kfolson@csumb.edu

User Point of Contact:

Name: Mike Derr  
Title: Contracts-Purchasing Officer  
Address: 1441 Schilling Place, South 2<sup>nd</sup> Floor  
Salinas, CA 93901  
Phone Number: 831-755-4992  
Email: derrm@co.monterey.ca.us

**9) Insurance**

User shall furnish to CSUMB, prior to commencement of facility use, a certificate of insurance stating that there is General Liability coverage presently in effect for the User with a combined single limit of not less than \$2,000,000 per occurrence, and \$4,000,000 aggregate, that vehicle insurance (where applicable) is in effect with a minimum coverage of \$1,000,000 per occurrence, and Workers' Compensation statutory including Employer's Liability Insurance with limits of \$1,000,000 per accident, per disease and per employee as required by law, including a waiver of subrogation by endorsement in favor of the named insureds for the Facility Workers' Compensation. The State of California, Trustees of the CSU, CSUMB, University Corporation at Monterey Bay, and their officers, directors, employees, and agents of each shall be named as additional insured by endorsement.

**10) Indemnification**

User agrees to indemnify, defend and hold harmless the State of California, Board of Trustees of the California State University, the California State University, University Corporation at Monterey Bay, its officers, agents and employees from any and all liability, loss, expense (including reasonable attorneys' fees and court costs), or claims for bodily or personal injury or damage to property, including loss of use thereof, arising out of the performance of this Agreement, and from any and all claims and losses accruing or resulting to any person, firm or corporation which may be injured or damaged by User in the performance of this Agreement.

In addition to the above, User hereby agrees to defend, indemnify, and hold harmless CSUMB of any and all liability, loss expense (including reasonable attorneys' fees and court costs) and/or claims due to User

failure to comply with all applicable provisions of the Americans with Disabilities Act (ADA) with respect to their hosted events and activities arising out of the performance of this Agreement.

**11) Smoke and Tobacco Free Campus**

Please be aware that the University is a smoke and tobacco free campus. This includes, but is not limited to, vaping, chewing tobacco, e-cigarette, cigarette, and marijuana (medical or recreational).

**12) Non-Discrimination**

CSUMB is committed to providing equal opportunity to all persons interacting with the University. In compliance with federal and state anti-discrimination laws, CSUMB, and all users of University facilities shall not discriminate against any person by reason of sex, race, color, ancestry, religious creed, national origin, disability, age, marital status, or sexual orientation. User is responsible for upholding all non-discrimination practices for all operations relating to the use of CSUMB's property.

**13) Americans With Disabilities Act**

CSUMB intends to ensure that people with disabilities have access to participate fully in events and activities that are hosted at CSUMB. User shall be responsible for identifying any participants of their organization that have accommodation needs or requests, while also ensuring that participants in events and activities that user is hosting at CSUMB are accommodated as needed and in accordance with the Americans with Disabilities Act.

**14) Governing Law**

This Agreement shall be construed and endorsed according to the policies and procedures of the California State University system, CSUMB and the laws of the State of California, USA. Waiver of any default shall not constitute waiver of any subsequent or other default. All rights of the parties hereto shall inure to the benefits of their successors and assigns, and all obligations of any of the parties hereto shall bind his, her, or its heirs, executors, personal representatives, successors and assigns. It is agreed that Monterey County shall be the proper venue for any actions that arise from this agreement.

**15) Agreement Additions, Amendments, and Modifications**

Except as otherwise specifically provided in this Agreement, this Agreement may be modified, or any provision may be waived, only by prior written consent of the parties, signed by agents empowered to contract for them. All such additions, amendments and modifications shall be attached to and become a part of the original Agreement.

**16) Authority**

Each party represents and warrants to the other that it has full power and authority to enter into and perform this Agreement. Furthermore, each person signing this Agreement warrants that he/she has been properly authorized and empowered to execute this Agreement on behalf of the party represented. This provision shall survive the completion of the agreement.

IN WITNESS WHEREOF, this agreement has been executed by the parties hereto, upon the date first above written.

**California State University, Monterey Bay**

**User**

DocuSigned by:  
Ken Folsom  
BY (AUTHORIZED SIGNATURE)

DocuSigned by:  
Michael R. Derr  
BY: Michael R. Derr

Ken Folsom  
PRINT NAME

Michael R. Derr  
PRINTED NAME

Emergency Manager  
TITLE  
1/22/2021  
DATE

Contracts-Purchasing Officer  
TITLE  
1/28/2021  
DATE

APPROVED AS TO RISK:

DocuSigned by:  
By: Susan Blitch 1/28/2021  
Susan K. Blitch, County Counsel

APPROVED AS TO FORM:

DocuSigned by:  
By: Marina Pantchenko 1/28/2021  
Marina S. Pantchenko, Deputy County Counsel

DocuSigned by:  
BY: Stephen Mackey  
Stephen Mackey  
Associate Vice President, Finance  
California State University, Monterey Bay  
100 Campus Ctr, Mountain Hall Suite B  
Seaside, CA 93955-8001  
smackey@csumb.edu  
1/26/2021  
DATE

