

Memorandum of Understanding

This Memorandum of Understanding (MOU) is made by and between the Junior College District of Metropolitan Kansas City, Missouri a/k/a Metropolitan Community College (MCC), a public community college district and political subdivision of the State of Missouri, whose principal office is located at 3200 Broadway, Kansas City, Missouri 64111, on behalf of its MCC Blue River Campus Fire Academy (Academy), located at 20301 East 78 Highway, Independence, Missouri, 64057, and the City of Independence, Missouri, on behalf of the Independence, Missouri Fire Department (IFD), whose principal office is located at 950 N. Spring, Independence, Missouri, 64050.

WHEREAS, MCC, through its Academy, is a Missouri Department of Public Safety - Division of Fire Safety approved provider of basic and advanced education and training, including, without limitation, continuing education courses, programs, seminars, and certification to students desiring to become certified firefighter officers and first responders in the State of Missouri; and

WHEREAS, MCC, in keeping with the role of the community college as a public institution, offers MCC's facilities for use to help meet general education, civic, cultural, and recreational needs of district residents as per the terms herein; and

WHEREAS, IFD, desires (i) to have facility use of MCCs Blue River classrooms and Public Safety Institute (PSI), and other Blue River Campus locations, and (ii) MCC Academy to provide continuing education courses, programs, seminars, and training (Program(s)) to IFD fire service personnel; and

WHEREAS, MCC, desires the use of IFD's Fire and Safety Training Center (STC) and live fire training props located at 21011 M-78 Hwy, Independence, Missouri, 64057.

NOW THEREFORE, for good and valuable consideration as described herein, the parties hereto agree as follows:

1. Term and Termination. The term of this MOU shall be from the date of the last signing party (Effective Date) through June 30, 2024. This MOU shall be renewed automatically for the period of July 1 through June 30 each year and shall only be amended or cancelled upon the mutual written agreement of the parties. If the Premises shall be destroyed or so damaged by fire or other unavoidable casualty whereby the use of the Premises is impracticable for a date reserved by IFD, MCC shall provide IFD with an alternate reservation date, if reasonably possible.

2. Use and Condition of Premises and Equipment (Facility Use).

2.1 Use and Condition of Premises. MCC agrees to grant to IFD the use of MCC's Public Safety Institute (PSI) building, and other Blue River Campus locations, if available and upon the discretion of MCC (collectively herein "Premises"), for the express purpose of fire safety training, EVOC training and/or situational training and/or public safety continuing education [Event(s)]. IFD shall not use the Premises for any other purpose, except as otherwise stated herein. IFD accepts the Premises in present condition and agrees to keep and maintain the same in as good condition as at present, free from debris, danger of fire or any nuisance, to commit no acts of destruction or other acts tending to injure or deface the property, or which may invalidate the insurance or increase the rates thereon, and at the expiration of this MOU will deliver the same without notice to MCC in as good condition as when it received the same, ordinary wear and tear excepted.

MCC shall not permit alcoholic drinks to be sold or provided on the Premises under any circumstances.

2.2 Use and Condition of Equipment. MCC agrees to grant to IFD the use of the equipment as standard to the Premises. IFD understands and agrees that during the term of this MOU, it shall be solely responsible for all equipment used or present in the Premises.

2.3 Non-Standard Equipment. MCC agrees to provide to IFD non-standard equipment that may be mutually agreed upon by the parties in writing, email being sufficient. Any equipment or services requested upon arrival may be invoiced after the conclusion of an Event.

2.4 Facility Use Reservation. Upon reasonable notice to MCC, and subject to MCC's PSI availability, IFD shall reserve specific rooms and/or other areas of the Premises on the dates and times mutually agreeable to the parties in writing, email being sufficient, pursuant to the terms of this MOU. Such use of Premises excludes holidays, inclement weather closings, closures due to emergencies, or for any reason that use of the Premises is impracticable. Upon reasonable notice to IFD, and subject to PSI availability, MCC shall reserve IFD's STC and live fire training props on the dates and times mutually agreeable to the parties, in writing, email being sufficient, pursuant to the terms of this MOU.

3. Continuing Education.

3.1 Program Development. Programs are developed by MCC with input from the Academy's Advisory Board and satisfy the requirements of the State of Missouri. In developing the Programs, MCC retains the right to:

- i. maintain complete control over the selection and content of the Programs and instruction;
- ii. determine the minimum and maximum number of enrollees for each Program;
- iii. cancel, with sufficient notice, any particular Program session due to insufficient enrollment; and
- iv. determine the time and location of each Program session.

3.2 Programs Offerings. MCC shall make available for IFD personnel, or other City personnel as agreed to by IFD, two reserved seats in an onsite EMS licensure class offering, either EMT-Basic or EMT-Paramedic, with the preference being on Paramedic, each calendar year at no cost to the City of Independence. Additionally, MCC shall publish, in a timely manner, an annual listing of Programs offered by its Academy to IFD throughout the year. Subject to the requirements and approval of the Missouri Department of Public Safety - Division of Fire Safety, MCC shall provide to IFD one delivery each of the following continuing education certification courses during each calendar year:

- i. Fire Service Instructor I
- ii. Fire Officer I
- iii. Live Fire Instructor
- iv. Delivery of the above continuing education courses shall include:
 - a. the necessary instructors and evaluators;
 - b. the necessary materials for the Programs; and
 - c. transcript services for IFD's in-house training.

3.3 Records. MCC shall maintain all records, lesson plans, source documents, attendance records, and all IFD documents required by the Missouri Department of Public Safety - Division of Fire Safety, and the U.S. Fire Administration's Fire and Emergency Services Higher Education (FESHE) organization.

3.1 FERPA. The parties agree that access to the confidential educational and personal information of any MCC student shall be done in compliance with the Family Education Rights and Privacy Act.

4. Liability Requirements.

4.1 Insurance. The parties agree to maintain the following insurance (or equivalent self-insurance) throughout the term of this Agreement: a) workers' compensation and employer's liability for its employees in amounts as required by Missouri law; b) automobile insurance, to include uninsured and underinsured motorists, in the minimum amounts of \$1,000,000 per occurrence and \$2,000,000 in the aggregate; and c) general liability in the amounts of \$1,000,000 per occurrence and \$2,000,000 in the aggregate, which shall include students, participants, volunteers, property damage, and contractually assumed liability. Upon the execution of this Agreement, (i) IFD agrees to provide MCC proof of insurance and name MCC as an additional insured, if applicable; and (ii) MCC agrees to provide IFD proof of insurance and name the City of Independence as an additional insured, if applicable. Failure to provide or maintain applicable insurance as stated herein will not relieve a party of any of its contractual obligation or responsibility herein.

4.2 Indemnification. Each party to this MOU shall be solely responsible for any and all actions, suits, damages, liability, or other proceedings brought against it as a result of the alleged negligence, misconduct, error, or omission of any of its trustees, officers, agents, or employees. Neither party is obligated to indemnify the other party or to hold harmless the other party from costs or expenses incurred as a result of such claims. The foregoing provisions shall not be deemed a relinquishment or waiver of any kind of applicable limitations of liability provided or available to the parties under applicable state governmental immunities law, including sovereign immunity, and each party shall continue to enjoy all rights, claims, and defenses available to it under law, to specifically include Mo. Rev. Stat. § 537.600, et seq.

5. No Waiver. The foregoing provisions shall not be deemed a relinquishment or waiver of any kind of applicable limitations of liability provided or available to MCC or IFD under applicable Missouri governmental immunities law, including sovereign immunity.

6. Order of Precedence. In the event of a conflict or inconsistency between the terms and conditions of this Agreement and the terms and conditions of any exhibit, invoice, purchase order, website or other document attached hereto or incorporated herein by reference, the terms and conditions of this Agreement shall govern.

7. Notices. All communications relating to this Agreement shall be in writing and may be (i) hand delivered, (ii) sent by overnight courier, (iii) shall be deemed received within five (5) business days after mailing if sent by registered or certified mail, return receipt requested, or (iv) upon confirmation of receipt when sent by electronic mail to the parties at the addresses written below.

Notices to MCC shall be sent to:

Attn: David Johnson
MCC Blue River Campus
20301 East 78 Highway
Independence, Missouri 64057
Email address for notices: david.johnson@mcckc.edu

Notices sent to IFD shall be sent to:

Attn: Fire Chief Charles E. Lauss
Independence Fire Department
950 N. Spring
Independence, Missouri 64050
Email address for notices: fireonline@indepmo.org, cityclerk@indepmo.org

8. No Solicitation. MCC does not permit on MCC's Premises the solicitation of products and/or services. IFD acknowledges and agrees that solicitation is prohibited and warrants that IFD shall not do any Solicitation.

9. Non-Discrimination. The parties agree that no person shall be excluded from participation in, be denied the benefit of, or otherwise to subjected to discrimination in the performance of this Agreement on the ground of race, color, religion, age, sex, sexual orientation, gender identity, disability, national origin, veteran status, or any other status protected by applicable law. The parties shall also abide by the requirements of 41 CFR § 60-300.5(a), and 41 CFR § 60-741.5(a). These regulations prohibit discrimination against qualified protected veterans and qualified individuals on the basis of disability and require affirmative action by covered prime contractors and subcontractors to employ and advance in employment qualified protected veterans and individuals with disabilities.

10. Anti-Discrimination Against Israel. In accordance with Missouri Revised Statute Section 34.600, titled the "Anti-Discrimination Against Israel Act," each party certifies it is not currently actively or indirectly engaged in and shall not, for the duration of the contract, actively or indirectly engage in a boycott of goods or services from the State of Israel and shall otherwise comply with the provisions of RS.Mo. § 34.600.

11. Compliance with Law. MCC and IFD will comply with all statutes, rules, regulations, and codes of the governmental agencies having jurisdiction over the property, project, and/or the Services; in addition, MCC and IFD represents and warrants they will comply with all applicable local, state, and federal laws, rules, regulations, directives, and orders pertaining to the operations and activities undertaken by the parties related to this Agreement, including but not limited to those pertaining to public health, safety, and welfare.

12. Governing Law. This Agreement is governed by and constructed in accordance with the substantive laws of the State of Missouri, without regard to choice of law principals. The forum for all disputes, claims, causes, and actions arising under this Agreement shall be Jackson County, Missouri.

13. Severability. If, for any reason, any provision hereof shall be determined to be invalid or unenforceable, the validity and effect of the other provisions hereof shall not be affected thereby.

14. Waiver. Failure of either party to insist upon strict performance of the terms of this MOU shall not be construed as a waiver of such party's rights to later enforce any provision thereof.

15. Remedies. All rights and remedies of the parties, in law or equity, are cumulative and may be exercised concurrently or separately. The exercise of one remedy will not be an election of that remedy to the exclusion of other remedies.

16. Successors and Assignments. This MOU shall not be assigned by either party without the prior written consent of the other party and unless specifically stated to the contrary in any written consent to an assignment, no assignment will release or discharge the assignor from any duty or responsibility under this MOU.

17. Force Majeure.

(a) If a Force Majeure Event occurs, the party that is prevented by that Force Majeure Event from performing any one or more obligations under this Agreement (the "Nonperforming Party") will be excused from performing those obligations, on condition that: (1) the Nonperforming Party used reasonable efforts to perform its obligations; (2) the Nonperforming Party's inability to perform its obligations is not due to its failure to take reasonable measures to protect itself against the event or circumstances giving rise to the Force Majeure Event, and (3) the Nonperforming Party complies with its obligations under Subsection (c).

(b) "Force Majeure Event" means, with respect to a party, any event or circumstance, regardless of whether it was foreseeable, that was not caused by that party and that prevents a party from complying with any of its obligations under this Agreement, except that a Force Majeure Event will

not include the Covid-19 pandemic.

(c) Upon occurrence of a Force Majeure Event, the Nonperforming Party shall promptly notify the other party of occurrence of the Force Majeure Event, its effect on performance, and how long that party expects it to last. Thereafter, the Nonperforming Party shall update that information as reasonably necessary. During a Force Majeure Event, the Nonperforming Party shall use reasonable efforts to limit damages to the other party and to resume its performance under this Agreement.

18. Entire Agreement. This MOU constitutes the entire agreement and understanding between the parties with respect to the subject matter hereto and supersedes all offers, negotiations, discussions, and other agreements that occurred prior to the date of the execution of this written MOU. Any amendments to this MOU must be in writing and executed by both parties.

19. Execution. This MOU may be executed in counterparts, which together constitute one and the same MOU. If a party sends a signed copy of this MOU via digital transmission, such party will, upon request by the other party, provide an originally signed copy of this MOU. No member or officer of MCC or the City of Independence incurs personal liability by the execution or default of this MOU. To the extent permissible by law, all such liability is released by MCC and the City of Independence as a condition of and consideration of the execution of this MOU.

The parties have caused this MOU to be executed by their authorized representatives on the day and year written below.

**Junior College District of Metropolitan
Kansas City, Missouri**

City of Independence, Missouri

By: _____

By: _____

Name: _____

Name: _____

Title: _____

Title: _____

Date: _____

Date: _____