



INDIAN RIVER STATE COLLEGE
School of Continuing Education

MEMORANDUM OF AGREEMENT (MOA)

between

Indian River State College, School of Continuing Education (IRSC-SCE)

and

The City of Port St. Lucie, Florida

I. PARTIES

This Memorandum of Agreement (hereinafter referred to as “MOA”) is made and entered into by and between Indian River State College School of Continuing Education (“IRSC-SCE”), whose address is 3209 Virginia Avenue, Fort Pierce, FL 34981, and the City of Port St. Lucie, Florida, a Florida municipal corporation whose address is 121 SW Port St Lucie Blvd, Port St Lucie, FL 34984 (“City”). IRSC-SCE and the City shall collectively be referred to as the “Signatory Parties”).

II. BACKGROUND

Indian River State College (IRSC) is a public body corporate of the State of Florida and is an industry-driven leader focused on providing continuing education and training. The School of Continuing Education (SCE) was established by the joining of three IRSC training divisions: The National Preparedness Institute, The Corporate and Community Training Institute, and The Fielden Institute for Life Long Learning. This combination represents a combined 50 years of providing a diverse range of professional community training.

Under the School of Continuing Education umbrella, IRSC offers high-quality workforce trainings, certification programs, consulting, and personal enrichment courses to meet the needs of the workforce community, including corporations, government, non-profits, first responders, and life-long learners of all ages on a local, state, national and international level.

Through input from these dynamic partnerships, SCE develops and coordinates educational and training resources to boost the knowledge, skills, and abilities of our community’s workforce utilizing current and cutting-edge industry training and curricula customized to meet the client’s specific needs.

III. PURPOSE & SCOPE

The purpose of this MOA is to identify and formalize the roles, responsibilities and relationship between IRSC-SCE and the City relating to the training and/or instruction of City employees on the operation of heavy equipment.

IV. IRSC-SCE’S RESPONSIBILITIES UNDER THIS MOA

- a) **Compensate its selected instructors for services rendered.**
- b) **Provide Certificate(s) of Completion to all City employees who satisfy the requirements of the training and/or program.**
- c) **Coordinate with City to schedule and implement training and/or program.**
- d) **Maintenance of insurance coverage as set forth in this MOA.**

V. CITY RESPONSIBILITIES UNDER THIS MOA

- a) Recruit, promote, and offer IRSC-SCE heavy equipment instructional/training programs to its employees.
- b) Recommend instructors to work with IRSC-SCE, who will serve as agents of IRSC-SCE in providing the instruction/training to City employees. IRSC-SCE has reviewed the qualifications of the recommended instructors and approves their engagement as instructors under the MOA. The Signatory Parties understand and agree that all instructional/training programs shall not be conducted on City time, and that selected instructors serve as agents of IRSC-SCE for all instruction/training provided to City employees under this MOA.
- c) Provide its own facilities, location, and equipment for the training program.
- d) Coordinate with IRSC-SCE and provide participants’ names and registration information.

VI. FEES/PAYMENTS FOR TRAINING

The City will pay IRSC-SCE the fees outlined below, which include instructional/SCE administrator fees, for the responsibilities provided in Section IV. This payment must be made in full within 30 days of receiving the invoice.

Item/Service	Fees	Instructor	Participants
Rubber Tired Loader operations Tuesdays/Thursdays	\$3,102.70	Jose Montero	Adulfo Garcia Brandon Worrell Douglas Smith
Bulldozer Operation Mondays/Wednesdays	\$3,348.40	Jose Montero	Hayden Murphy Jose Hernandez Joseph Leone
CDL Class A Tractor Trailer Tuesdays/Thursdays	\$4,607.50	Jerome Simpson	Neville Webb Jose Roig
Gradall Excavation Operations Mondays/Wednesdays	\$4,576.90	Bill Emskamp	William Figueroa Davian Esterine David Reid

Kaiser Excavation Operations	\$4,607.50	Jerome Simpson	Jayson Reinoso
Mondays/Wednesdays			

VII. NOTICES

Whenever, under the terms of this MOA, written notice is required to be given, it shall be directed to the Signatory Party at the address specified in Article I, and to the attention of the persons indicated below with their respective titles, unless written notice of change of address or individual is provided by a Signatory Party. All notices and submissions, except as otherwise expressly provided herein, shall be sent with an acknowledging return receipt requested. Said notice may be delivered by overnight delivery. All required Notices under this MOA may be sent by regular mail.

Dr. Brenda Rante

Director of the School of Continuing Education
 Indian River State College
 3209 Virginia Avenue
 Fort Pierce, FL 34981
 772-462-7967
Brante@irsc.edu

Kirk McCosh

Project Manager
 Port St Lucie Public Works
 121 SW Port St Lucie Blvd, Bldg. B
 Port St Lucie, FL 34984
 772-344-4263
kmccosh@cityofpsl.com

VIII. USE OF INTELLECTUAL PROPERTY

The Signatory Parties agree that any intellectual property, which is jointly developed through activities covered under this MOA, can be used by either party without obtaining consent from the other and without any need to account to the other.

All other intellectual property used in the implementation of the MOA will remain the property of the party that provided it. This property can be used by either party for purposes covered by the MOA but consent will be obtained from the owner of the property before using it for purposes not covered by the MOA.

IX. BEST EFFORTS

The Signatory Parties shall use their best efforts to timely and promptly satisfy their obligations under this MOA.

X. AMENDMENTS

This MOA may be amended by the written request of either Signatory Party. Any proposed amendment or modification shall be submitted by one Signatory Party to the other Signatory

Party prior to formal discussion or the negotiation of the issue. Any amendment to this MOA must be set forth in writing and such amendment must be signed by both Signatory Parties to the MOA in order to become effective or to otherwise modify or change this MOA.

XI. TERMINATION OF AGREEMENT

This MOA shall terminate on March 31, 2025, unless a Renewal Amendment to this MOA or a new MOA is executed by the Signatory Parties, which also contains the effective and expiration date.

This MOA may be terminated by either Signatory Party upon 14 days prior written notice to the other Signatory Party.

XII. SOVEREIGN IMMUNITY

The Signatory Parties agree that the City's and IRSC-SCE's liability in all instances shall be limited to the monetary limits set forth in s.768.28, Florida Statutes. Nothing contained herein shall be deemed a waiver of the City's sovereign immunity, whether by contract or by law.

XIII. INSURANCE/HOLD HARMLESS/INDEMNIFICATION (IRSC-SCE)

IRSC-SCE shall, on a primary basis and at its sole expense, agree to maintain in full force and effect at all times during the life of this MOA, insurance coverage and limits, including endorsements, as described herein. The requirements contained herein, as well as City's review or acceptance of insurance maintained by IRSC-SCE are not intended to and shall not in any manner limit or qualify the liabilities and obligations assumed by IRSC-SCE under the MOA.

The Signatory Parties agree and recognize that it is not the intent of the City of Port St. Lucie that any insurance policy/coverage that it may obtain pursuant to any provision of this MOA will provide insurance coverage to any entity, corporation, business, person, or organization, other than the City of Port St. Lucie and the City shall not be obligated to provide any insurance coverage other than for the City of Port St. Lucie or extend its immunity pursuant to Section 768.28, Florida Statutes, and as may be amended from time to time, under its self-insured program. Any provision contained herein to the contrary shall be considered void and unenforceable by any party. This provision does not apply to any obligation imposed on any other party to obtain insurance coverage for this project, and/or any obligation to name the City of Port St. Lucie as an additional insured under any other insurance policy or otherwise protect the interests of the City of Port St. Lucie as specified in this MOA.

Workers' Compensation Insurance & Employer's Liability: IRSC-SCE shall agree to maintain Workers' Compensation Insurance & Employers' Liability in accordance with Section 440, Florida Statutes, and as may be amended from time to time. Employer's Liability must include limits of at least \$100,000.00 each accident, \$100,000.00 each disease/employee, and \$500,000.00 each disease/maximum. A Waiver of Subrogation endorsement must be provided. Coverage shall apply on a primary basis.

Commercial General Liability Insurance: IRSC-SCE shall agree to maintain Commercial General Liability insurance, issued under an Occurrence form basis, including Contractual liability, to cover the hold harmless agreement set forth herein, with limits of not less than:

Each occurrence	\$1,000,000
Personal/advertising injury	\$1,000,000
Products/completed operations aggregate	\$2,000,000
General aggregate	\$2,000,000
Fire damage	\$100,000 any 1 fire
Medical expense	\$10,000 any 1 person

Additional Insured: An Additional Insured endorsement must be attached to the certificate of insurance (should be CG2026) under the General Liability policy. Coverage is to be written on an occurrence form basis and shall apply as primary and non-contributory. Defense costs are to be in addition to the limit of liability. A waiver of subrogation is to be provided in favor of the City. Coverage shall extend to independent consultants and fellow employees. Contractual Liability is to be included. Coverage is to include a cross liability or severability of interests provision as provided under the standard ISO form separation of insurers clause.

Except as to Workers' Compensation and Employers' Liability insurance, Certificates of Insurance and policies shall clearly state that coverage required by the MOA has been endorsed to include the City of Port St. Lucie, a municipality of the State of Florida, its officers, agents and employees as Additional Insured for Commercial General Liability and Professional Liability policies. The name for the Additional Insured endorsement issued by the insurer shall read **“City of Port St. Lucie, a municipality of the State of Florida, its officers, employees and agents shall be listed as additional insured and include MEMORANDUM OF AGREEMENT (MOA) between Indian River State College, School of Continuing Education (IRSC-SCE) and The City of Port St. Lucie, Florida.”** Copies of the Additional Insured endorsements shall be attached to the Certificate of Insurance. The policies shall be specifically endorsed to provide thirty (30) day written notice to the City prior to any adverse changes, cancellation, or non-renewal of coverage thereunder. Formal written notice shall be sent to City of Port St. Lucie, 121 SW Port St. Lucie Blvd., Port St. Lucie, FL 34984, Attn: City Attorney’s Office. In the event that the statutory liability of the City is amended during the term of this MOA to exceed the above limits, IRSC-SCE shall be required, upon thirty (30) days written notice by the City, to provide coverage at least equal to the amended statutory limit of liability of the City. Copies of the Additional Insured endorsement shall be attached to the Certificate of Insurance.

Professional Liability Insurance: IRSC-SCE shall agree to maintain Professional Liability, or equivalent Errors & Omissions Liability, at a limit of liability not less than \$2,000,000 Per Occurrence. When a self-insured retention (SIR) or deductible exceeds \$10,000, the City reserves the right, but is not obligated, to review and request a copy of IRSC-SCE's most recent annual report or audited financial statement. For policies written on a "Claims-Made" basis, IRSC-SCE warrants that the retroactive date equals or precedes the effective date of this MOA. In the event the policy is canceled, non-renewed, switched to an Occurrence Form, retroactive date advanced, or any other event triggering the right to purchase a Supplemental Extended Reporting Period (SERP) during the life of this MOA, IRSC-SCE shall agree to purchase a SERP with a minimum reporting period not less than four (4) years. If policy contains an exclusion for dishonest or criminal acts, defense coverage for the same shall be provided.

Waiver of Subrogation: By entering into this MOA, IRSC-SCE agrees to a Waiver of Subrogation for each required policy. When required by the insurer or should a policy condition not permit an Insured to enter into a pre-loss contract to waive subrogation without an endorsement then IRSC-SCE shall agree to notify the insurer and request the policy be endorsed with a Waiver of Transfer of Rights of Recovery Against Others, or its equivalent.

Deductibles: All deductible amounts shall be paid for and be the responsibility of IRSC-SCE for any and all claims under this MOA. Where an SIR or deductible exceeds \$5,000, the City reserves the right, but is not obligated, to review and request a copy of IRSC-SCE's most recent annual report or audited financial statement.

It shall be the responsibility of IRSC-SCE to ensure that all independent contractors and/or subcontractors comply with the same insurance requirements referenced herein. It shall be the responsibility of IRSC-SCE to obtain Certificates of Insurance from all independent contractors and subcontractors listing the City as an Additional Insured without the language "when required by written contract". If IRSC-SCE, independent contractor and/or subconsultant maintain higher limits than the minimums shown above, the City requires and shall be entitled to coverage for the higher limits maintained by IRSC-SCE/independent contractor/subcontractor.

IRSC-SCE may satisfy the minimum limits required above for either Commercial General Liability, Professional Liability, and/or Employers' Liability coverage under Umbrella or Excess Liability. The Umbrella or Excess Liability shall have an Aggregate limit not less than the highest "Each Occurrence" limit for either Commercial General Liability, Professional Liability, or Employers' Liability. When required by the insurer, or when Umbrella or Excess Liability is written on Non-Follow Form," the City shall be endorsed as an "Additional Insured."

The City by and through its Risk Management Department reserves the right, but is not obligated, to review, modify, reject or accept any required policies of insurance, including limits, coverages

or endorsements, herein from time to time throughout the term of this MOA. All insurance carriers must have an AM Best rating of at least A:VII or better.

A failure on the part of IRSC-SCE to execute the contract and/or punctually deliver the required insurance certificates and other documentation may be cause for annulment and/or termination of the MOA.

XIV. DISPUTE RESOLUTION

The Signatory Parties hereby agree that, in the event of any dispute between the Signatory Parties relating to this MOA, the Signatory Parties shall first seek to resolve the dispute through informal discussions. In the event any dispute cannot be resolved informally within 15 calendar and consecutive days, the Signatory Parties agree that the dispute will be negotiated between the Signatory Parties through mediation, if Signatory Parties can agree on a mediator. The costs of mediation shall be shared equally by the Signatory Parties. Neither Signatory Party waives its legal rights to adjudicate this MOA in a legal forum.

XV. LIMITATION OF MEMORANDUM

Nothing contained herein is intended to limit, modify or otherwise alter the respective rights and responsibilities of the Signatory Parties under this MOA.

XVI. GOVERNING LAW

This MOA and the legal relations among the Signatory Parties shall be governed by and construed in accordance with the laws of the State of Florida applicable to contracts between Florida parties made and performed in that State, without regard to conflict of laws principles.

XVII. THIRD PARTIES

The Signatory Parties do not confer any rights or remedies upon any person other than the parties to this MOA and their respective successors and permitted assigns.

XVIII. ENTIRE AGREEMENT

This MOA embodies the entire and complete understanding and agreement between the Signatory Parties.

XIX. SEVERABILITY

If any provision of this MOA, or the application thereof, shall for any reason or to any extent be invalid or unenforceable, then the remainder of this MOA and application of such provision to other persons or circumstances shall continue in full force and effect and in no way be affected, impaired or invalidated; provided that the aggregate of all such provisions found to be invalid or unenforceable does not materially affect the benefits and obligations of the Signatory Parties of this MOA taken as a whole.

XX. EFFECTIVE DATE

This MOA shall take effect upon signing by both Signatory Parties.

XXI. ASSIGNMENT

Neither Signatory Party may assign or transfer all or any portion of their obligations under this MOA without the prior written consent of the other party.

XXII. COUNTERPARTS

This MOA may be executed in counterparts, each of which, when executed and delivered, shall be an original, and such counterparts together constitute one and the same instrument. Signature pages may be detached from the counterparts and attached to a single copy of this document to physically form one document.

XXIII. SIGNATORY AUTHORITY

By the signatures below, the Signatory Parties agree to the terms of this MOA.

Indian River State College

City of Port St. Lucie, Florida

Associate Vice Provost of
Academic Affairs

(Name, Title)

Date: _____

Date: _____

Provost/Vice President of Academic Affairs, CAO

Date: _____

President or Designee

Date: _____