

Attachment B
Joint Use Agreement between the Allan Hancock Joint Community College District and the
Santa Barbara County Fire Department

**JOINT USE AGREEMENT
BETWEEN THE ALLAN HANCOCK JOINT COMMUNITY COLLEGE DISTRICT
AND
THE COUNTY OF SANTA BARBARA**

This Joint Use Agreement ("Agreement") is entered between Allan Hancock Joint Community College DISTRICT ("DISTRICT") and the County of Santa Barbara ("AGENCY") as of the date of full execution by the AGENCY and the DISTRICT. The DISTRICT and the AGENCY are collectively referred to in this Agreement as the "Parties". This Agreement is made with reference to the following recitals, each of which are incorporated into this Agreement and deemed a material part of this Agreement.

RECITALS

WHEREAS, the DISTRICT is organized and existing as a Community College district under the laws of the State of California,

WHEREAS, the AGENCY is organized and existing as a political subdivision of the State of California,

WHEREAS, the AGENCY operates various departments, including the Santa Barbara County Fire Department ("Fire Department"), which is responsible for multi-mission public safety, including responses to fires, medical emergencies, environmental emergencies and natural disasters,

WHEREAS, the DISTRICT owns certain real property known as the Lompoc Valley Center located at One Hancock Drive, Lompoc, CA 93436 ("LVC"),

WHEREAS, the DISTRICT has improved the LVC by construction of various facilities, including facilities dedicated for public safety training courses offered by the DISTRICT such as Fire Technology/Fire Academy classes and EMS/EMT (Fire Sciences Program); the LVC public safety training facilities are referred to herein as "the Premises,"

WHEREAS, Education Code §81420 authorizes California Community College districts to enter into agreements with cities for the joint use of the DISTRICT's real property and buildings,

WHEREAS, the DISTRICT and the AGENCY understand that they can enter into a mutually beneficial collaborative relationship for the AGENCY's use of the Premises that generates increased opportunities for instruction, training, and certification of AGENCY firefighter personnel,

WHEREAS, the AGENCY and DISTRICT have a joint interest to expand the AGENCY'S site presence in order to foster expanding the DISTRICT'S current educational offerings and facilitate establishing/implementing a program that will provide DISTRICT Fire Academy graduates with the opportunity for State Fire Training certification as a Firefighter 1,

WHEREAS, Education Code §81420 et seq. authorizes the DISTRICT to enter into joint use agreements with AGENCY for the AGENCY'S joint occupancy of DISTRICT property, provided that such joint occupancy does not interfere with the education program or activities conducted on the Premises by the DISTRICT,

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WHEREAS, the DISTRICT's Board of Trustees has determined that the AGENCY's joint occupancy of the Premises with the DISTRICT will not interfere with education programs and activities conducted on the Premises by the DISTRICT,

WHEREAS, by this Agreement, the DISTRICT and AGENCY desire to set forth the terms and conditions for the AGENCY's joint occupancy of the Premises with the DISTRICT,

NOW THEREFORE, for good and valuable consideration, the receipt and adequacy of which is acknowledged by the Parties, and each of them, the Parties agree as follows:

ARTICLE 1 PREMISES

1.1 The DISTRICT offers to AGENCY and AGENCY accepts from the DISTRICT, the temporary use of the Premises as described in article 3, USE, OCCUPANCY AND OWNERSHIP OF THE PREMISES. AGENCY shall not convey or attempt to convey any title or ownership interest in the Premises. The AGENCY accepts the Premises in its existing "AS IS" condition and without warranties or representations of the suitability or adequacy of the Premises for the AGENCY use thereof.

ARTICLE 2 FACILITY USE FEE

2.1 Facility Use Fee: There are no facility use fee charges to the AGENCY for use of the premises.

ARTICLE 3 USE, OCCUPANCY AND OWNERSHIP OF THE PREMISES

3.1 AGENCY Use of the Premises. The AGENCY will conduct Fire Training on the Premises using the following facilities: during the hours of 8:00 AM to 4:30 PM, Monday through Friday, the Fire Tower, Burn Building, Fire Behavior Prop, 1 classroom and 1 office. AGENCY's access to the facilities is subject to availability. The AGENCY shall contact the DISTRICT at least five (5) days in advance to schedule access to the facilities.

3.2 Parking. The AGENCY will have access to use the DISTRICT's parking lot at no cost and agree to have their personnel display a temporary parking permit on the dash of their motor vehicle.

3.3 Ownership. The entirety of the land consisting of the leased Premises shall be solely vested in and owned by the DISTRICT at all times prior to, during, and following the entire Term of the agreement.

3.4 Prohibited Uses. The AGENCY shall not permit the sale, use or consumption of alcoholic beverages on the Premises. The AGENCY shall not permit other conduct, in connection with AGENCY use of the Premises, which is inconsistent or in violation of any applicable laws, statutes, ordinances, rules, regulations or DISTRICT policies. An exception shall be granted for the DISTRICT's prohibition of firearms when the AGENCY personnel who are classified as Arson Investigators and Tactical EMS individuals are on the Premises. The AGENCY shall not permit or license any concession sales on the Premises. At all times during the Term of this agreement the AGENCY shall adhere to and shall not violate DISTRICT board policies

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and/or any use restrictions contained in any Deeds, Corrections to Deeds, or any other documents that have been recorded for the land comprising the LVC campus or any part thereof.

- 3.5 Damages to Facilities. The AGENCY is solely liable for all costs, fees, charges and expenses to repair, replace or correct damage or destruction to the Premises or personal property situated within the Premises which arise out of AGENCY's use of the Premises under this Agreement. The District will provide or procure work and services necessary to repair, replace or correct such damage or destruction and the AGENCY shall reimburse the DISTRICT for any and all costs incurred to perform such repairs, replacements or corrections. If the DISTRICT self-performs any repair, replacement or correction, costs of materials/equipment shall be at commercial retail rates in the Lompoc area for materials/equipment used to repair, replace or correct and the costs of labor employed by the District shall be at the prevailing wage rate in the Lompoc area for the type of labor services provided.
- 3.6 Direct Cost. The AGENCY shall reimburse the DISTRICT for any and all direct costs incurred by the DISTRICT arising from the AGENCY's use of liquid propane and fire hydrant water.
- 3.6.1 Maintenance. The DISTRICT shall be responsible for the performance, including the cost of performance, of any and all maintenance of the Premises.
- 3.6.2 Janitorial/Custodial. The AGENCY shall be responsible for performing janitorial services arising from the AGENCY's use of the Premises.
- 3.6.3 Personnel. The AGENCY shall hire and bear the entire cost and expense of any employees, staff and/or faculty (whether employed, independent contractor or otherwise) in connection with the AGENCY's use of the Premises.
- 3.6.4 Furniture, Furnishings, Equipment, Supplies and Materials. The AGENCY may use the DISTRICT's furniture and furnishings which are situated in the Premises. The AGENCY shall provide, at its own cost and expense, all other furniture, furnishings, equipment, supplies and materials needed for the AGENCY's use of the Premises.
- 3.7 Hazardous Materials. AGENCY and DISTRICT agree that neither will cause or permit any hazardous materials to be used or stored at the Premises, except as permitted by law. The AGENCY agrees to indemnify and hold harmless the DISTRICT from any loss, claim, or expense resulting from the AGENCY's intentional or negligent violation of this Section. The DISTRICT agrees to indemnify and hold harmless the AGENCY from any loss, claim, or expense resulting from the DISTRICT's intentional or negligent violation of this Section.
- 3.8 Condemnation.
- 3.8.1 No Voluntary Conveyance. During the time that this Agreement remains in effect, neither the DISTRICT nor the AGENCY will voluntarily convey any interest related to the Premises to any agency, authority or public utility under threat of a taking in lieu of formal proceedings in eminent domain, without the prior written consent of the other

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Party. For purposes of this Section, all amounts paid pursuant to any agreement with any condemning authority which has been made in settlement of or under threat of any condemnation or other eminent domain proceeding affecting the Premises shall be deemed to constitute an award made in such proceeding and subject to the provisions of this Section.

- 3.8.2 Total Taking. If the taking is total, this agreement shall terminate on the date of the taking and AGENCY shall not be entitled to any return of the Equipment conveyed by the AGENCY to the DISTRICT pursuant to this Agreement.
- 3.8.3 Substantial Taking. If the taking is partial but renders the remainder of the Premises unusable by the AGENCY for the purposes contemplated by this Agreement, the AGENCY shall notify the DISTRICT in writing within thirty (30) days of such partial taking of the AGENCY's intention to terminate the Agreement. In such event, the AGENCY shall not be entitled to return of the Equipment conveyed by the AGENCY to the DISTRICT pursuant to this Agreement.
- 3.8.4 Partial Taking. If the taking is partial, and not substantial, this agreement shall remain in full force and effect with respect to portions of the Premises not taken. The DISTRICT and the AGENCY shall in good faith negotiate and execute a written amendment to the Agreement which provides for an appropriate modification of its terms.
- 3.8.5 Condemnation Proceeds. Any proceeds of the condemnation award, whether total, substantial or partial, shall be pro-rated between the DISTRICT and the AGENCY in proportion to the respective values of the land and the improvements that are taken.
- 3.8.6 Temporary Taking. If all or any portion of the Premises is taken by any competent authority other than the AGENCY for temporary use or occupancy, unless the AGENCY elects to terminate this Agreement, this Agreement shall continue in full force and effect.

ARTICLE 4 INSURANCE AND INDEMNITY

4.1 Insurance.

- 4.1.1 Property Casualty Insurance. The AGENCY shall obtain and maintain one or more policies of insurance covering the risks of loss, damage or destruction of the Premises or LVC and any other improvements located on the Premises due to property casualties. In addition, the property casualty insurance maintained by the AGENCY shall cover personal property owned, rented or leased by the AGENCY, and situated in, on or about the Premises. The risk of loss of such items of personal property due to theft, mischief, vandalism or other casualty shall be solely that of the AGENCY; the AGENCY shall, at its own cost, obtain property casualty insurance covering the risk of loss of such personal property items. The DISTRICT shall have the right of review of the policies of property casualty insurance obtained by the AGENCY hereunder.

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- 4.1.2 Liability Insurance. The AGENCY shall obtain a liability insurance policy in connection with its respective use and occupancy of the Premises which covers claims arising out of the AGENCY's use and occupancy of the Premises, including coverage for claims or damages due to bodily injury, death and damage/destruction to tangible property. Upon request of the DISTRICT, the AGENCY shall provide reasonably satisfactory evidence of the liability insurance required hereunder.
- 4.1.3 Premiums and Deductibles. Premium costs for insurance policies to be obtained by the AGENCY hereunder shall be borne solely and exclusively by the AGENCY. In the event of a loss covered by any policy of insurance required of the AGENCY under this Lease, the AGENCY shall be solely and exclusively responsible for the payment of the deductible, if any, required under such policy of insurance.
- 4.1.4 Property Casualty Insurance Proceeds. If property covered by a property casualty insurance policy is damaged or destroyed, all insurance proceeds shall be used to repair, replace or restore the damaged/destroyed property to the condition existing immediately prior to the event of damage/destruction.
- 4.1.5 Additionally Insured Endorsement. The AGENCY's said policy of insurance or program of self-insurance shall expressly name the DISTRICT, its agents, employees and officers as additionally insured for the purposes of this Agreement. A certificate of insurance including such endorsement shall be furnished to the DISTRICT.

4.2 Indemnity.

- 4.2.1 The AGENCY shall indemnify, defend and hold harmless the DISTRICT and as applicable, the DISTRICT's employees, agents, representatives, officers, and Board of Trustees members from all claims, demands, liabilities, actions or causes of actions, whether in law or in equity, which arise out of or are related to the AGENCY's use and/or occupancy of the Premises.
- 4.2.2 The DISTRICT shall indemnify, defend and hold harmless the AGENCY and as applicable, the AGENCY's employees, agents, representatives, and officers from all claims, demands, liabilities, actions or causes of actions, whether in law or in equity, which arise out of or are related to the DISTRICT's use and/or occupancy of the Premises.

ARTICLE 5 TERM; TERMINATION

- 5.1 Term. Unless earlier terminated pursuant to the provisions of this Agreement, the Term of this Agreement commences on September 1, 2017 and shall terminate on August 31, 2020.
- 5.2 Termination for Convenience. The DISTRICT or the AGENCY may terminate this Agreement for convenience prior to August 31, 2020.

The DISTRICT may, at any time, upon ten (10) calendar days advance written notice to the AGENCY, terminate this Agreement hereunder, in whole or in part, for the DISTRICT's

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convenience and without fault, neglect or default on the part of the AGENCY. In such event, the Agreement shall be deemed terminated ten (10) days after the date of the DISTRICT's written notice to the AGENCY or such other time as the DISTRICT and AGENCY mutually agree upon. In such event, the DISTRICT shall make payment for the appraised value of the equipment, less the depreciation, to the AGENCY through the date of termination. Except as set forth in the foregoing, no other compensation shall be due to the AGENCY if the DISTRICT exercises the right to terminate this Agreement for the convenience of the DISTRICT.

The AGENCY may, at any time, upon ten (10) calendar days advance written notice to the DISTRICT, terminate this Agreement hereunder, in whole or in part, for the AGENCY's convenience and without fault, neglect or default on the part of the DISTRICT. In such event the Agreement shall be deemed terminated ten (10) days after the date of the AGENCY's written notice to the DISTRICT, or such other time as the AGENCY and DISTRICT mutually agree upon. In such event, the AGENCY shall compensate the DISTRICT for any user fees owed through the date of termination. Except as set forth in the foregoing, no other compensation shall be due to the DISTRICT if the AGENCY exercises the right to terminate this Agreement for the convenience of the AGENCY.

ARTICLE 6 GENERAL

- 6.1 Marginal Headings; Captions. The titles of the various Articles of this Agreement are for convenience of reference only and are not intended to and shall in no way enlarge or diminish the rights or obligations of the AGENCY and DISTRICT hereunder.
- 6.2 Cumulative Rights; No Waiver. Duties and obligations imposed by this Agreement and rights and obligations hereunder are in addition to and not in lieu of any imposed by or available at law or in equity. No action or failure to act by the DISTRICT or AGENCY hereunder shall be deemed a waiver of any right or remedy afforded hereunder or acquiescence or approval of any breach or default by the other.
- 6.3 Notices. Notices that either the AGENCY or DISTRICT are required or desire to serve on the other shall be valid only if addressed to the other as set forth below or as modified by notice to the Party. Notices shall be effective only if transmitted by personal delivery requiring signature acknowledging receipt or by United States Mail, Certified, Return Receipt Requested, First Class, postage fully pre-paid.

Notices to the DISTRICT shall be addressed as follows:

Superintendent/President
Allan Hancock Joint Community College DISTRICT
800 South College Drive
Santa Maria, CA 93454
(805) 922-6966

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Notices to the AGENCY shall be addressed as follows:

Fire Chief
Santa Barbara County Fire Department
4410 Cathedral Oaks Road
Santa Barbara, CA 93110
(805) 681-5500

- 6.4 Relationship of the Parties. Under no circumstances shall this Agreement be construed as one of AGENCY, partnership, joint venture or employment between the DISTRICT and the AGENCY. Each Party acknowledges and agrees that it neither has, nor will give the appearance or impression of having, any legal authority to bind or commit the other Party in any way.
- 6.5 Severability. If any provision of this Agreement is deemed illegal, invalid, unenforceable or void by any court of competent jurisdiction, such provision shall be deemed stricken and deleted here from, but all remaining provisions will remain and continue in full force and effect.
- 6.6 Modifications. No provision of this Agreement shall be modified, except by written instrument duly executed by the AGENCY and DISTRICT. No modification to this Agreement shall be valid, binding or enforceable unless such modification is reflected in a written instrument duly executed by the AGENCY and the DISTRICT.
- 6.7 Entire Agreement. This Agreement represents the entire agreement and understanding between the Parties concerning the subject matter hereof. The provisions of this Agreement supersede and replace all prior agreements, understandings and negotiations regarding the subject matter hereof.
- 6.8 Negotiated Document. This Agreement is a negotiated document and shall not be interpreted for or against any Party by reason of the fact that such Party may have drafted this Agreement or any of its provisions.
- 6.9 Disputes. The Parties agree to meet to resolve disputes that may arise between the DISTRICT and the AGENCY . To the extent possible, Parties shall ensure that any dispute will not disrupt the delivery of services or instruction.
- 6.10 Nondiscrimination. The AGENCY assures the DISTRICT that it shall not discriminate against any person, and any aspect of education on employment, regardless of race, color, and ancestry, religion, gender, national origin, age, mental or physical disability, mental condition, armed services veteran status, marital status, or sexual orientation.

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IN WITNESS WHEREOF, the parties have executed this Agreement to be effective on the date executed by COUNTY.

ATTEST:

Mona Miyasato
County Executive Officer
Clerk of the Board

By: _____
Deputy Clerk

Date: _____

COUNTY OF SANTA BARBARA:

By: _____
Chair, Board of Supervisors

RECOMMENDED FOR APPROVAL:

Fire Department

By: _____
Eric L. Peterson, Fire Chief

COLLEGE DISTRICT:

By: _____
Dr. Kevin G. Walthers
Superintendent / President

By: _____
George Railey, Ed. D.,
Associate Superintendent,
Vice President Academic Affairs

APPROVED AS TO FORM:

Michael C. Ghizzoni
County Counsel

By: _____
Deputy County Counsel

APPROVED AS TO ACCOUNTING FORM:

Theodore A. Fallati, CPA
Auditor-Controller

By: _____
Deputy

APPROVED AS TO FORM:

Risk Management

By: _____
Risk Management