

# ALLAN HANCOCK JOINT COMMUNITY COLLEGE DISTRICT



## BOARD OF TRUSTEES

Gregory A. Pensa, President  
Hilda Zacarías, Vice President  
Alejandra Enciso  
Jeffery C. Hall  
Suzanne Levy, Ed.D.  
Oscar Rivera, Student Trustee

## AGENDA SPECIAL BOARD MEETING

Tuesday, September 12, 2023  
12 noon

Allan Hancock College  
Open Session - Boardroom, B-100  
800 South College Drive, Santa Maria, CA 93454

	<u>Page</u>	<u>Tentative Time</u>
1. Call to Order		12:00 PM
2. Public Comment		
<p>Public comments on an agenda item or another topic within the jurisdiction of the board of trustees will be given in person during the meeting or submitted in writing at least 24 hours before the meeting via email to: <a href="mailto:ccamacho@hancockcollege.edu">ccamacho@hancockcollege.edu</a> The leading speaker from the audience on each side of the issue will be limited to five minutes. Additional speakers are limited to two minutes. Please submit an individual comment for each item. Testimony on specific agenda items will be welcome during consideration of the item by the Board of Trustees. When public testimony is completed regarding a specific agenda item, discussion is then confined to board members only. This practice is in accordance with laws governing Board of Trustees public meetings.</p>		
3. Action		
3.A. Award of Contract for the Public Safety Training Complex Roof Prop Project (Rebid No. 23-07)	3	
<p>A recommendation that the board of trustees award the contract for the Public Safety Training Complex Roof Prop Project (Rebid No. 23-07) to Quincon, Inc. in the amount of \$429,596.</p>		
3.B. Public Hearing for the 2023-24 Allan Hancock Joint Community College District Budget	5	
<p>A recommendation that the board of trustees open the public hearing for the 2023-24 Allan Hancock Joint community College District Budget. At the conclusion of public comments staff recommends the board of trustees close the public hearing.</p>		
3.C. Adoption of the 2023-24 Allan Hancock Joint Community College District Budget	6	
<p>A recommendation that the board of trustees adopt the 2023-24 Allan Hancock Joint Community College District budget.</p>		

Page      Tentative  
Time

- 3.D. Resolution 23-22, Development and Lease Agreement between Allan Hancock Joint Community College District and The Vernon Group, LLC. 34

A recommendation that the board of trustees adopt Resolution 23-22, Development and Lease Agreement between Allan Hancock Joint Community College District and The Vernon Group, LLC.

4. Adjournment



Kevin G. Walthers, Ph.D.  
Secretary to the Board of Trustees

**ACTION ITEM**

To: Board of Trustees	Date:
From: Superintendent/President	September 12, 2023
Subject: Award of Contract for the Public Safety Training Complex Roof Prop Project (Rebid No. 23-07)	Item Number: 3.A.
Institutional Goal: Accreditation Standard III	Enclosures: Page 1 of 2

**BACKGROUND**

On June 20, 2023, the board of trustees authorized staff to rebid the Public Safety Training Complex Roof Prop Project (Bid No. 23-07). The project was listed with Cyber Copy Reprographics, and advertised in the Santa Maria Times on June 28 and July 5, 2023. On July 13, 2023 the mandatory job walk was held with four contractors present.

On August 1, 2023 bids were due and three responsive bids were received. As indicated on the Bid Tabulation form, the lowest responsive bidder for this project was Quincon, Inc. with a total bid amount of \$429,596.

**FISCAL IMPACT**

The cost is \$429,596 and will be funded through a combination of scheduled maintenance and capital projects funds.

**RECOMMENDATION**

Staff recommends that the board of trustees award the contract for the construction of the Public Safety Training Complex Roof Prop Project (Rebid No. 23-07) to Quincon, Inc. in the amount of \$429,596.

Administrator Initiating Item: Dennis Curran	Final Disposition:
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## BID TABULATION

### PUBLIC SAFETY TRAINING COMPLEX ROOF PROP PROJECT

REBID NO. 23-07

August 1, 2023, 2:00 p.m.

BIDDER	BID AMT.	ADDENDUM ACK.	SIGNED BID FORM	SUB LIST	WORKERS COMP	NON-COLLUSION	BID BOND	SUB REQUEST	ACK. BIDDING PRACTICES	DRUG FREE
Quincon, Inc.	\$429,596	X	X	X	X	X	X	X	X	X
Specialty Constructors Services, Inc.	\$507,000	X	X	X	X	X	X	X	X	X
RDZ Contractors, Inc.	\$676,565	X	X	X	X	X	X	X	X	X

Opened by: Kara Pizano

Witnessed by: Dennis Curran, Steve Marshall, Courtney Johnson, Pedro Rodriguez, Jose Rodriguez

**ACTION ITEM**

To: Board of Trustees	Date:
From: Superintendent/President	September 12, 2023
Subject: Public Hearing for the 2023-24 Allan Hancock Joint Community College District Budget	Item Number: 3.B.
Institutional Goal: Accreditation Standard III	Enclosures: Page 1 of 1

**BACKGROUND**

To comply with Title 5, Code Section 58301, the public hearing regarding the 2023-24 budget must be held on or before September 15. At the June 20, 2023 board meeting, the board of trustees established the date of September 12, 2023 for the required hearing.

Per Title 5, Code Section 58301, the proposed budget was available for public inspection three days prior to the public hearing in the finance and administration office, building B 105.

The public hearing is intended to provide an opportunity for any member of the community to comment on the budget that is being proposed for the district. A public notice of the hearing was posted and published on August 29, 2023.

**FISCAL IMPACT**

None

**RECOMMENDATION**

Staff recommends that the board of trustees open the public hearing for the 2023-24 Allan Hancock Joint Community College District budget. At the conclusion of public comments, staff recommends that the board of trustees close the public hearing.

Administrator Initiating Item: Dennis Curran	Final Disposition:
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**ACTION ITEM**

To: Board of Trustees	Date:
From: Superintendent/President	September 12, 2023
Subject: Adoption of the 2023-24 Allan Hancock Joint Community College District Budget	Item Number: 3.C.
Institutional Goal: Accreditation Standard III	Enclosures: Page 1 of 28

**BACKGROUND**

Attached is the fiscal year 2023-24 Allan Hancock Joint Community College District proposed budget. The budget documents and supporting information are submitted for review and adoption for the following budgets and funds:

- General Fund – Unrestricted
- General Fund - Restricted
- Bond Interest and Redemption Fund
- Child Development Fund
- PCPA Fund
- Capital Outlay Projects Fund
- General Obligation Bond Building Fund
- Dental Self-Insurance Fund
- Property and Liability Self-Insurance Fund
- Post-Employment Benefits Fund
- Associated Students Trust Fund
- Student Representation Fee Trust Fund
- Student Body Center Fee Trust Fund
- Student Financial Aid Trust Fund
- Scholarship and Loan Trust Fund
- District Trust Fund
- Student Clubs Agency Fund
- Foundation Agency Fund
- AHC Viticulture & Enology Foundation Agency Fund

The fiscal year 2023-24 budget is balanced and has been available for public inspection since September 7, 2023. All fund budgets presented represent information available to the district at the time of budget adoption. Revisions will occur as the year progresses, primarily due to final program funding approvals, budget transfers and reallocation of restricted reserves.

The proposed fiscal year 2023-24 budgeted expenditures reflect the adjustments made at the Tentative Budget, with the addition of projected revenue and expenses known at this time.

(continued)

**FISCAL IMPACT**

Detailed in supporting documents.

**RECOMMENDATION**

Staff recommends that the board of trustees adopt the fiscal year 2023-24 Allan Hancock Joint Community College District budget.

Administrator Initiating Item: Dennis Curran	Final Disposition:
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The summary information below highlights significant components of the budget to assist in the overall review process.

### GENERAL FUND-UNRESTRICTED BUDGET

The 2023-24 fiscal year budget is balanced with an undesignated unrestricted reserve of \$19,926,833 or 23.11%. This percentage exceeds the Government Finance Officers Association recommendation (GFOA) of two months of general fund operating expenses (16.7%) for public entities, which is required as a minimum reserve amount in College Policy 6305, Reserves. The budget also contains an 8.22% Cost of Living Adjustment (COLA) to the Student-Centered Funding Formula (SCFF) and most state categorical programs.

General Fund-Unrestricted Budget	2022-23 Actual (Unaudited)	2023-24 Proposed Budget
Revenue	\$ 83,560,901	\$ 86,391,774
Expenses	<u>78,318,691</u>	<u>86,239,671</u>
Net	\$ 5,242,210	\$ 152,103
End of Year Surplus Rollover		\$ 2,904,001
Unrestricted Reserve	<u>\$ 16,870,729</u>	<u>\$ 19,926,833</u>
% of Total Expenditure	21.54%	23.11%

### UNRESTRICTED FUND BALANCE

The budget also sets aside one-time funding for the following:

Account	Account Title	Program Title	Unrestricted Budget
799100	Reserve for Reallocation	President's One Time Reserves	\$ 400,000
792200	Restricted Reserve-Other	Mandate Funds Reserve	850,966
792200	Restricted Reserve-Other	Facilities One Time Reserve	1,000,000
792300	Restricted Reserve-One-Time Funds	One Time Reserves	2,413,364
792500	Restricted Reserve	Bookstore Reserve	1,402,778
792900	Reserve for Economic Uncertainty	GFOA Reserve	14,402,025
799000	Reserve for Contingency	Unrestricted Reserves	5,524,808
799300	Reserve for Furniture, Fixture and Equip	FF&E Reserve	2,000,000
	Current Balance		<u>\$ 27,993,941</u>
	Percent of Total Expenditures		32.46%

The following items are also reflected in the district's 2023-24 fiscal year budget:

- In fiscal year 2022-23, the state allocated \$8,380,347 in funding to the college for scheduled maintenance and instructional support. Those funds must be expended by June 2027. The college then allocated twenty percent for instructional support and eighty percent to scheduled maintenance. A five-year plan to complete several construction projects was also approved. Upon approving the fiscal year 2023-24 budget, the state pulled back \$4,984,545 in scheduled maintenance and instructional support funds. As a result, the college will only complete the top two construction projects funded by the scheduled maintenance funds. They are the LVC Roofing Project (~\$2.9M) and the Santa Maria and LVC Campus Fire Alarm Project (~\$1.6M).

- The state recommends adding a 2.2926% deficit factor in our apportionment. This amounts to a budgeted reduction of \$1.83 million in our apportionment. The deficit factor accounts for lower projected tax revenues than what was budgeted for the state-wide apportionment. This is only a planning factor; as we progress through the year, adjustments will be made based on actual state revenues.

### **GENERAL FUND-RESTRICTED**

The restricted general fund accounts for resources available for the operation and support of the educational programs that are specifically restricted by donors, or are locally restricted by the Board, or by other outside agencies as to their expenditure. Only known or approved categorical programs have been included at this time. There is a significant change in the federal income from last year to 2023-2024 due to the end of the Higher Education Emergency Relief Funds.

The District fully expended all Higher Education Emergency Relief Funds (HEERF) allocated in three separate phases (HEERF 1, 2 and 3) to help with COVID-19 changes and recovery. In total, the District received \$30,293,460. Of that total, \$18,385,568 was allocated to institutional needs and \$11,907,892 was allocated for student aid. The District used the institutional funds to pay for several needs, including HVAC upgrades, IT equipment for students, faculty and staff, Wi-Fi upgrades, faculty training and cleaning equipment upgrades.

The District also received \$5.15 million in COVID-19 Recovery Block Grant funds and there is no deadline as to when the funds must be spent. The District prioritized the following projects, which are in various states of progress, for the COVID-19 Recovery Block Grant funds:

\$1.963 million for Student Mental Health

\$1.807 million for the Basic Needs Program

\$637,000 for the Pride Center

\$297,000 for the Culturally Responsive and Humanizing Organizational Assessment

\$447,000 for the Culturally Responsive Curriculum Professional Development

### **OTHER FUNDS:**

#### **BOND INTEREST AND REDEMPTION FUND**

The bond interest and redemption fund reflect the activity of the Santa Barbara County Treasurer related to the collection of property taxes and repayment of taxpayer approved bond issuances.

#### **CHILD DEVELOPMENT FUND**

The child development fund accounts for all revenues for, or from the operation of, childcare and development services.

#### **PCPA FUND**

The PCPA fund is used to account for the district's vocational program for aspiring actors and theater technicians consisting of lecture, performance lab, and production lab elements. Graduates of the two-year program receive a certificate of completion.

PCPA uses a combination of revenue streams for budgeting including the transfer from Allan Hancock College, earned revenue that includes ticket sales, concession sales, handling fees, etc. and contributed revenue which includes donations from individuals, corporations and foundation awards. As a program of Allan Hancock College, PCPA historically received a transfer of funds from the college to support operational expenses, which includes among other items materials and salaries.

#### **CAPITAL OUTLAY PROJECTS FUND**

The capital outlay projects fund accounts for the accumulation of money for the acquisition of capital outlay items, major repairs, or construction. The 2022-23 budget includes an interfund transfer of \$1,650,000 to this fund. The 2023-24 budget reflects an additional transfer of \$1,315,000 to be transferred into the capital projects fund.



### **GENERAL OBLIGATION BOND BUILDING FUND**

The general obligation bond building fund is used to account for the proceeds from the issuance of the election of 2006 general obligation bonds and for authorized expenditures related to those proceeds. The first series of general obligation bonds, in the amount of \$68 million, was issued during 2006-07. The second and third series in the amount of \$30 million were issued during 2009-10. The fourth series was issued during 2012-13 in the amount of approximately \$39 million. The fifth series in the amount of approximately \$8.8 million was issued during 2013-14. General Obligation Refunding Bonds were issued during 2014-15 (outstanding Series A bonds in the amount of \$52,260,000 were refinanced). General Obligation Refunding Bonds also were issued during 2015-16 (outstanding series A, B-1, B, and C Bonds in the amount of \$ 36,704,916). These refundings resulted in cash flow savings to the taxpayers of \$12 million. Measure I, Series E was issued on May 7, 2019 and resulted in roughly \$23,000,000 in bonds being issued to satisfy the local match requirement on the Fine Arts Complex project. Measure I, Series F bonds in the amount of \$11.2 million were issued on May 13, 2020. The district also refunded existing capital appreciation bonds (CABS) in the amount of \$12.8 million at this time. With the issuance of the Series F bonds, the authority to issue new bonds under Measure I has been exhausted.

### **DENTAL SELF-INSURANCE FUND**

This fund accounts for the income and expenditures of the dental self-insurance program. Based on the current fund balance and utilization data, a rate increase is not required.

### **PROPERTY AND LIABILITY SELF-INSURANCE FUND**

The self-insurance fund accounts for the deductible portion of the district's property and liability insurance program. The funding for this program is provided by the general fund as needed. The fund balance is established to meet actuarial standards of projected open reserves and unbilled closed claims plus \$50,000 for an estimate of incurred but not reported claims.

### **POST-EMPLOYMENT BENEFITS FUND**

The post-employment benefits fund is the conduit that is used to transfer funds to the irrevocable trust. This fund is kept in place in the event that the OPEB actuarial determines the trust is under-funded.

### **STUDENT FINANCIAL AID TRUST FUND**

The student financial aid trust fund accounts for the deposit and direct payment of government-funded student aid. These moneys are restricted and may not be used for other purposes. The 2023-24 budget reflects the initial grant allocation per the U.S. Department of Education statement of account for the 2023-24 award year.

### **SCHOLARSHIP AND LOAN TRUST FUND**

The scholarship and loan trust fund is used to account for such gifts, donations, bequests, and devises (subject to donor restrictions) that are to be used for scholarships or for grants in aid and loans to students. The board of trustees established a separate bank account in December 2015 to account for the income and expenses of providing emergency loans to college student veterans.

### **ASSOCIATED STUDENTS TRUST FUND**

The associated student's trust fund is designated to account for moneys held in trust by the district for organized student body associations. The fund is supported in part by a \$50,000 annual distribution received as a portion of commissions paid to the district from Follett for operation of the campus bookstore.

### **STUDENT REPRESENTATION FEE TRUST FUND**

The student representation fee trust fund is designated as the receiving fund for fees collected pursuant to Education Code Section 76060.5, which provides for a student representation fee of one dollar per semester if approved by two-thirds of the students voting in the election. The fee is to be expended to provide for the support of governmental affairs representatives who may be stating their positions and viewpoints.

**STUDENT BODY CENTER FEE TRUST FUND**

The student body center fee trust fund is designed to account for income and expenditure of moneys for fees collected pursuant to Education Code Section 76375, which provides for a building and operating fee for the purpose of financing, constructing, enlarging, remodeling, refurbishing, and operating a student center. The fund was established at the August 20, 1996 board meeting. The district began to collect the fees in spring 1997.

**DISTRICT TRUST FUND**

The district trust fund is used to account for the income and expenditure of moneys held in trust by the district for individuals, organizations, or clubs. Income is received primarily through fundraising activities.

**STUDENT CLUBS AGENCY FUND**

The student club's agency fund is used to account for assets held by the district as an agent for student clubs. Income is received primarily through fundraising activities and an allocation from the Associated Student Body Government.

**FOUNDATION AGENCY FUND**

The Allan Hancock College Foundation is a separately incorporated (nonprofit corporation) entity formed for the purpose of operating to advance education, to promote and provide educational and recreational facilities, to receive gifts and bequests, and to expend moneys for the general welfare of the students and faculty. The Allan Hancock College Foundation Investment Committee and the foundation board have reviewed components of the proposed budget for the foundation.

**AHC VITICULTURE & ENOLOGY FOUNDATION AGENCY FUND**

The Allan Hancock College Viticulture & Enology Foundation is a separately incorporated (nonprofit corporation) entity formed for the purpose of obtaining a bonded winery permit for commercial production of wine at a bonded winery operated as part of an instructional program in viticulture and enology.

**ALLAN HANCOCK JOINT COMMUNITY COLLEGE DISTRICT**  
**2023-2024 PROPOSED**  
**GENERAL FUND - UNRESTRICTED**

Account Number	Description	2022-23 Revised Adopted	2022-23 Actual	2023-24 Proposed Budget
	Unrestricted	\$ 15,161,042	17,206,736	\$ 24,738,792
	Restricted Reserves	5,392,418	5,392,418	3,103,045
	<b>NET BEGINNING BALANCE JULY 1</b>	20,553,460	22,599,154	27,841,837
	<b>FEDERAL INCOME</b>			
8110	Forest Reserve	4,200	5,972	4,200
8190	Other Federal Income	30,000	22,691	30,000
Total	Federal Income	34,200	28,663	34,200
	<b>STATE INCOME</b>			
8611	Apprenticeship	93,089	88,341	93,089
8612	State General Apportionment	36,585,317	37,497,814	40,676,619
8612	State General Apportionment - Prior Year	-	47,256	-
8613	Other General Apportionment	114,340	111,442	114,340
86133	Part Time Faculty Allocations	-	-	-
8630	Education Protection Account	13,751,769	10,510,956	13,751,769
8630	Education Protection Account - Prior Year	-	(43,239)	-
8671	Homeowners Property Tax Relief	71,000	66,846	71,000
8681	State Lottery Proceeds	1,177,512	1,946,848	1,577,982
8685	State Mandated Costs	224,068	291,347	224,068
8690	STRS On-Behalf Of Revenue/Other State Revenue	3,690,977	3,639,351	3,738,473
Total	State Income	55,708,072	54,156,962	60,247,339
	<b>LOCAL INCOME</b>			
8811	District Taxes - Secured Roll	15,990,814	17,617,915	15,990,814
8812	District Taxes - Supplemental Roll	600,000	728,455	600,000
8813	District Taxes - Unsecured Roll	600,000	558,805	600,000
8816	District Taxes - Prior Years	-	52,758	-
8817	District Taxes - ERAF	3,500,000	3,903,042	3,500,000
8818	Redevelopment Agency Funds - Pass Through	30,000	77,238	30,000
8819	Redevelopment Agency Funds -Residual	75,000	185,941	75,000
8820	Contributed Income	300,000	300,000	300,000
8824	Foundation Contribution	45,000	27,046	17,954
8831	Contract Instructional Services	400,000	518,124	400,000
8832	Other Contracted Services	203,660	-	-
8840	Sales	10,000	8,575	10,000
8850	Rentals and Leases	20,000	11,878	20,000
8860	Interest and Investment Income	150,000	821,652	150,000
8872	Community Services Classes	100,000	30,297	100,000
8874	Enrollment Fees	2,133,848	2,585,453	2,200,000
8875	Use of Nondistrict Facilities	-	-	-
8877	Sales, Instructional Materials	262,330	155,015	306,744
8879	Student Records	25,000	505	25,000
8880	Nonresident Tuition	925,000	1,497,756	1,259,723
8885	Student Fines/Fees	5,000	27,474	5,000
8890	Miscellaneous Income	495,000	31,699	495,000
8890	Prior Year Adjustment	-	-	-
8891	Parking Citations	25,000	5,944	25,000
8895	Cashier Funds	-	(42)	-
8897	Bad Debt	-	7,656	-
8910	Proceeds/Reimb Fixed Assets	-	13,375	-
Total	Local Income	25,895,652	29,166,559	26,110,235
	<b>INCOMING TRANSFERS</b>			
8980	Interfund Transfers	182,511	183,678	-
8982	Intrafund Transfers	-	25,039	-
Total	Incoming Transfers	182,511	208,717	-
TOTAL	<b>INCOME - ALL SOURCES</b>	81,820,435	83,560,901	86,391,774
TOTAL	<b>BEGINNING BALANCE AND INCOME</b>	\$ 102,373,895	106,160,055	\$ 114,233,611

**ALLAN HANCOCK JOINT COMMUNITY COLLEGE DISTRICT  
2023-2024 PROPOSED  
GENERAL FUND - UNRESTRICTED**

Account Number	Description	2022-23 Revised Adopted	2022-23 Actual	2023-24 Proposed Budget
1000	<b>ACADEMIC SALARIES</b>			
1100	Regular-Instructional Salaries	10,766,520	10,417,725	11,544,338
1200	Regular Non-Instructional Salaries	6,328,160	6,511,611	6,804,144
1300	Other Instructional Salaries	9,072,899	8,450,192	9,964,647
1400	Other Non-Instructional Salaries	1,177,462	1,086,470	1,362,349
Total	Academic Salaries	27,345,041	26,465,998	29,675,479
2000	<b>CLASSIFIED SALARIES</b>			
2100	Regular Classified Salaries	16,796,285	15,597,073	19,308,208
2200	Regular Inst Aide Salaries	1,183,356	1,011,369	1,484,088
2300	Other Classified Salaries	647,874	1,071,899	664,577
2400	Other Inst Aide Salaries	674,341	601,998	681,759
Total	Classified Salaries	19,301,856	18,282,340	22,138,632
3000	<b>STAFF BENEFITS</b>			
3100	State Teachers' Retirement	5,638,202	5,644,808	5,583,809
3200	Public Employees' Retirement	4,566,230	4,191,105	4,802,734
3300	Social Security - OASDI	1,825,971	1,459,243	1,914,720
3400	Health and Welfare	4,550,601	3,859,516	5,586,543
3500	Unemployment Insurance	227,428	208,858	64,908
3600	Workers' Compensation Insurance	377,999	355,473	397,454
3700	Other Benefits Retirement	-	-	-
3900	Other Benefits	32,825	21,450	32,825
Total	Staff Benefits	17,219,256	15,740,453	18,382,992
4000	<b>BOOKS, SUPPLIES, AND MATERIALS</b>			
4300	Instructional Supplies	514,838	338,628	557,577
4500	Non-Instructional Supplies	1,236,031	1,153,637	783,856
4600	Pupil Transportation Supplies	405,787	387,681	218,649
4700	Food Supplies	47,002	43,288	27,062
Total	Books, Supplies, and Materials	2,203,658	1,923,234	1,587,143
5000	<b>OPERATING EXPENSES &amp; SERVICES</b>			
5100	Contract for Personal Services	2,436,691	1,904,230	1,725,824
5200	Travel, Conf. and In-Service Training	230,433	167,505	218,355
5300	Dues, Memberships, and Licenses	802,536	756,042	918,159
5400	Insurance	542,598	531,894	621,078
5500	Utilities and Housekeeping Services	2,240,438	2,515,510	2,574,742
5600	Rents, Leases and Repairs	1,731,229	1,656,745	1,726,233
5700	Legal, Elections and Audit Expenses	558,401	241,816	462,094
5800	Other Services, Postage, Advertising	572,501	441,283	551,875
5900	Other Operating Expenses	(184,435)	(322,354)	(150,000)
Total	Operating Expenses & Services	8,930,391	7,892,671	8,648,360

**ALLAN HANCOCK JOINT COMMUNITY COLLEGE DISTRICT  
2023-2024 PROPOSED  
GENERAL FUND - UNRESTRICTED**

Account Number	Description	2022-23 Revised Adopted	2022-23 Actual	2023-24 Proposed Budget
6000	<b>CAPITAL OUTLAY</b>			
6100	Sites and Improvements	104,823	96,510	33,467
6200	Buildings & Improvements	113,970	104,530	53,820
6300	Books and Media for Libraries	92,494	69,385	79,619
6400	Equipment	705,189	604,407	388,833
Total	Capital Outlay	1,016,476	874,832	555,739
7000	<b>OTHER OUTGO</b>			
7200	Intrafund Transfer - Restricted G/F	71,100	71,100	71,900
7300	Interfund Transfer - Capital Maintenance/Technology Rese	207,960	207,960	207,960
7300	Interfund Transfer - Scheduled Maintenance Prj	2,965,000	1,965,000	-
7300	Interfund Transfer - Cap Proj - Misc Projects	1,650,000	1,650,000	1,315,000
7300	Interfund Transfer - Co-curricular	127,047	127,047	218,592
7300	Interfund Transfer - Child Development	10,000	10,000	10,000
7300	Interfund Transfer - PCPA	2,783,056	2,783,056	3,009,319
7300	Interfund Transfer - PRSP Trust	-	-	-
7300	Interfund Transfer - ASBG	50,000	50,000	50,000
7400	Other Transfers	233,555	233,555	233,555
7500	Student Financial Aid	75,000	39,311	75,000
7600	Misc Payments to/for Students	60,500	1,662	60,000
Total	Other Outgo	8,233,218	7,138,691	5,251,326
Total	<b>Expenditures and Other Outgo</b>	84,249,894	78,318,219	86,239,671
7990	Appropriation for Contingencies	3,138,674	-	5,524,808
7922	Restricted Reserve-Other	22,689	-	1,000,000
7922	Restricted Reserve-Mandate Funds	850,966	-	850,966
7923	Reserve for One-Time Funds	833,536	-	2,413,364
7995	Reserve for Attrition	-	-	-
7925	Restricted Reserve	1,402,778	-	1,402,778
7929	Reserve for Economic Uncertainty	13,384,422	-	14,402,025
7991	Reserve for Reallocation	80,897	-	400,000
7993	Reserve for Furniture, Fixtures and Equipment	839,498	-	2,000,000
TOTAL	<b>EXPENDITURES, OTHER OUTGO AND CONTINGENCIES</b>	104,803,355	78,318,219	114,233,611
	General Reserve (Net Ending Balance)	(2,429,460)	27,841,837	-
GRAND TOTAL	<b>EXPENDITURES, OTHER OUTGO AND ENDING BALANCE</b>	102,373,895	106,160,055	114,233,611

**ALLAN HANCOCK JOINT COMMUNITY COLLEGE DISTRICT**  
**2023-2024 PROPOSED**  
**GENERAL FUND - RESTRICTED**

Account Number	Description	2022-23 Revised Adopted	2022-23 Actual	2023-24 Proposed Budget
	<b>NET BEGINNING BALANCE JULY 1</b>	\$ 10,552,488	\$ 10,373,546	\$ 13,448,729
	<b>FEDERAL INCOME</b>			
8120	College Work Study	236,447	238,728	236,447
8121	Higher Education Act/Title V	1,708,909	1,107,540	1,340,364
8133	Workforce Investment Act WIA	-	-	-
8140	TANF	64,998	64,998	61,748
8170	VTEA - Basic Grant	-	-	-
8170	VTEA - Special Projects	589,170	589,170	53,681
8170	Tech-Prep/CTE Grants	-	-	-
8199	Other Federal Income	12,742,545	10,750,935	1,646,617
Total	Federal Income	15,342,069	12,751,372	3,338,856
	<b>STATE INCOME</b>			
83132	Basic Skills Apportionment	-	-	-
86220	Extended Opportunity Program & Services	1,130,000	1,133,321	1,942,593
86230	Disabled Students Programs & Svc	1,048,442	962,510	1,092,187
86250	CalWORKS	408,974	354,339	388,758
86270	Other General Categorical Programs	6,111,644	2,582,072	5,502,356
86271	Cooperative Agencies Resources for Education CARE	501,336	494,037	458,501
86272	Student Success and Support Programs	4,345,862	3,928,104	4,614,194
86273	Block Grant/Instructional Equipment & Physical Plant	1,676,069	679,160	11,428
86274	Foster Parent Training Grant	73,413	71,629	66,195
86520	Other Reimbursable Categorical Programs	2,645,060	1,311,908	1,885,830
86521	Economic Development	5,634,108	2,946,664	3,871,060
86524	Child Dev Trng Consortium	13,800	13,800	-
86810	Lottery Proceeds	469,560	970,811	641,891
86900	Other State Revenues	6,654,124	3,105,005	6,833,321
Total	State Income	30,712,393	18,553,360	27,308,313
	<b>LOCAL INCOME</b>			
8820	Contributions	506,301	164,920	338,936
8830	Contracted Instruction	-	-	-
8840	Sales	100,000	121,336	100,000
8850	Leases and Rentals	6,500	18,872	6,500
8876	Health Fees	500,000	575,121	500,000
8877	Sales, Instr Mtl	239,685	99,679	239,685
8881	Parking Services Fees	238,022	6,963	238,022
8885	Other Student Fees	14,000	29,796	14,000
8890	Other Income	361,692	437,538	380,322
Total	Local Income	1,966,200	1,454,223	1,817,465
	<b>INCOMING TRANSFERS</b>			
8980	Interfund Transfers	140,768	32,983	32,983
8982	Intrafund Transfers	-	440,831	101,326
TOTAL	<b>INCOME - ALL SOURCES</b>	48,161,430	33,232,769	32,598,943
TOTAL	<b>BEGINNING BALANCE AND INCOME</b>	\$ 58,713,918	\$ 43,606,315	\$ 46,047,673

**ALLAN HANCOCK JOINT COMMUNITY COLLEGE DISTRICT**  
**2023-2024 PROPOSED**  
**GENERAL FUND - RESTRICTED**

Account Number	Description	2022-23 Revised Adopted	2022-23 Actual	2023-24 Proposed Budget
1000	<b>ACADEMIC SALARIES</b>			
1100	Regular-Instructional Salaries	111,594	36,825	109,463
1200	Regular Non-Instructional Salaries	2,092,096	1,894,873	2,157,250
1300	Other Instructional Salaries	149,985	46,549	53,728
1400	Other Non-Instructional Salaries	1,726,058	1,127,569	1,790,874
Total	Academic Salaries	4,079,732	3,105,816	4,111,316
2000	<b>CLASSIFIED SALARIES</b>			
2100	Regular Classified Salaries	4,369,758	3,026,506	5,327,640
2200	Regular Inst Aide Salaries	228,654	215,902	290,195
2300	Other Classified Salaries	3,113,049	1,825,136	1,752,562
2400	Other Inst Aide Salaries	997,888	809,433	584,579
Total	Classified Salaries	8,709,349	5,876,978	7,954,974
3000	<b>STAFF BENEFITS</b>			
3100	State Teachers' Retirement	1,077,574	760,343	761,588
3200	Public Employees' Retirement	1,178,856	808,729	1,439,907
3300	Social Security - OASDI & Medicare	530,421	305,013	509,245
3400	Health & Welfare	862,470	565,215	1,078,213
3500	Unemployment Insurance	51,126	34,344	31,826
3600	Workers' Compensation Insurance	107,825	70,065	96,296
3700	Non-Academic STRS	-	-	-
3900	Other Benefits - Projects	-	-	-
Total	Staff Benefits	3,808,270	2,543,710	3,917,075
4000	<b>BOOKS, SUPPLIES, AND MATERIALS</b>			
4300	Instructional Supplies	1,242,401	820,472	1,125,436
4500	Non-instructional Supplies	1,448,820	643,562	941,555
4600	Pupil Transportation Supplies	289,060	208,450	243,020
4700	Food Supplies	629,933	355,484	493,701
Total	Books, Supplies, and Materials	3,610,214	2,027,969	2,803,712
5000	<b>OPERATING EXPENSES &amp; SERVICES</b>			
5100	Contract for Personal Services	1,912,009	903,813	2,118,320
5200	Travel, Conf. & In-service Training	1,049,183	375,778	908,123
5300	Dues, Memberships, and Licenses	1,422,602	1,157,382	1,141,313
5400	Insurance	33,183	32,017	33,183
5500	Utilities and Housekeeping Services	101,707	83,709	121,341
5600	Rents, Leases and Repairs	396,998	200,640	373,462
5700	Legal, Elections and Audit Expenses	47,204	23,069	22,144
5800	Other Services, Postage, Advertising	673,538	197,349	338,761
5900	Indirect Support Charges	631,439	395,928	366,536
Total	Operating Expenses & Services	6,267,862	3,369,683	5,423,184

**ALLAN HANCOCK JOINT COMMUNITY COLLEGE DISTRICT  
2023-2024 PROPOSED  
GENERAL FUND - RESTRICTED**

Account Number	Description	2022-23 Revised Adopted	2022-23 Actual	2023-24 Proposed Budget
6000	<b>CAPITAL OUTLAY</b>			
6100	Sites and Improvements	655,635	45,159	656,483
6200	Buildings & Improvement	2,244,912	2,000,004	440,338
6300	Books & Media for Libraries	193,169	142,718	120,294
6400	Equipment	4,917,505	1,858,272	2,247,481
6990	Construction Contingency	3,878	-	3,878
Total	Capital Outlay	8,015,098	4,046,154	3,468,473
7000	<b>OTHER OUTGO</b>			
7200	Intrafund Transfers	411,951	416,016	56,250
7300	Interfund Transfers	7,019,126	6,972,346	474,551
7500	Student Financial Aid	1,231,457	1,080,737	869,239
7600	Other Payments to Students	1,667,534	718,178	1,669,770
Total	Other Outgo	10,330,068	9,187,276	3,069,809
7922	Restricted Reserve	13,893,325	-	15,299,130
TOTAL	<b>EXPENDITURES, OTHER OUTGO AND CONTINGENCY</b>	58,713,918	30,157,586	46,047,673
	General Reserve (Net Ending Balance)	-	13,448,729	-
GRAND TOTAL	<b>EXPENDITURES, OTHER OUTGO AND ENDING BALANCE</b>	\$ 58,713,918	\$ 43,606,315	\$ 46,047,673



**ALLAN HANCOCK JOINT COMMUNITY COLLEGE DISTRICT  
2023-2024 PROPOSED  
BOND INTEREST AND REDEMPTION FUND**

Account Number	Description	2022-23 Revised Adopted	2022-23 Actual	2023-24 Proposed Budget
	<b>ADJUSTED NET BEGINNING BALANCE JULY 1</b>	\$ 11,029,962	\$ 11,029,962	\$ 11,596,401
	<b>LOCAL INCOME</b>			
86XX	State Revenue	45,000	44,628	45,000
88XX	Local Income	7,800,000	8,611,419	7,800,000
8942	GO Bond Proceeds	-	8,509	-
TOTAL	Income	7,845,000	8,664,555	7,845,000
TOTAL	<b>BEGINNING BALANCE AND INCOME</b>	\$ 18,874,962	\$ 19,694,517	\$ 19,441,401
	<b>EXPENDITURES</b>			
	<b>OPERATING EXPENSES &amp; SERVICES</b>			
5800	Other Services	-	-	-
	<b>DEBT RETIREMENT</b>			
7100	Debt Retirement	8,270,541	8,098,116	8,270,541
7200	Other Financing	-	-	-
TOTAL	<b>EXPENDITURES</b>	8,270,541	8,098,116	8,270,541
7900	Appropriation for Contingencies	10,602,871	-	11,170,860
TOTAL	<b>EXPENDITURES AND CONTINGENCIES</b>	18,873,412	8,098,116	19,441,401
	NET ENDING BALANCE	1,550	11,596,401	-
TOTAL	<b>EXPENDITURES, OTHER OUTGO AND ENDING BALANCE</b>	\$ 18,874,962	\$ 19,694,517	\$ 19,441,401

**ALLAN HANCOCK JOINT COMMUNITY COLLEGE DISTRICT  
2023-2024 PROPOSED  
CHILD DEVELOPMENT FUND**

Account Number	Description	2022-23 Revised Adopted	2022-23 Actual	2023-24 Proposed Budget
	<b>NET BEGINNING BALANCE JULY 1</b>	\$ 418,513	\$ 418,513	\$ 561,720
	<b>FEDERAL INCOME</b>			
8100	Other Federal Income	577,477	375,814	410,472
	<b>STATE INCOME</b>			
8600	Other State Income	865,224	851,102	864,490
	<b>LOCAL INCOME</b>			
8820	Contributions	641,604	31,933	609,671
8850	Rentals & Leases	20,800	20,800	20,800
8860	Interest	2,000	10,279	2,000
8871	Child Development Fees	111,818	92,826	111,818
8890	Other Local Revenue	-	900	-
Total	Local Income	776,222	156,737	744,289
	<b>INCOMING TRANSFERS</b>			
8980	Interfund Transfers	30,000	30,000	30,000
8982	Intrafund Transfers	-	15,321	-
TOTAL	<b>INCOME AND INCOMING TRANSFERS</b>	2,248,922	1,428,974	2,049,251
TOTAL	<b>BEGINNING BALANCE AND INCOME</b>	\$ 2,667,435	\$ 1,847,486	\$ 2,610,971
	<b>ACADEMIC SALARIES</b>			
1000				
1200	Regular - Non-instructional Salaries	215,295	218,138	229,087
1400	Other - Non-instructional Salaries	28,343	-	18,343
Total	Academic Salaries	243,638	218,138	247,430
	<b>CLASSIFIED SALARIES</b>			
2000				
2000	All Classified Salaries	1,000,037	739,799	854,580
	<b>STAFF BENEFITS</b>			
3000				
3000	All Staff Benefits	190,973	158,186	155,837
	<b>BOOKS, SUPPLIES &amp; MATERIALS</b>			
4000				
4000	All Books, Supplies & Materials	253,259	75,066	254,317
	<b>OTHER OPERATING EXPENSES</b>			
5000				
5100	Consultants	144,025	-	144,025
5200	Conferences	29,382	20,812	34,095
5300	Licenses and Permits	4,762	1,898	4,762
5600	Contracts, Repairs	2,700	426	2,700
5800	Other Services	1,750	1,374	326
5900	Other Expenses	9,989	7,881	2,108
Total	Other Operating Expenses	192,609	32,391	188,017
	<b>CAPITAL OUTLAY</b>			
6000				
6000	All Capital Outlay	488,832	46,865	455,174
	<b>OTHER OUTGO</b>			
7000				
7300	Intrafund Transfers	-	15,321	-
TOTAL	<b>EXPENDITURES</b>	2,369,347	1,285,767	2,155,354
7900	Appropriations for Contingency	298,088	-	455,617
TOTAL	<b>EXPENDITURES AND OTHER OUTGO</b>	2,667,435	1,285,767	2,610,971
	NET ENDING BALANCE	-	561,720	-
GRAND TOTAL	<b>EXPENDITURES, OTHER OUTGO AND ENDING BALANCE</b>	\$ 2,667,435	\$ 1,847,486	\$ 2,610,971

**ALLAN HANCOCK JOINT COMMUNITY COLLEGE DISTRICT  
2023-2024 PROPOSED  
PCPA**

Account Number	Description	2022-23 Revised Adopted	2022-23 Actual	2023-24 Proposed Budget
	<b>NET BEGINNING BALANCE JULY 1</b>	\$ 3,333,061	\$ 3,333,061	\$ 3,782,714
	<b>FEDERAL INCOME</b>			
8100	Other Federal Revenue	-	-	-
	<b>LOCAL INCOME</b>			
8820	Contributions	801,458	1,180,706	1,042,202
8800	Ticket Revenue	1,216,862	1,273,644	1,428,357
8800	Other Revenue	225,827	131,982	195,589
<b>TOTAL</b>	<b>INCOME</b>	<b>2,244,147</b>	<b>2,586,332</b>	<b>2,666,148</b>
	<b>INCOMING TRANSFERS</b>			
8980	Interfund Transfers	2,813,057	2,783,056	3,009,319
<b>TOTAL</b>	<b>INCOME AND INCOMING TRANSFERS</b>	<b>5,057,204</b>	<b>5,369,388</b>	<b>5,675,467</b>
<b>TOTAL</b>	<b>BEGINNING BALANCE AND INCOME</b>	<b>\$ 8,390,265</b>	<b>\$ 8,702,449</b>	<b>\$ 9,458,181</b>
	<b>EXPENDITURES</b>			
1000	Academic Salaries	-	-	-
2000	Classified Salaries	2,982,231	2,692,583	3,120,644
3000	Staff Benefits	756,007	643,540	759,443
4000	Supplies and Materials	410,815	136,951	440,167
5000	Operating Expenses and Services	690,456	653,716	769,244
6000	Capital Outlay	40,196	24,674	42,399
7000	Other Outgo	1,070,650	768,272	1,172,488
<b>TOTAL</b>	<b>EXPENDITURES</b>	<b>5,950,355</b>	<b>4,919,735</b>	<b>6,304,385</b>
7900	Appropriation for Contingencies	2,439,910	-	3,153,796
<b>TOTAL</b>	<b>EXPENDITURES AND CONTINGENCIES</b>	<b>8,390,265</b>	<b>4,919,735</b>	<b>9,458,181</b>
	<b>NET ENDING BALANCE</b>	<b>-</b>	<b>3,782,714</b>	<b>-</b>
<b>GRAND TOTAL</b>	<b>EXPENDITURES, OTHER OUTGO AND ENDING BALANCE</b>	<b>\$ 8,390,265</b>	<b>\$ 8,702,449</b>	<b>\$ 9,458,181</b>

**ALLAN HANCOCK JOINT COMMUNITY COLLEGE DISTRICT  
2023-2024 PROPOSED  
CAPITAL OUTLAY PROJECTS FUND**

Account Number	Description	2022-23 Revised Adopted	2022-23 Actual	2023-24 Proposed Budget
	<b>NET BEGINNING BALANCE JULY 1</b>	\$ 24,129,083	\$ 24,637,588	\$ 16,165,833
	<b>STATE INCOME</b>			
8627	Scheduled Maintenance Income	6,704,278	2,716,642	45,713
8690	Other State Revenues	-	-	-
Total	State Income	6,704,278	2,716,642	45,713
	<b>LOCAL INCOME</b>			
8820	Contributions	-	-	-
8860	Interest	25,000	286,366	25,000
8890	Other Local Revenue	-	101,416	-
Total	Local Income	25,000	387,783	25,000
	<b>INCOMING TRANSFERS</b>			
8980	Interfund Transfers	4,822,960	3,822,960	1,522,960
Total	Incoming Transfers	4,822,960	3,822,960	1,522,960
TOTAL	<b>INCOME</b>	11,552,238	6,927,384	1,593,673
TOTAL	<b>BEGINNING BALANCE AND INCOME</b>	\$ 35,681,320	\$ 31,564,972	\$ 17,759,505
	<b>BOOKS, SUPPLIES, &amp; MATERIALS</b>			
4000	Operational Supplies	164,846	161,185	6,905
Total	Total Books, Supplies, & Materials	164,846	161,185	6,905
	<b>OTHER OPERATING EXPENSES</b>			
5000	Consultant & Architectural Svc	37,011	25,788	95,099
5300	Licenses and Permits	36,651	39,364	-
5500	Utilities	13,720	13,720	7,492
5600	Contracts, Repairs	32,300	55,423	29,027
5800	Other Services	5,000	1,416	4,952
Total	Other Operating Expenses	124,682	135,710	136,571
	<b>CAPITAL OUTLAY</b>			
6100	Site Improvement	736,828	61,764	613,516
6200	Buildings	18,958,065	11,361,043	9,896,956
6400	Equipment	4,436,270	3,646,454	1,078,356
6900	Construction contingency	285	-	285
Total	Capital Outlay	24,131,448	15,069,262	11,589,112
	<b>OTHER OUTGO</b>			
7000	Intrafund Transfers	32,983	32,983	32,983
Total	Other Outgo	32,983	32,983	32,983
TOTAL	<b>EXPENDITURES AND OTHER OUTGO</b>	24,453,959	15,399,139	11,765,571
7900	Appropriations for Contingency	11,227,360	-	5,993,934
Total	Contingency and Reserves	11,227,360	-	5,993,934
	<b>NET ENDING BALANCE</b>	-	16,165,833	-
GRAND TOTAL	<b>EXPENDITURES, OTHER OUTGO AND ENDING BALANCE</b>	\$ 35,681,320	\$ 31,564,972	\$ 17,759,505

**ALLAN HANCOCK JOINT COMMUNITY COLLEGE DISTRICT  
2023-2024 PROPOSED  
GENERAL OBLIGATION BOND BUILDING FUND**

Account Number	Description	2022-23 Revised Adopted	2022-23 Actual	2023-24 Proposed Budget
	<b>NET BEGINNING BALANCE JULY 1</b>	\$ 15,930,910	\$ 15,930,910	\$ 8,303,139
	<b>LOCAL INCOME</b>			
88XX	Local Income	75,000	186,208	75,000
TOTAL	Local Income	75,000	186,208	75,000
	<b>INCOMING TRANSFERS</b>			
8940	Other Financing Sources	-	-	-
TOTAL	Incoming Transfers	-	-	-
TOTAL	<b>BEGINNING BALANCE AND INCOME</b>	\$ 16,005,910	\$ 16,117,117	\$ 8,378,139
	<b>EXPENDITURES</b>			
	<b>BOOKS, SUPPLIES, &amp; MATERIALS</b>			
4000	Operational Supplies	500	35	2,465
	<b>OPERATING EXPENSES &amp; SERVICES</b>			
5000	Consultant & Architectural Svc	33,960	30,300	4,000
5100	Licenses and Permits	8,152	8,804	554
5300	Utilities	87,027	-	87,027
5500	Contracts, Repairs	514	1,094	-
5600	Audits/Legal Fees	15,540	8,070	7,770
5700	Other Services	-	668	-
5800				
TOTAL	Other Operating Expenses	145,192	48,935	99,351
	<b>CAPITAL OUTLAY</b>			
6000	Site Improvement	1,600	-	1,600
6100	Buildings	8,294,627	7,595,229	1,426,371
6200	Equipment	202,355	169,779	59,456
6400	Construction Contingency	5,356,092	-	4,883,000
6900				
TOTAL	Capital Outlay	13,854,674	7,765,008	6,370,427
TOTAL	<b>EXPENDITURES</b>	14,000,367	7,813,978	6,472,243
7900	Appropriation for Contingencies	2,005,543	-	1,905,896
TOTAL	<b>EXPENDITURES AND CONTINGENCIES</b>	16,005,910	7,813,978	8,378,139
	NET ENDING BALANCE	-	8,303,139	-
TOTAL	<b>EXPENDITURES, OTHER OUTGO AND ENDING BALANCE</b>	\$ 16,005,910	\$ 16,117,117	\$ 8,378,139

**ALLAN HANCOCK JOINT COMMUNITY COLLEGE DISTRICT  
2023-2024 PROPOSED  
DENTAL SELF INSURANCE FUND**

Account Number	Description	2022-23 Revised Adopted	2022-23 Actual	2023-24 Proposed Budget
	<b>NET BEGINNING BALANCE JULY 1</b>	\$ 901,323	\$ 901,323	\$ 851,075
	<b>LOCAL INCOME</b>			
8830	Contribution from General Fund	680,000	770,487	680,000
8860	Interest	5,000	4,895	5,000
8980	Transfers In	-	-	-
TOTAL	<b>INCOME</b>	685,000	775,382	685,000
TOTAL	<b>BEGINNING BALANCE AND INCOME</b>	\$ 1,586,323	\$ 1,676,705	\$ 1,536,075
	<b>EXPENDITURES</b>			
5430	Self Insurance Claims	636,000	643,119	636,000
5890	Miscellaneous Fees	-	-	-
TOTAL	<b>EXPENDITURES</b>	636,000	643,119	636,000
	<b>OTHER OUTGO</b>			
7000	Interfund Transfers	182,511	182,511	-
7900	Appropriation for Contingencies	767,812	-	900,075
TOTAL	<b>EXPENDITURES AND CONTINGENCIES</b>	1,586,323	825,630	1,536,075
	NET ENDING BALANCE	-	851,075	-
GRAND TOTAL	<b>EXPENDITURES, OTHER OUTGO AND ENDING BALANCE</b>	\$ 1,586,323	\$ 1,676,705	\$ 1,536,075

**ALLAN HANCOCK JOINT COMMUNITY COLLEGE DISTRICT  
2023-2024 PROPOSED  
PROPERTY AND LIABILITY SELF INSURANCE FUND**

Account Number	Description	2022-23 Revised Adopted	2022-23 Actual	2023-24 Proposed Budget
	<b>NET BEGINNING BALANCE JULY 1</b>	\$ 923,163	\$ 923,163	\$ 837,406
	<b>LOCAL INCOME</b>			
8830	Contribution from General Fund	-	-	-
8860	Interest	4,000	13,867	4,000
8910	Compensation for Loss of Fixed Assets	-	15,498	-
TOTAL	<b>INCOME</b>	4,000	29,365	4,000
TOTAL	<b>BEGINNING BALANCE AND INCOME</b>	\$ 927,163	\$ 952,529	\$ 841,406
	<b>EXPENDITURES</b>			
4000	All Books, Supplies & Materials	37,003	24,362	19,766
5112	Service Contracts (Businesses)	183,500	-	183,500
5410	District Insurance	-	-	-
5430	Self-Insurance Claims	17,655	58,421	15,000
5590	Alarm Services	854	1,063	-
5650	Contracted Repairs	8,053	4,725	4,500
5740	Settlements	-	-	-
5830	Personal Property Damages	-	-	-
5930	Bad Debt	-	7,598	-
6000	Capital Outlay	22,022	18,954	25,310
TOTAL	<b>EXPENDITURES</b>	269,086	115,123	248,076
7900	Appropriation for Contingencies	658,077	-	593,330
TOTAL	<b>EXPENDITURES AND CONTINGENCIES</b>	927,163	115,123	841,406
	NET ENDING BALANCE	-	837,406	-
GRAND TOTAL	<b>EXPENDITURES, OTHER OUTGO AND ENDING BALANCE</b>	\$ 927,163	\$ 952,529	\$ 841,406

**ALLAN HANCOCK JOINT COMMUNITY COLLEGE DISTRICT  
2023-2024 PROPOSED  
POST-EMPLOYMENT BENEFITS FUND**

Account Number	Description	2022-23 Revised Adopted	2022-23 Actual	2023-24 Proposed Budget
	Trust Reserve for GASB 45	\$ 1,007,687	\$ 1,007,687	\$ 997,194
	<b>NET BEGINNING BALANCE JULY 1</b>	1,007,687	1,007,687	997,194
	<b>LOCAL INCOME</b>			
8830	Contribution from General Fund	-	-	-
8860	Interest	4,000	15,446	4,000
8890	Other Local Income	-	-	-
	<b>INCOMING TRANSFERS</b>			
8980	Interfund/Intrafund Transfers	-	-	-
TOTAL	<b>INCOME</b>	4,000	15,446	4,000
TOTAL	<b>BEGINNING BALANCE AND INCOME</b>	\$ 1,011,687	\$ 1,023,133	\$ 1,001,194
	<b>EXPENDITURES</b>			
3440	Retired/Active Health and Welfare	-	-	-
5112	Service Contracts	3,300	3,300	3,300
5800	Miscellaneous Fees	28,000	22,640	28,000
TOTAL	<b>EXPENDITURES</b>	31,300	25,940	31,300
7900	Appropriation for Contingencies	980,387	-	969,894
TOTAL	<b>EXPENDITURES AND CONTINGENCIES</b>	1,011,687	25,940	1,001,194
	NET ENDING BALANCE	-	997,194	-
GRAND TOTAL	<b>EXPENDITURES, OTHER OUTGO AND ENDING BALANCE</b>	\$ 1,011,687	\$ 1,023,133	\$ 1,001,194



**ALLAN HANCOCK JOINT COMMUNITY COLLEGE DISTRICT  
2023-2024 PROPOSED  
ASSOCIATED STUDENTS TRUST FUND**

Description	2022-23 Revised Adopted	2022-23 Actual	2023-24 Proposed Budget
Unrestricted (ASB)	\$ 389,705	\$ 389,705	\$ 266,797
Restricted	-	-	-
<b>ADJUSTED NET BEGINNING BALANCE JULY 1</b>	<b>389,705</b>	<b>389,705</b>	<b>266,797</b>
<b>INCOME</b>			
A.S.B.	160,000	162,973	165,000
Athletics	39,470	39,470	18,350
Transfer from District	177,047	449,701	268,592
Interest	125	113	125
Miscellaneous Income	-	11,226	-
TOTAL <b>INCOME - ALL SOURCES</b>	<b>376,642</b>	<b>663,485</b>	<b>452,067</b>
TOTAL <b>BEGINNING BALANCE AND INCOME</b>	<b>\$ 766,347</b>	<b>\$ 1,053,189</b>	<b>\$ 718,864</b>
<b>EXPENDITURES</b>			
Associated Students	262,116	261,399	300,757
Athletics	258,497	524,993	236,942
Clubs and Scholarships	-	-	-
TOTAL <b>EXPENDITURES</b>	<b>520,612</b>	<b>786,392</b>	<b>537,699</b>
Appropriation for Contingencies	245,735	-	181,165
TOTAL <b>EXPENDITURES &amp; CONTINGENCIES</b>	<b>766,347</b>	<b>786,392</b>	<b>718,864</b>
Net Ending Balance	-	266,797	-
GRAND TOTAL <b>EXPENDITURES AND ENDING BALANCE</b>	<b>\$ 766,347</b>	<b>\$ 1,053,189</b>	<b>\$ 718,864</b>

**ALLAN HANCOCK JOINT COMMUNITY COLLEGE DISTRICT  
2023-2024 PROPOSED  
STUDENT REPRESENTATION FEE TRUST FUND**

Account Number	Description	2022-23 Revised Adopted	2022-23 Actual	2023-24 Proposed Budget
	<b>ADJUSTED NET BEGINNING BALANCE JULY 1</b>	\$ 64,082	\$ 64,082	\$ 51,323
	<b>INCOME</b>			
8860	Interest	10	10	10
8884	Student Representation Fee	34,000	37,866	40,000
8890	Other Local Revenue	-	-	-
8890	Interfund Transfer	-	-	-
Total	<b>INCOME</b>	34,010	37,876	40,010
TOTAL	<b>BEGINNING BALANCE AND INCOME</b>	\$ 98,092	\$ 101,957	\$ 91,333
	<b>EXPENDITURES</b>			
4000	Supplies & Other	-	-	-
5000	Operating Expenses & Services	53,020	49,467	38,610
6000	Equipment	-	-	-
TOTAL	<b>EXPENDITURES</b>	53,020	49,467	38,610
7000	<b>OTHER OUTGO</b>			
7300	Interfund Transfers	1,190	1,167	1,400
TOTAL	<b>OTHER OUTGO</b>	1,190	1,167	1,400
7900	Appropriation for Contingency	43,882	-	51,323
TOTAL	<b>EXPENDITURES AND OTHER OUTGO</b>	98,092	50,634	91,333
	NET ENDING BALANCE	-	51,323	-
GRAND TOTAL	<b>EXPENDITURES, OTHER OUTGO AND ENDING BALANCE</b>	\$ 98,092	\$ 101,957	\$ 91,333

**ALLAN HANCOCK JOINT COMMUNITY COLLEGE DISTRICT  
2023-2024 PROPOSED  
STUDENT BODY CENTER FEE TRUST FUND**

Account Number	Description	2022-23 Revised Adopted	2022-23 Actual	2023-24 Proposed Budget
	<b>ADJUSTED NET BEGINNING BALANCE JULY 1</b>	\$ 229,347	\$ 229,347	\$ 206,877
	<b>INCOME</b>			
8860	Interest	800	2,843	800
8883	Student Fees	14,000	21,444	14,000
8980	Interfund Transfer	-	-	-
<b>TOTAL</b>	<b>INCOME</b>	<b>14,800</b>	<b>24,287</b>	<b>14,800</b>
<b>TOTAL</b>	<b>BEGINNING BALANCE AND INCOME</b>	<b>\$ 244,147</b>	<b>\$ 253,633</b>	<b>\$ 221,677</b>
	<b>EXPENDITURES</b>			
4000	Supplies & Other	3,610	1,994	1,616
5000	Operating Expenses & Services	5,000	4,935	65
6000	Equipment	177,336	39,826	137,510
<b>TOTAL</b>	<b>EXPENDITURES</b>	<b>185,946</b>	<b>46,756</b>	<b>139,190</b>
7900	Appropriation for Contingency	58,200	-	82,487
<b>TOTAL</b>	<b>EXPENDITURES AND OTHER OUTGO</b>	<b>244,147</b>	<b>46,756</b>	<b>221,677</b>
	<b>NET ENDING BALANCE</b>	<b>-</b>	<b>206,877</b>	<b>-</b>
<b>GRAND TOTAL</b>	<b>EXPENDITURES, OTHER OUTGO AND ENDING BALANCE</b>	<b>\$ 244,147</b>	<b>\$ 253,633</b>	<b>\$ 221,677</b>

**ALLAN HANCOCK JOINT COMMUNITY COLLEGE DISTRICT  
2023-2024 PROPOSED  
STUDENT FINANCIAL AID TRUST FUND**

Account Number	Description	2022-23 Revised Adopted	2022-23 Actual	2023-24 Proposed Budget
	<b>ADJUSTED NET BEGINNING BALANCE JULY 1</b>	\$ 21,600	\$ 21,600	\$ 21,809
	<b>FEDERAL INCOME</b>			
8150	Supplemental Ed. Opportunity Grants Prog.	273,381	273,450	273,381
8153	Pell Grant Program	10,400,000	11,105,142	10,400,000
8154	Direct Loans and Scholarships	450,000	592,632	450,000
8157	Financial Aid Prior Year	-	(14,932)	-
Total	Federal Income	11,123,381	11,956,292	11,123,381
	<b>STATE INCOME</b>			
8625	Cal-WORKs	50,000	-	50,000
8627	Other General Categorical Programs	900,000	1,464,815	2,446,260
8652	Other Reimbursable Categorical Programs	1,200,000	1,122,135	1,200,000
8690	Other State Revenues	-	37,591	-
Total	State Income	2,150,000	2,624,541	3,696,260
	<b>LOCAL INCOME</b>			
8860	Interest	-	3	-
8980	Interfund Transfers	7,030,601	7,279,703	712,063
Total	Local Income	7,030,601	7,279,707	712,063
TOTAL	<b>INCOME</b>	20,303,982	21,860,540	15,531,704
TOTAL	<b>BEGINNING BALANCE AND INCOME</b>	\$ 20,325,582	\$ 21,882,139	\$ 15,553,513
	<b>EXPENDITURES</b>			
	<b>OTHER OUTGO</b>			
7000	Pell Grant Program	10,400,000	11,105,142	10,400,000
7510	CARES Act/HEERF II	6,422,601	6,422,601	-
7516	Emergency Financial Assistance	-	-	1,546,260
7520	Supplemental Ed. Opportunity Grants Prog.	273,381	273,450	273,381
7525	FT Student Success Grant	900,000	1,464,815	900,000
7530	Direct Loans and Scholarships	450,000	592,632	450,000
7540	Extended Opportunity Prog. & Serv. Grants	-	150,657	-
7542	CARE Grants	225,000	405,012	225,000
7550	Cal Grant	1,250,000	1,132,593	1,250,000
7581	CA4All College Corp Living	383,000	278,938	487,063
7591	Pell Grant Prior Year	-	(14,332)	-
7592	SEOG Prior Year	-	(600)	-
7593	Cal Grant Prior Year	-	26,927	-
7611	Misc Payments to Students	-	22,496	-
7950	Restricted Reserve	21,600	-	21,809
TOTAL	<b>OTHER OUTGO</b>	20,325,582	21,860,330	15,553,513
TOTAL	<b>EXPENDITURES AND OTHER OUTGO</b>	20,325,582	21,860,330	15,553,513
	General Reserve (Net Ending Balance)	-	21,809	-
GRAND TOTAL	<b>EXPENDITURES, OTHER OUTGO AND ENDING BALANCE</b>	\$ 20,325,582	\$ 21,882,139	\$ 15,553,513

**ALLAN HANCOCK JOINT COMMUNITY COLLEGE DISTRICT  
2023-2024 PROPOSED  
SCHOLARSHIP AND LOAN TRUST FUND**

Account Number	Description	2022-23 Revised Adopted	2022-23 Actual	2023-24 Proposed Budget
	<b>ADJUSTED NET BEGINNING BALANCE JULY 1</b>	\$ 8,708	\$ 8,708	\$ 8,708
	<b>INCOME</b>			
8820	Donations	1,000	-	1,000
8860	Interest	-	-	-
8980	Interfund Transfer	-	-	-
<b>TOTAL</b>	<b>INCOME</b>	<b>1,000</b>	<b>-</b>	<b>1,000</b>
<b>TOTAL</b>	<b>BEGINNING BALANCE AND INCOME</b>	<b>\$ 9,708</b>	<b>\$ 8,708</b>	<b>\$ 9,708</b>
	<b>EXPENDITURES</b>			
4000	Supplies & Other	-	-	-
5000	Operating Expenses & Services	-	-	-
<b>TOTAL</b>	<b>EXPENDITURES</b>	<b>-</b>	<b>-</b>	<b>-</b>
	<b>OTHER OUTGO</b>			
7000	Student Financial Aid	1,000	-	1,000
<b>TOTAL</b>	<b>OTHER OUTGO</b>	<b>1,000</b>	<b>-</b>	<b>1,000</b>
7900	Appropriation for Contingency	8,708	-	8,708
<b>TOTAL</b>	<b>EXPENDITURES AND OTHER OUTGO</b>	<b>9,708</b>	<b>-</b>	<b>9,708</b>
	NET ENDING BALANCE	-	8,708	-
<b>GRAND TOTAL</b>	<b>EXPENDITURES, OTHER OUTGO AND ENDING BALANCE</b>	<b>\$ 9,708</b>	<b>\$ 8,708</b>	<b>\$ 9,708</b>

**ALLAN HANCOCK JOINT COMMUNITY COLLEGE DISTRICT  
2023-2024 PROPOSED  
DISTRICT TRUST FUND**

Account Number	Description	2021-22 Actual Income & Expenditures	2022-23 Actual Income & Expenditures	2023-24 Proposed Budget
	<b>ADJUSTED NET BEGINNING BALANCE JULY 1</b>	\$ 1,134,088	\$ 5,210,375	\$ 5,356,583
	<b>INCOME</b>			
8820	Donations	16,590	17,691	17,750
8840	Sales	107,145	128,901	35,966
8850	Leases and Rentals	-	4,500	4,500
8860	Interest/Gain/Losses	(415,827)	242,878	385
88XX	Miscellaneous Income	2,305	4,839	1,680
8980	Interfund Transfers	4,547,028	(419,619)	-
TOTAL	<b>INCOME</b>	4,257,240	(20,810)	60,281
TOTAL	<b>BEGINNING BALANCE AND INCOME</b>	\$ 5,391,327	\$ 5,189,564	\$ 5,416,864
	<b>EXPENDITURES</b>			
1000	Certificated Salaries	932	14,193	9,900
2000	Classified Salaries	7,279	12,303	12,708
3000	Benefits	-	-	-
4000	Supplies & Materials	91,942	95,044	69,300
5000	Other Operating Exp & Svcs	21,533	46,122	48,957
6000	Capital Outlay	18,206	62,316	-
TOTAL	<b>EXPENDITURES</b>	139,894	229,978	140,865
7000	<b>OTHER OUTGO</b>			
7300	Interfund Transfers	-	(419,619)	-
7500	Scholarships	-	22,422	31,597
7600	Other Payments to/for Students	41,059	200	-
TOTAL	<b>OTHER OUTGO</b>	41,059	(396,996)	31,597
TOTAL	<b>EXPENDITURES AND OTHER OUTGO</b>	180,953	(167,018)	172,462
	NET ENDING BALANCE	5,210,375	5,356,583	5,244,401
GRAND TOTAL	<b>EXPENDITURES, OTHER OUTGO AND ENDING BALANCE</b>	\$ 5,391,327	\$ 5,189,564	\$ 5,416,864

**ALLAN HANCOCK JOINT COMMUNITY COLLEGE DISTRICT  
2023-2024 PROPOSED  
STUDENT CLUBS AGENCY FUND**

Account Number	Description	2021-22 Actual Income & Expenditures	2022-23 Actual Income & Expenditures	2023-24 Proposed Budget
	<b>ADJUSTED NET BEGINNING BALANCE JULY 1</b>	\$ 66,211	\$ 73,676	\$ 78,231
	<b>INCOME</b>			
8820	Donations	7,943	1,247	-
8840	Sales	20,720	55,598	-
8860	Interest	14	14	12
88XX	Miscellaneous Income	2,810	4,609	600
8980	Interfund Transfers	-	-	-
<b>TOTAL</b>	<b>INCOME</b>	<b>31,486</b>	<b>61,468</b>	<b>612</b>
<b>TOTAL</b>	<b>BEGINNING BALANCE AND INCOME</b>	<b>\$ 97,698</b>	<b>\$ 135,144</b>	<b>\$ 78,843</b>
	<b>EXPENDITURES</b>			
4000	Supplies & Materials	15,815	25,164	4,962
5000	Other Operating Exp & Svc	2,143	17,242	7,874
6000	Capital Outlay	-	-	-
<b>TOTAL</b>	<b>EXPENDITURES</b>	<b>17,958</b>	<b>42,406</b>	<b>12,836</b>
7000	<b>OTHER OUTGO</b>			
7300	Interfund Transfers	-	-	-
7500	Student Assistance	6,064	14,507	-
<b>TOTAL</b>	<b>OTHER OUTGO</b>	<b>6,064</b>	<b>14,507</b>	<b>-</b>
<b>TOTAL</b>	<b>EXPENDITURES AND OTHER OUTGO</b>	<b>24,022</b>	<b>56,913</b>	<b>12,836</b>
	NET ENDING BALANCE	73,676	78,231	66,007
<b>GRAND TOTAL</b>	<b>EXPENDITURES, OTHER OUTGO AND ENDING BALANCE</b>	<b>\$ 97,698</b>	<b>\$ 135,144</b>	<b>\$ 78,843</b>

**ALLAN HANCOCK JOINT COMMUNITY COLLEGE DISTRICT  
2023-2024 PROPOSED  
FOUNDATION AGENCY FUND**

Account Number	Description	2022-23 Revised Adopted	2022-23 Actual	2023-24 Proposed Budget
	<b>BEGINNING BALANCE JULY 1</b>	\$ 20,016,888	\$ 20,016,888	\$ 21,825,967
	<b>INCOME</b>			
	Contributions	840,000	1,155,272	1,159,825
	Sales and Commission	-	770	-
	Interest and Dividends	625,000	484,520	180,000
	Gain/Loss on Sale of investments	-	62,142	-
	Change in Asset Portfolio	-	1,483,677	-
	Royal/Other/Bad Debt Recovery	15,100	32,134	20,100
	Transfers in	1,459,186	2,547,174	1,614,509
TOTAL	<b>INCOME</b>	2,939,286	5,765,689	2,974,434
TOTAL	<b>BEGINNING BALANCE AND INCOME</b>	\$ 22,956,174	\$ 25,782,577	\$ 24,800,401
	<b>EXPENDITURES</b>			
2000	Salaries	263,662	255,049	279,390
3000	Employee Benefits	72,830	43,042	80,931
4000	Supplies and Materials	72,923	137,716	145,250
5000	Other Operating Exp. and Services	433,461	321,266	306,800
5XXX	District/College Support	230,000	274,508	200,000
5XXX	PCPA Support	96,066	90,474	75,000
6000	Capital Outlay	1,659	4,751	1,000
7000	Scholarships/Transfers Out/Other Outgo	1,768,685	2,829,805	1,886,063
TOTAL	<b>EXPENDITURES</b>	2,939,286	3,956,610	2,974,434
	Appropriation for Contingency	20,016,888	-	21,825,967
TOTAL	<b>EXPENDITURES AND CONTINGENCY</b>	22,956,174	3,956,610	24,800,401
	NET ENDING BALANCE	-	21,825,967	-
GRAND TOTAL	<b>EXPENDITURES, CONTINGENCY AND ENDING BALANCE</b>	\$ 22,956,174	\$ 25,782,577	\$ 24,800,401



**ALLAN HANCOCK JOINT COMMUNITY COLLEGE DISTRICT**  
**2023-2024 PROPOSED**  
**AHC VITICULTURE AND ENOLOGY FOUNDATION AGENCY FUND**

Account Number	Description	2022-23 Revised Adopted	2022-23 Actual	2023-24 Proposed Budget
	Beginning Balance	\$ 44,833	\$ 44,833	\$ 65,111
	Reserve for Inventory	114,089	114,089	98,820
	<b>NET BEGINNING BALANCE JULY 1</b>	<b>158,922</b>	<b>158,922</b>	<b>163,931</b>
	<b>REVENUE</b>			
	Contributed Gifts/Grants	5,020	13,840	-
	Non-Cash Contributions	21,269	24,671	19,980
	Single Tickets	-	4,495	-
	Other Local Revenue	176	176	-
	Intrafund Transfer-In	-	-	-
	<b>NET REVENUE</b>	<b>26,465</b>	<b>43,182</b>	<b>19,980</b>
	<b>WINE OPERATIONS</b>			
	Sales & Commissions	82,800	118,024	90,900
	Less: Returns & Allowances	-	-	-
	Less: Sales Discounts	(28,000)	(43,043)	(31,500)
	<b>NET SALES</b>	<b>54,800</b>	<b>74,981</b>	<b>59,400</b>
	Less: Cost of Goods Sold	(59,939)	(69,533)	(45,000)
	<b>GROSS PROFIT</b>	<b>(5,139)</b>	<b>5,448</b>	<b>14,400</b>
TOTAL	<b>REVENUE</b>	<b>21,326</b>	<b>48,630</b>	<b>34,380</b>
TOTAL	<b>BEGINNING BALANCE AND REVENUE</b>	<b>\$ 180,249</b>	<b>\$ 207,553</b>	<b>\$ 198,311</b>
	<b>EXPENDITURES</b>			
1000	Academic Salaries	-	-	-
2000	Classified Salaries	-	-	-
4000	Supplies and Materials	33,455	32,653	20,362
4523	Inventory Allocation Expense	(64,650)	(61,001)	(52,073)
5000	Other Operating Exp. and Services	69,209	70,869	63,585
6000	Capital Outlay	1,100	1,100	-
TOTAL	<b>EXPENDITURES</b>	<b>39,115</b>	<b>43,621</b>	<b>31,874</b>
	Reserve for Inventory	114,089	-	98,820
	Appropriation for Contingency	27,045	-	67,617
	<b>NET ENDING BALANCE</b>	<b>-</b>	<b>163,931</b>	<b>-</b>
TOTAL	<b>EXPENDITURES AND NET ENDING BALANCE</b>	<b>\$ 180,249</b>	<b>\$ 207,553</b>	<b>\$ 198,311</b>

**ACTION ITEM**

To: Board of Trustees	Date:
From: Superintendent/President	September 12, 2023
Subject: Resolution 23-22, Development and Lease Agreement between Allan Hancock Joint Community College District and The Vernon Group, LLC.	Item Number: 3.D.
Institutional Goal: Accreditation Standard III	Enclosures: Pg. 1 of 69

**BACKGROUND**

The attached Development and Lease Agreement outlines details for a 99-year lease of college land between Allan Hancock Joint Community College District (“District”) and The Vernon Group, LLC (“Lessee”). The purpose is to lease approximately 5.16 acres of district property located on the South Campus near the intersection of South College Drive and East Enos Drive for the construction of student and multi-family housing.

The agreement is a 99-year lease with monthly rent paid to the District in the amount of \$22,477. The monthly rent will be adjusted annually by the greater of the Consumer Price Index or three percent of the previous years’ rent. In other words, the minimum monthly rent will increase by at least three percent each year. There is no limit on the amount by which the rent can increase.

Eight units (total of 64 beds) will be available for students at ninety percent (90%) of the average market rent for the remainder of the project. Site development will commence immediately upon execution of the agreement with the Lessee delivering conceptual plans to the District within 60 days. Construction shall begin no later than twenty-four (24) months after the date on which rent commences. All work must be completed within sixty (60) months after work starts and not later than December 31, 2032.

**Site details:**

- The primary use of the site will be two hundred twenty-four (224) multi-family residential units (of which eight (8) are required to be Student Suites. Student Suites consist of a four-bedroom unit (8 beds). The District also has the right to other units for student housing covering up to thirty percent (30%) of the gross rentable area for the residential uses on the entire project. Units can also be prioritized for faculty, but with no discount;
- A minimum of three hundred eighty (380) parking spaces (including electric charging stations);
- Six Thousand (6,000) square feet of enclosed leasable commercial areas;
- Temporary food trucks; and
- The Lessee is obligated to maintain the site in first class condition throughout the lease.

**FISCAL IMPACT**

The Lessee will pay the college \$22,477/month; adjusted annually by a minimum three percent increase. The Lessee is fully responsible for all taxes, as detailed in the agreement.

**RECOMMENDATION**

Staff recommends that the board of trustees adopt Resolution 23-22, Development and Lease Agreement between Allan Hancock Joint Community College District and The Vernon Group, LLC.

Administrator Initiating Item: Dennis Curran	Final Disposition:
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RESOLUTION NO. 23-22  
ALLAN HANCOCK JOINT COMMUNITY COLLEGE DISTRICT

DEVELOPMENT AND LEASE AGREEMENT  
BETWEEN ALLAN HANCOCK JOINT COMMUNITY COLLEGE DISTRICT  
AND THE VERNON GROUP, LLC.

WHEREAS, Allan Hancock Joint Community College District (“District”) is the owner of certain unimproved real property consisting of approximately 5.16 acres located on the South Campus Property and more particularly described on Exhibit A attached hereto and depicted on Exhibit B attached hereto; and

WHEREAS, District desires to create on-campus student housing to meet the growing and changing needs of its students. District has determined that the highest and best use of the Premises is development to provide such student housing; and

WHEREAS, District has determined that the most effective, economical and efficient method to provide the needed quality student housing is to enter into a development and lease agreement with a third party whereby, among other things, the third party will (i) lease the Premises for a fair rental value; (ii) construct a development consisting of a mix of multi-family residential rentals and supporting commercial uses; and (iii) dedicate a certain portion of the residential units to a portion of the available residential rental units for student housing on terms and conditions favorable to the District and the students; and

WHEREAS, District offered the opportunity to enter into an agreement for the leasing and development of the Premises and has determined that the proposal from The Vernon Group, LLC, best accomplished District’s goals for the use of the property; and

WHEREAS, The Vernon Group, LLC, and District desire to enter into an Agreement for the development and leasing of the property; and

WHEREAS, the Board also desires to approve the attached Development and Lease Agreement between the District and The Vernon Group, LLC, and all its details therein.

NOW, THEREFORE, BE IT RESOLVED:

1. The Board of the Allan Hancock Joint Community College District approves entering into the Development and Lease Agreement with The Vernon Group, LLC, to lease 5.16 acres of land on the South Campus Property.
2. The Board hereby delegates to the Superintendent/President, Dr. Kevin G. Walthers the authority to sign said agreement on behalf of the District.

PASSED AND ADOPTED this 12<sup>th</sup> day of September, 2023, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

STATE OF CALIFORNIA                    )  
COUNTIES OF SANTA BARBARA,        )  
SAN LUIS OBISPO, AND VENTURA        )

I, KEVIN G. WALTHERS, Secretary to the Board of Trustees, Allan Hancock Joint Community College District of Santa Barbara, San Luis Obispo, and Ventura Counties, California, do hereby certify that the foregoing is a full, true, and correct copy of a resolution adopted by the said Board at a regular meeting held September 12, 2023, by the vote above stated, which resolution is on file in the Office of the said Board.

\_\_\_\_\_  
Secretary to the Board of Trustees  
Allan Hancock Joint Community College District

**DEVELOPMENT AND LEASE AGREEMENT**

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**ALLAN HANCOCK JOINT COMMUNITY COLLEGE  
DISTRICT**

**AND**

**THE VERNON GROUP, LLC**

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\_\_\_\_\_, 2023

This Development and Lease Agreement (“**Agreement**”) is made and entered by and between Allan Hancock Joint Community College District (“**District**”) and The Vernon Group, LLC, a California limited liability company (“**Lessee**”).

### **Recitals**

**WHEREAS**, District is the owner of that certain unimproved real property consisting of approximately 5.16 acres located on the District’s Santa Maria Campus and more particularly described on **Exhibit A** attached hereto and depicted on **Exhibit B** attached hereto (“**the Premises**”).

**WHEREAS**, District desires to create on-campus student housing to meet the growing and changing needs of District students. District has determined that the highest and best use of the Premises is development to provide such student housing.

**WHEREAS**, District has determined that the most effective, economical and efficient method to provide the needed quality student housing is to enter into a development and lease agreement with a third party whereby, among other things, the third party will (i) lease the Premises for a fair rental value; (ii) construct a development consisting of a mix of multi-family residential rentals and supporting commercial uses; and (iii) dedicate a certain portion of the residential units to a portion of the available residential rental units for student housing on terms and conditions favorable to the District and the students;

**WHEREAS**, District offered the opportunity to enter into an agreement for the leasing and development of the Premises and has determined that Lessee and Lessee’s proposal to development and lease the Premises best accomplished District’s goals for the use of the Premises; and

**WHEREAS**, Lessee and District desire to enter into this Agreement for the development and leasing of the Premises.

**NOW, THEREFORE**, for good and valuable consideration, the Parties, defined below, agree as follows:

#### **ARTICLE 1. DEFINITIONS.**

For purposes of this Agreement, the terms set forth below shall have the following meaning:

**1.01 “Additional Rent”** shall mean all financial obligations, requirements or expenditures required of the Lessee under this Agreement including, without limitation, any Triple Net costs, fees, charges, taxes, or assessments.

**1.02 “Adjusted Rental Value”** shall mean the adjusted monthly Sublease rent to be charged to a Student or the District as determined by Article 3.02D herein.

**1.03 “Aggregate Construction Contract Price”** shall mean the aggregate price for all contracts for the completion of all demolition, grading, paving, landscaping, sign and construction of the Improvements. The Aggregate Construction Contract Price shall not include engineering, architectural, and other design costs unless such contracts are to be performed on a “design build” basis.

**1.04 “Agreement”** shall mean this Development and Lease Agreement.

**1.05 “Applicable Laws”** shall mean any and all laws, statutes, rules, regulations, directives, orders or other limitation, control or requirement of any federal, state or local governing or regulatory body with jurisdiction over the Project including such law, statute, rule, regulation, directive, order or other limitation, control or requirement arising out of District status as a community college district.

**1.06 “Approved Final Plans and Specifications”** shall have that meaning set forth in Sub-Article 4.02.B. of this Agreement.

**1.07 “Approved Site Work Plan”** shall have that meaning set forth in Sub-article 4.02.A. of this Agreement.

**1.08 “Authorized Use”** shall mean a use as defined by Article 3 herein.

**1.09 “Board” or “Board of Trustees”** shall mean the District Board of Trustees as may be constituted from time to time.

**1.10 “Campus”** shall mean the District’s Santa Maria campus depicted on Exhibit C attached hereto.

**1.11 “City”** shall mean the City of Santa Maria, California.

**1.12 “Claim” or “Claims”** shall mean a potential, threatened or actual claim, cause of action, administrative, criminal, loss or liability arising from, out of, or in relation to this Agreement, any Sublease, the Premises, use of the Premises by Lessee or any Subtenant or third party or Lessee’s exercise or non-exercise of its rights, duties and obligation under this Agreement. The definition of this Sub-article 1.13 shall be construed broadly to provide the maximum limitation from any financial exposure to District.

**1.13 “Construction Standards and Specifications”** shall have that meaning set forth in Section 4.03A of this Agreement.

**1.14 “Commencement of Construction”** shall mean the first physical activity on the Premises in the process of constructing the Improvements, or, in the event the Project is constructed in phases, any phase of the Improvements, and shall include, without limitation, grading or the movement of any soil. Commencement of Construction shall not include any surveying, staking, installation of security fencing, or soils testing.

**1.15 “Defend” or “Defense”** shall mean a legal defense provided to District against any claim, cause of action, penalty or any potential loss or liability for which

indemnification is required by this Agreement. For any matter in which the claim, cause of action or potential loss or liability, might, within District's sole and absolute discretion, exceed Two Hundred Thousand Dollars (\$200,000.00), District may, at its sole option, select the legal counsel who will provide District's defense against such Claim. Lessee shall be directly and primarily responsible for all fees and costs for District's selected legal counsel in providing such legal defense.

**1.16 "Development Plan" or "Development Plans"** shall mean the schematic plans for the Project. Any Development Plan shall be in substantial conformance with Project as described in **Exhibit D** of this Agreement. The Development Plans include schematic drawings, elevation and sufficient architectural detail to allow District to determine the aesthetic features of the Project.

**1.17 "District"** shall mean the Allan Hancock Joint Community College District, a California community college district and its successors and assigns.

**1.18 "District Approval" or "District Consent,"** unless otherwise expressly provided in this Agreement or designated, in writing by the Board, shall mean the written approval or consent of the Board's sole and absolute discretion of District unless expressly provided otherwise herein. Except as otherwise expressly provided in this Agreement, District Approval or District Consent shall be in writing. Except as expressly provided in this Agreement, District Approval and District Consent which is not in writing, shall be invalid and of no force and effect. District Approval or District Consent shall not be implied.

**1.19 "District Contact Person"** shall mean the person or persons, who from time to time are designated in writing by District as the primary contact person between Lessee and District. Unless set forth expressly in writing, the District Contact Person shall not have the authority to bind District to any legal obligations or material changes in the Design and Construction of the Improvements.

**1.20 "District Sublease"** shall mean a sublease between District and Lessee for Student Units.

**1.21 "Effective Date"** shall mean \_\_\_\_\_, 2023. All rights, duties and obligations under this Agreement shall commence upon the Effective Date except that, as provided in the Agreement, the Minimum Monthly Rent and Percentage Rent shall not commence until the Rent Commencement Date.

**1.22 "Encumbrance Holder"** shall have that meaning set forth in Article 9 of this Agreement.

**1.23 "Environmental Laws"** means any and all federal, state or local environmental, health and/or safety-related laws, regulations, standards, decisions of the courts, ordinances, rules, codes, orders, decrees, directives, guidelines, permits or permit conditions, currently existing and as amended, enacted, issued or adopted in the future, which are or become applicable to the Premises.



**1.24 “Expiration Date”** shall mean a date Ninety-Nine (99) years after the Rent Commencement Date unless the Agreement is earlier terminated as provided herein or in the event the Term is adjusted as provided in Section 2.01.

**1.25 “Faculty”** shall mean a person employed full or part-time to by District to provide educational instruction.

**1.26 “Government Approvals” or “Entitlements”** means any permit, approval, authorization, or entitlement required to be obtained to construct Improvements on the Premises including, without limitation, zoning changes, general plan amendments, specific plan approvals, building permits, grading permits, use permits, approvals under the California Environmental Quality Act, permits required by Environmental Laws to construct the Project or any portion thereof

**1.27 “Gross Revenue”** shall mean:

(i) All rents, including, without limitation for residential and commercial units, fees, royalties, license fees or other income received from any source for the use and occupancy of the Premises including any advertising or revenue income including rents, fees or any other revenue received from sub-lessees, licensees or vendors. Gross Revenue shall not include (i) any taxes, insurance of maintenance payments directly related to the Premises and received by Lessee in the form of; (ii) security deposits paid to and retained by Lessee to secure performance under any sub-lessee or licensee; (iii) payments from insurance companies, sub-lessee, licensee or any third party as compensation for any property damage to the Premises. Payments under a business interruption insurance or similar policy shall be deemed Gross Revenue.

(ii) For any portion of the Premises used or occupied by Lessee or by any Person in which Lessee or any principal of Lessee holds a ten percent (10%) or greater interest, Gross Revenue shall mean:

1. The entire amount charged, whether wholly or partly for cash, credit, redemption, EBT cards regardless of currency type including by barter or otherwise, for all goods, wares, and merchandise sold, leased, licensed or delivered, and all charges for services sold or performed, in, at, upon or from any part of, or through the substantial use of, the Premises by Lessee or any other Person operating on the Premises (including, without limitation, any subtenant, licensee and concessionaire) or by means of mechanical or other vending device; and

2. All gross income of Lessee or any other person or entity in, at, upon, or from the Premises which are neither included nor excluded from Gross Revenue by other provisions of this Agreement, but without duplication; and

3. All orders secured or received in the Premises by telephone, email/app/text/internet/website or otherwise, which Lessee, in the normal and customary course of business would credit or attribute to its business in the Premises if filled from the Premises or stock allocated to the Premises, except those costs collected on behalf of and paid to independent delivery services unaffiliated with Lessee shall be excluded.

## (a) Gross Revenue expressly excludes:

1. Revenue of merchandise subsequently returned for refund or credit, or merchandise which shall be issued in redemption of trading stamps, coupons, or gift certificates, if any, which shall have been issued free of charge to Lessee's customers, "senior discounts" or "student discounts" which Lessee expressly expenses for accounting purposes, or any other discounts granted by Lessee in which Lessee does not receive payment for the discounted amount;
2. The amount of any city, county, state or federal revenue, use, luxury or excise tax on Revenue which is both added to the selling price (or absorbed therein) and paid to the taxing authorities by Lessee;
3. Credit card fees, merchant fees, and service and interest charges for time payment accounts and charge accounts;
4. Cash or credit received for returns to manufacturers;
5. Revenue of fixtures, equipment or other property, which is not stock in trade, bulk revenue of inventory in connection with a sale of business, and proceeds from a sale of the business;
6. Bad checks, "charge backs," or bad credit card charges;
7. Sums or credits received in settlement or payment of claims against others for loss of or damage to merchandise, furniture, fixtures, finishes and equipment but excluding any sums or credits received in settlement or payment of any claims for loss or damage to Improvements;
8. Refundable deposits made by customers upon returnable containers; and
9. Delivery charges and shipping fees.

**1.28 "Hazardous Substance" or "Hazardous Material"** means any chemical, substance, material, controlled substance, object condition, waste, living organism, or combination thereof which is or may be hazardous to human health or safety or to the environment due to its radioactivity, ignitability, corrosivity, reactivity, explosivity, toxicity, carcinogenicity, mutagenicity, phytotoxicity, reproductive toxicity, infectiousness or other harmful or potentially harmful properties or effects, including, without limitation, petroleum and petroleum products, asbestos, radon, polychlorinated biphenyls (PCBs), and all of those chemicals, substances, materials, controlled substances objects, conditions, wastes, living organisms, or combinations thereof, which are now or become in the future listed, defined or regulated in any manner by any Environmental Law based upon, directly or indirectly, such properties or effects.

**1.29 “Improvements”** shall mean any and all buildings, parking lots, swimming pools, enclosures, landscaping, irrigation, security systems, lighting, communication facilities and similar items. Improvements shall be given a broad interpretation to include any installation or construction on the Premises.

**1.30 “Lease Month” or “Month”** shall mean that period beginning on the first day of each month during the Term and ending on the last day of said month. If the Effective Date or Rent Commencement Date begin on a day that is other than the first day of a month, the Lease Month or Month shall be the remaining portion of that month and all Rent and other Lessee financial obligations shall be prorated accordingly.

**1.31 “Lessee”** shall mean the Vernon Property Group, a California limited liability company and/or its assigns subject to District approval as set forth in this Agreement.

**1.32 “Lessee Contact Person”** shall mean the person or persons, who from time to time are designated in writing by Lessee as the primary contact person between Lessee and District.

**1.33 “Maintenance Plan”** shall have that meaning set forth in Article 14 of this Agreement.

**1.34 “Minimum Monthly Rent”** shall mean Twenty-Two Thousand Four Hundred Seventy-Seven Dollars (\$22,477.00) for each Lease Month as adjusted pursuant to Article 5.01.B of this Agreement.

**1.35 “Party”** shall mean either District or Lessee and their respective successors and assigns.

**1.36 “Parties”** shall mean District and Lessee, and their respective successors and assigns, collectively.

**1.37 “Percentage Rent”** shall mean three percent (3%) Gross Revenue received by Lessee within a Lease Month.

**1.38 “Performance Bond”** shall have that meaning set forth in Sub-article 4.02.E.1.

**1.39 “Person”** shall mean any individual or any type of legal entity including, without limitation a limited liability company, a corporation, or partnership.

**1.40 “Premises”** shall mean that certain real property consisting of approximately 5.16 acres located on the District’s Santa Maria Campus and more particularly described in Exhibit A hereto and depicted on Exhibit B hereto.

**1.41 “Project”** shall mean the Improvement to be constructed by Lessee as set forth in Exhibit D (“Project Description”) hereto.

**1.42 “Rent”** shall mean and shall include, without limitation, the Minimum Monthly Rent, as adjusted, the Percentage Rent and Additional Rent, as applicable.

**1.43 “Rent Adjustment Date”** shall have that meaning set forth in Article 5.01.B.

**1.44 “Rent Commencement Date”** shall mean the date on which Lessee is obligated to begin payment of the Minimum Monthly Rent and shall be the earlier of (i) the date on which a permit is issued by the City entitling Lessee to begin construction on the Premises; or (ii) thirty (30) months from the date on which the District approves the Conceptual Plans which time shall be tolled for the period during which the permit applications for the Project are under review by a government agency with jurisdiction over the Project or the duration of time during which a legal action has been filed challenging the Project (meaning from the date of filing the complaint in a legal action until the date on which a dismissal is filed or a final judgement has been entered; or (iii) five (5) years after the Effective Date. For purposes of this Agreement, a permit allowing any Site Work on the Premises shall be deemed to begin the Rent Commencement Date. Notwithstanding anything to the contrary herein, all other obligations under this Agreement, including the payment of Additional Rent, shall commence on the Effective Date. The tolling periods referenced in Article 1.45 (i) shall only be applicable if Lessee provides Lessor with written notice of the time of submittal or resubmittal for any permit; and (ii) the type of permit for which the application is filed. This written notice must be received by Lessor not later than thirty (30) days after the submittal; or resubmittal of each permit application. If notice is not given in the time and manner provided herein, the time during which the application is under review by a governmental agency shall not toll the time for the Rent Commencement Date. The tolling periods referenced in Article 1.45 (ii) shall only be applicable if Lessee provides Lessor with written notice of the filing of the legal action within thirty (30) days after service of the action on Lessee and thirty (30) days after the date of dismissal or final judgement is entered; This written notice must be received by Lessor not later than thirty (30) days after, as applicable (i) service of the legal action on Lessee; and (ii) a dismissal or final judgement in the legal action. If notice is not given in the time and manner provided herein, the time during which a legal action is pending shall not toll the time for the Rent Commencement Date. The tolling periods referenced herein are concurrent. For example, if more than one permit application is under review the tolling period shall be limited to the duration between the date which the first application is made and the time in which the last permit application is approved.

**1.45 “Rent Year”** shall mean the twelve-month period after the Rent Commencement and after each anniversary thereof.

**1.46 “Site Work”** shall mean work that is not part of the buildings or any structure on the Premises including grading, excavation, utilities (other than the specific connection of utilities to a building or structure), parking areas, curbs, gutters, sidewalks, and driveways.

**1.47 “Student”** shall mean any Person enrolled with District whether on a full or part-time basis.

**1.48 “Student Housing Needs Assessment”** shall mean a written assessment prepared annually by District and delivered to Lessee on or before June 30 of each year during the Term.

**1.49 “Student Sublease”** shall mean any Sublease, defined below, to a Student, Faculty or Personnel. A Student Sublease shall commence of August 1 of each calendar year and expire on July 31 the following calendar year (“**School Lease Year**”).

**1.50 “Student Suite”** shall mean a residential unit consisting of at least four bedrooms with each bedroom being at least 120 square feet with shared bathrooms, a central kitchen, and a central living area.

**1.51 “Student Unit”** shall mean a multi-family residential unit designed, as provided herein, for the purpose of providing housing. Student Units, subject to District approval as provided herein, may include units consisting of studio or multi-bedroom units up to a maximum of four bedrooms.

**1.52 “Sublease”** shall mean any lease, license, permit, or other interest in the Premises or any Improvement or a right to use the Premises or a portion thereof, which is conveyed by Lessee to a third party, and which constitutes less than the unrestricted conveyance of the entire Lessee's interest under this Agreement.

**1.53 “Sublessee”** shall be the person or entity to which such right to use is conveyed by a Sublease.

**1.54 “Term”** shall mean that period between the Effective Date and the earlier of the Expiration Date or the Termination Date.

**1.55 “Termination Date”** shall mean the date, earlier than the Expiration Date, in which this Agreement is terminated by either Party on the terms and conditions set forth in this Agreement.

**1.56 “Triple Net”** shall mean all Taxes, Insurance and Maintenance obligations which shall be the sole responsibility of Lessee as provided in this Agreement. The Parties intend that this Agreement is intended to be a Triple Net agreement with all maintenance, repair, replacement, taxes, assessments, and insurance costs borne by Lessee and with no financial obligations by District whatsoever and shall be construed to the broadest extent possible in light of that intent.

## **ARTICLE 2. TERM.**

**2.01 Term.** The Term shall commence on the Effective Date and shall expire on the Expiration Date unless earlier terminated under the terms and conditions set forth in this Agreement. It is not the Parties’ intent that the duration of the Term be inconsistent with any term limitations provided by law and applicable as of the Effective Date. In the event the Term is determined to exceed any term limitations set forth in law or statute on the Effective Date, the Term shall be reduced to the maximum term allowed by law.

### **ARTICLE 3. USE OF PREMISES.**

**3.01 Authorized Use.** The Premises shall be used exclusively for the construction and operation of residential dwellings, commercial business, and temporary food “trucks” in accordance with the Project and, except as expressly otherwise provided herein, for no other purpose whatsoever. Lessee shall not use the Premises for any purpose other than an Authorized Use by District's Consent and Lessee shall obtain, at Lessee's sole cost and expense, all Governmental Approvals required for such other purposes.

**3.02 Student Housing.** One of District's primary intentions in entering into this Agreement is to provide affordable housing for District Students. Subject to the provisions set forth in this Article 3, Lessee shall make residential units available to Students.

**3.02.A Student Housing Needs Assessment.** On or before June 30 of each calendar year during the term, District shall provide Lessee with a Student Housing Needs Assessment which shall include District's determination as to the number of Student Units that will be required for the next twelve-month period. The Student Housing Needs Assessment may specify the type of units requested.

**3.02.B Housing Availability.** Within fifteen (15) business days after receipt of the Student Housing Needs Assessment, Lessee shall notify District, in writing, as to the number and bed-count of Student Units which will be available for the next School Lease Year. Upon the initial commencement of occupancy of the residential units of the Project, Lessee shall make not less than 8 Student Suites consisting of a collective total of 64 beds (two beds per room) available to Students for rent. Lessee shall make the number of Student Units identified in the Student Housing Needs Assessment available for Student Sublease or District Sublease until the later of August 1 or fifteen (15) business days after Lessee notifies District of available Student Units. If a Student Sublease or District Sublease for a Student Unit so identified has not been executed and delivered to Lessee by the later of August 1 or fifteen (15) business days after Lessee notifies District of available Student Units for the next School Lease Year, then Lessee shall have no obligation to hold those Student Units open for Student Sublease. If District fails to provide a Student Housing Needs Assessment within the time provided in Sub-article 3.02.A, District shall be deemed to have delivered a Student Housing Needs Assessment for the same number of Student Units as the previous year. Notwithstanding anything to the contrary herein, Lessee shall not Sublease any unit occupied as a Student Unit the year before for a period of more than one (1) year. The maximum number of Student Units District may require is thirty percent (30%) of the gross rentable area of all residential units in the Project.

**3.02.C Student Sublease/District Sublease.** At District's election, made annually at any time during the Term, the District may enter into a District Sublease for all or a portion of the available Student Units. At District's election, the term of the District Sublease may be for any period not to exceed ten (10) years. Except for Minimum Monthly Rent and Percentage Rent, the terms and conditions of a Student Sublease and District Sublease shall at all times be substantially similar to the terms and conditions of other residential tenants in the Project. A copy of the Student Sublease form is attached hereto as **Exhibit E.** The form of the Student Sublease may be amended from time to time with the mutual consent of the Parties and as necessary to comply with changes in Applicable Laws.

**3.02.D Student Sublease/District Sublease Rent.** The monthly rent to be charged to a Student or District shall be the Adjusted Rental Value applicable to each Student Unit. The Adjusted Rental Value shall be determined as of June 30 annually. The Adjusted Rental Value shall be determined as follows:

1. The Parties shall determine the average rent per square foot charged by Lessee to residential tenants within the Project based upon the five (5) most recently executed Subleases for units consisting of two or more bedrooms but excluding any Student Units.

2. The average rent per square foot as determined by 3.02D.1. shall be multiplied by the square footage of the applicable Student Unit. The product of such calculation shall be multiplied by .90. The product of this second calculation shall be the Adjusted Rental Value for the next immediate rental term.

3. For purposes of example only, assume the average rent per square foot for the most recently executed subleases consisting of two bedrooms or more (and excluding Student Units) is \$ 2.50 per square foot. Then assume that the applicable Student Unit is 1,000 square feet. The average rent of \$2.50/sq ft will be multiplied by 1,000 resulting in a product of \$2,500. That product (\$2,500) will be multiplied by .90 with the resulting product being \$2,250. In that case, \$2,250 will be the rent for the applicable Student Unit for the next term of a Student Sublease.

**3.02.E Faculty Housing Priority.** To the extent residential units, other than Student Units, are available, Lessee shall give priority to Faculty desiring to lease units in the Project. The rental rate for such housing shall be at the rate normally charged by Lessee. Prior to the renting of any units in the Project, other than Student Units, District and Lessee shall agree to a program to (i) advise Faculty of the availability of residential units within the Project; and (ii) provide for priority leasing to Faculty of those units. Nothing in this Article 3.02.E is intended to violate any federal or state laws, rules or regulations and this provision shall be construed and interpreted in such a manner as to be in full compliance with all applicable rules or regulations. If this Article 3.02.E cannot be construed and interpreted in such a manner as to be in compliance with all applicable laws, rules or regulations, the parties agree that this provision shall be of no force and effect in which event without any impact or inference on any other terms and conditions of this Agreement.

**3.03 Substantial Conformance/Use.** Use of the Premises, shall be in substantial conformance with the Project Description attached to this Agreement as **Exhibit D**, hereinafter called "**Project Description**". The parties shall initial each page of the Project Description. Substantial conformance, at a minimum, requires that, Lessee construct and maintain (i) a minimum of Two Hundred Twenty-Four (224) residential units; (ii) a minimum of Student Suites; (iii) a minimum of Three Hundred Eighty (380) parking spaces (including at least the minimum number of electric changing spaces required by law , but in no case shall the number of parking spaces be less than required for the Project by Applicable Laws; and (iv) Six Thousand (6,000) square feet of enclosed leasable commercial area.

**3.04 Prohibited Uses.** Notwithstanding the foregoing:

**3.04.A Nuisance.** Lessee shall not conduct or permit to be conducted any private or public nuisance on the Premises, nor commit or permit any waste thereon.

**3.04.B Specific Prohibited Uses.** The following specific uses are expressly prohibited on the Premises:

(1) No manufacturing or industrial use shall be permitted on the Premises;

(2) No sale of cannabis products, other than such derivative products (e.g. products containing CBD or as are generally sold in non-specialized cannabis stores);

(3) No sale of “illicit drug” paraphernalia, products, or other items which are associated with, encourage or publicize the sale or use of illicit drugs;

(4) Except for the sale of products directly related to the lottery operated by the Federal government or the State of California, no off-track betting, sports-wagering establishment, card room, casino or other type of businesses where games of chance are offered and where the participants stand to financially gain or lose from participation in those games. Notwithstanding anything to the contrary herein, video arcades, recreational gaming (where no wagering is involved), escape rooms and other similar non-wager activities shall be allowed;

(5) No entertainment which strip clubs, gentlemen’s club, brothels (even if legalized), movie theaters, whose primary business is displaying adult or X-rated films, or other activities primarily focused on sexual entertainment or activities;

(6) No machinery or apparatus shall be used or operated on the Premises that will in any way injure the Premises or Improvements thereon, or any adjacent properties, or public property;

(7) No dry cleaner or other similar service unless the sole purpose of the facility is a conduit for dry cleaning or other similar services that take place entirely off-site. No dry cleaning activity shall be allowed on the Premises;

(8) No offensive or dangerous trade, business, or occupation shall be carried on therein or thereon the Premises.

(9) Any other activity which, in the sole discretion of District, would be a threat to the health, safety and welfare of District students or which would place the District in a bad public light.

(10) **Hazardous Substances.** No Hazardous Substances or explosive materials shall be kept, stored, or sold in or on the Premises except as such Substances or materials are used with a commercial operation allowed under this Agreement and such storage or use shall be in strict compliance with all Applicable Laws. Nothing shall be done on the Premises, which will cause a suspension or cancellation of the Insurance upon



the Premises, or other premises and the Improvements thereon. No activity that might result in a Hazardous Substance, whether allowed by the Article 3.04B, shall be allowed that has a significant risk of a Hazardous Substance spill or release onto the Premises, underground water, any public drainage improvement, or any adjacent property. In the event there is any spill or release of Hazardous Materials, Lessee shall (i) immediately notify the District; (ii) immediately notify all governmental agencies as required by Applicable Laws; (iii) take immediate action to minimize the impact of such spill or release; (iv) comply with all Applicable Laws, including directives for any applicable government agency; (v) immediately and diligently take all necessary actions to remediate the effects of the spill and release to the satisfaction of all applicable governmental agencies and the District, within its sole and absolute discretion; and (vi) to the fullest extent allowed by law, Lessee shall Defend, indemnify and hold District harmless from and against all loss or liability resulting from the storage or use of Hazardous Materials on the Premises.

**3.05 Applicable Laws.** Lessee shall ensure that all activities and uses on the Premises are in strict compliance with all Applicable Laws. In the event Lessee or any Sublessee are not in compliance with or otherwise violate any Applicable Law, Lessee shall immediately notify District and take all actions necessary

#### **ARTICLE 4. CONSTRUCTION OF IMPROVEMENTS.**

**4.01 Construction Mandatory.** Construction of a minimum of Two Hundred Twenty-Four (224) multi-family dwelling units by Lessee is a material and mandatory requirement under this Agreement. In the event Lessee fails to commence and complete construction of all required multi-family dwelling units within the time and manner provided herein, Lessee shall be in material default without the right to notice and the opportunity to cure such default except to the extent required by the Mortgagee Protection provisions set for in Article 9 of this Agreement. Lessee, at its sole cost and expense, shall take all necessary actions to obtain all permits, approvals and authorizations, including without limitation, any permits, approvals or authorizations required by any government agency, including without limitation, the County of Santa Barbara, City of Santa Maria, State of California or other applicable agency for the construction and operation of the Improvements. Development of the Premises shall substantially conform to the physical layout depicted on the Development Plans, including, without limitation, building footprints, elevations, floor plans, and aesthetic quality. District shall cooperate and sign any and all necessary forms, applications, authorizations, permits and/or any other document required for Lessee to obtain the necessary approvals, entitlements and/or permits required to commence Construction within seven (7) days of receipt of such documents from Lessee.

**4.02 Conditions Precedent to Commencement of Construction.** Commencement of Construction on the Premises shall be subject to each of the following conditions precedent having been either satisfied or waived by District, in writing:

**4.02.A Submission and Approval of Conceptual Plans.** Within sixty (60) days from the Effective Date, Lessee shall submit to the District "Conceptual Plans" showing the layout and design of the Project including, without limitation the location and dimensions of all above ground improvements on the Premises; the location and dimensions of parking areas on the Premises, an architectural rendering of the Project; and typical layouts of

the Student Suites and the other residential units. If Lessor intends to construct the Project in phases, the details of the phasing should be provided. The District shall have forty-five (45) days after submission of the Conceptual Plans to review and approve or disapprove the Conceptual Plans which approval or disapproval shall be within the District's reasonable discretion. In the event the District does not notify Lessee, in writing, that the Conceptual Plans have been disapproved the Conceptual Plans shall be deemed approved by the District.

**4.02.B Submission of Application for Project Approval.** Within twelve (12) months after the District approves the Conceptual Plans (or the Conceptual Plans are deemed approved as provided in Section 4.02.A) Lessee shall submit applications for all necessary approvals to construct the Project including, without limitation the Division of State Architect of the State of California and the City of Santa Maria. If Lessee has not submitted the necessary applications within this time period, the District shall give Lessor a notice to cure requiring the submission of the applications and, if such applications are not submitted, in good faith, within sixty (60) days after the notice to cure, the District, at its sole option, may terminate this Lease.

**4.02.B Approval of Site Work Plan.** Prior to the commencement of any earth movement or grading on the Premises, final plans and specifications for the Site Work on all or a portion of the Premises shall be approved by the District and all applicable government agencies. Following such approvals, all Site Work shall be in substantial conformance with the Approved Site Plan unless the District Consents, in writing, to a modification or amendment. Such consent shall be within District's reasonable discretion.

**4.02.C Approval of Final Construction Plans and Specifications.** Prior to the commencement of any construction on any phase, except for grading which is subject to Sub-article 4.02.B of this Agreement, final plans and specifications for all construction on the Premises shall be approved by the District and all applicable government agencies.

**4.02.D Permits and Other Approvals.** Prior to the commencement of grading on the Premises, Lessee shall provide District with copies of all permits and approvals necessary to commence and complete the grading. Prior to the commencement of any construction on the Premises, other than demolition or grading, Lessee provide District with copies of all permits and other approvals necessary to commence and complete the construction.

**4.02.E Copy of Construction Contracts.** At least the (10) days prior to Commencement of Construction for any contractor, other than subcontractors working under a general contract, including any company in which any member or principal of Lessee holds a financial interest, Lessee shall furnish District with a complete copy of the general contract with the Contractor and District shall have given written approval of each contract which approval shall not be unreasonably withheld and shall be given within forty-five (45) working days after submittal by Lessor.

**4.02.F Surety Bonds.** In the time and manner set forth below, Lessee shall furnish District with a Payment Bond, defined in Section 4.02.F(4), and a Performance Bond, defined in Section 4.02.F (3) , which bonds shall in all respects be satisfactory to the District. Payment Bond and Performance Bond are hereinafter referenced as collectively "the Bonds")

(1) **Site Work.** At least ten (10) business days prior to the commencement of any grading on the Premises, Lessee shall furnish District with (“Bonds”) in an amount equal to one hundred percent (100%) of the Aggregate Construction Contract Price for the proposed work. In the event the Site Work is done in phases, District, within its reasonable discretion, may approve that the amount of the Bonds may be limited to the proposed phase of the Site Work.

(2) **Phases.** At least ten (10) days before the commencement of any work in a phase, other than Site Work which is subject to Section 4.02.F. above, Lessee shall furnish District with Bonds in an amount equal to one hundred percent (100%) of Aggregate Construction Contract Price for the work proposed in that phase.

(3) A corporate surety performance bond issued by a surety company licensed to transact business in the State of California in an amount equal to one hundred percent (100%) of the Aggregate Construction Contract Price of the construction to be performed (**“Performance Bond”**). Said bond and said company shall be in all respects, including amount thereof, satisfactory to District and shall name Lessee as principal, said company as surety, and District as obligees in order to assure full and satisfactory performance by Lessee of any construction in accordance with this Agreement.

(4) A corporate surety bond issued by a surety company licensed to transact business in the State of California with Lessee as principal, said company as surety, and District as obligees. Said bond shall be issued in a sum equal to one hundred percent (100%) of the Aggregate Construction Contract Price, guaranteeing payment for all materials, provisions, provender, supplies, and equipment, used in, upon, for or about the performance of said construction work or for labor done thereon of any kind whatsoever and protecting District from any and all liability, loss or damages arising from failure to make such payment (**“Payment Bond”**).

In the event that construction is performed by a Sublessee or a licensed contractor and either the Sublessee or the contractor(s) furnish a similar bond or bonds in like amount satisfactory to the District in all respects, District, upon application by Lessee and upon the naming of District as additional obligees under such bond or bonds, will accept the Sublessee’s or contractor’s bonds in lieu of the bonds otherwise required under this Sub-article 4.02.E.

**4.02.F Evidence of Construction Financing.** Not less than thirty (30) days prior to Commencement of Construction of any phase, Lessee shall furnish District with a written statement identifying the source(s) of all financing for any construction of that phase. The statement shall set forth the names, addresses and telephone numbers of the parties supplying financing, as well as the amount, financial terms of such financing, and any other data as may reasonably be required by the District. Lessee or Sublessee shall furnish the District with copies of all notes, guarantees, partnership agreements, construction loan agreements, documents creating and/or perfecting security interests, and all documents and exhibits referred to in any of the foregoing, and all recorded financing documents affecting an interest in the Premises within seven (7) business days of such documents becoming effective.

#### **4.03 Manner of Construction.**

**4.03.A General Construction Standards.** All construction, alteration or repair work permitted herein shall be performed in substantial conformance with the Conceptual Plans and the Construction Plans and shall be in conformance with Construction Standards and Specifications attached to this Agreement as **Exhibit F**. Lessee shall not deviate from or modify any part of the Construction Standards and Specifications without the prior written approval of District which approval shall not be unreasonably withheld. If District does not approve a deviation or modification, if requested by Tenant, District shall provide, in writing, a reasonable explanation of the reasons for denial. Nothing in this Article 4.03 shall be construed to require District to approve any deviation to or modification of the Construction Standards and Specifications that would result in a change in the aesthetic quality depicted in the Development Plans or that would result in grading or construction inferior to that required by the Construction Standards and Specifications. Lessee shall take all reasonably necessary measures to minimize any damage, disruption or inconvenience caused by such work and make adequate provision for the safety and convenience of all persons affected thereby. Lessee shall repair, at its own cost and expense, any and all damage caused by such work, and shall restore the area upon which such work is performed to a condition, which is at least equal to or better than the condition that existed prior to the beginning of such work. In addition, Lessee shall pay, or cause to be paid, all costs and expenses associated therewith and shall indemnify, defend and hold District harmless from any and all damages, losses or claims attributable to the performance of such work. Dust, noise and other effects of such work shall be controlled using reasonably accepted methods customarily utilized in order to control such deleterious effects associated with construction projects in a populated or developed area.

**4.03.B Utility Work.** Any work performed by or on behalf of Lessee or any occupant or Sublessee to connect to, repair, relocate, maintain or install any storm drain, sanitary sewer, water line, gas line, telephone conduit or any other public utility service shall be performed so as to minimize interference with the provision of such services to others.

**4.03.C Construction Safeguards.** Lessee shall erect and properly maintain at all times, as required by the conditions and the progress of work performed by Lessee, all necessary safeguards for the protection of workers and the public and as required by Applicable Laws including, without limitation, providing fencing and appropriate safety signage. Upon the Commencement of Construction, Lessee shall be responsible for all safety and security issues related to the Premises, Project and construction activities.

**4.03.D Compliance with Construction Documents and Laws; Issuance of Permits.** All Improvements hereafter constructed on the Premises shall be constructed in substantial compliance with any construction documents approved by District and also in compliance with all applicable local, state and federal laws and regulations. Lessee shall have the sole responsibility of obtaining all necessary permits in connection with such construction and shall make application for such permits directly to the person or governmental agency having jurisdiction.

With regard to any construction activities by Lessee under this Agreement, Lessee acknowledges that approvals given under this Agreement in no way release Lessee from obtaining, at Lessee's expense, all permits, licenses and other approvals required by law for the construction, and operation and other use of such newly constructed facilities on the Premises; and that District's duty to cooperate and District's approvals under this Agreement do not in any

way modify or limit the exercise of District's governmental functions or decisions as distinct from its landlord functions.

**4.03.E Rights of Access.** Representatives of District shall have the right of reasonable access to the Premises, and the Improvements thereon, without charges or fees, provided they first present themselves to Lessee's on-the-job supervisor and furnish reasonable evidence of their identity. At District's sole cost, representatives of the District may visit the construction site during normal construction hours throughout the period of construction for the purpose of ascertaining compliance with the terms of this Agreement, including, but not limited to, the inspection of the construction work being performed. The District shall, from time to time, provide the Lessee with the names of those authorized to perform such inspections. District's access shall be reasonably calculated to minimize interference with Lessee's construction and/or operations. In the event of any emergency, District shall have the right, but not the obligation, to enter the Premises immediately and without notice. District's entry on the Premises during construction shall be subject to reasonable safety procedures established by Lessee or its contractor. Lessee shall not be liable for any injury to any person accessing the Premises on behalf of the District except where such injury is the result of Lessee's gross negligence or willful misconduct.

**4.03.F Notice of Completion.** Upon completion of construction for each phase and within the time required by law, Lessee shall file or cause to be filed in the Official Records of the County of Santa Barbara a notice of completion with respect to the Improvements, and Lessee shall deliver to District, at no cost to District, two (2) sets of cronoflex or mylar final as-built plans and specifications of the Improvements. District, at its sole discretion may agree to accept digital copies of the final as-built plans and specifications.

**4.03.G Construction Schedule.** Lessee, at its sole cost and expense, shall apply for and diligently pursue any and all permits, approvals or other authorizations to allow the construction and use of the Improvements as provided herein. District will reasonably cooperate with Lessee in pursuing these permits, approvals and authorizations by executing those applications necessary or convenient for the construction. Commencement of Construction shall have occurred within twenty-four (24) months after the Rent Commencement Date subject to this Agreement, all construction shall be completed and a notice of completion for the first phase of construction shall be recorded as required by Sub-article 4.03.F, on or before Thirty-Six (36) months after Commencement of Construction.

(1) **Phasing.** The Project may be constructed in phases, subject to the reasonable approval of District. The phases are (i) a maximum of two phases for Site Work; and (ii) a maximum of two phases for the construction of residential units; and (iii) a commercial phase. All Student Suites required by this Lease shall be constructed within the first phase of residential units.

(2) **Phase Timing.** Each phase of Site Work shall be substantially completed within twenty-four (24) months after Commencement of Construction. Each phase of the construction of residential units shall be completed within sixty (60) months after the Commencement of Construction for that phase. All Site Work and construction of residential units shall be completed on or before December 31, 2032.

(3) **Commercial Construction.** The commercial portion of the Project shall not be subject to any limitation on phasing or any time limitation for completion of construction.

**4.04 Protection of District.** Nothing in this Agreement shall be construed as constituting the consent of District, express or implied, to the performance of any labor or the furnishing of any materials or any specific Improvements, alterations of or repairs to the Premises or any part thereof by any contractor, subcontractor, laborer or materialman, nor as giving Lessee or any other person any right, power or authority to act as agent of or to contract for, or permit the rendering of, any services, or the furnishing of any materials, in such manner as would give rise to the filing of mechanics' liens or other claims against the fee of the Premises. Nothing in this Agreement shall be construed as a partnership, joint venture or any other relationship between District and Lessee other than landlord and tenant.

**4.04.A Posting Notices.** District shall have the right to at all reasonable times to post, and keep posted, on the Premises any notices which District may deem necessary for the protection of District and of the Premises and the Improvements thereon from mechanics' liens or other claims. Lessee shall give District ten (10) days prior written notice of the commencement of any work to be done on the Premises to enable District to post such notices.

**4.04.B Prompt Payment.** In addition, Lessee shall make, or cause to be made, prompt payment of all monies due and legally owing to all persons doing any work or furnishing any materials or supplies to Lessee or any of its contractors or subcontractors in connection with the Premises and the Improvements thereon.

**4.04.C Liens; Indemnity.** Lessee shall keep the Premises and any Improvements free and clear of all mechanics' liens and other liens on account of work done for Lessee or persons claiming under it. Lessee agrees to and shall Defend, indemnify and hold District harmless against Claims incurred in defending and all other expenses on account of claims of lien of laborers or materialman or others for work performed or materials or supplies furnished to Lessee or persons claiming under it.

In the event any lien is recorded, Lessee shall, within five (5) business days after receipt of a written demand, furnish the bond described in California Civil Code Section 3143, or successor statute, which results in the removal of such lien from the Premises, or other evidence satisfactory to District that such lien will be paid, removed or discharged as a claim against the Premises.

## **ARTICLE 5. RENT AND OTHER PAYMENTS.**

### **5.01 Payments.**

**5.01.A Rent.** Beginning on the Commencement of Construction and through the Term, Lessee shall pay Rent, in good and sufficient funds, to District for lease of the Premises. The amount of the Rent for each month shall be the greater of (i) the Minimum Monthly Rent; or (ii) the Percentage Rent. The Minimum Monthly Rent shall be due, owing and received by District on or before the first day of each month. Lessee shall determine the

Percentage Rent within ten (10) business days after the last day of each month. To the extent the Percentage Rent for the preceding month is greater than the Minimum Monthly Rent, Lessee shall include such overage in addition to the Minimum Monthly Rent payment made on the first of the next month. Upon the Expiration or Termination of this Agreement, any Percentage Rent exceeding the Minimum Monthly Rent for the preceding month shall be paid to District within thirty (30) days after such Expiration or Termination. Unless otherwise provided herein, Additional Rent shall be paid at the same time and in the same manner as the Minimum Monthly Rent.

**5.01.B Adjustment to Minimum Monthly Rent** As of the first anniversary of the Rent Commencement Date, and as of each anniversary thereafter (each a “**Rent Adjustment Date**”), the Minimum Monthly Rent shall be subject to an annual increase as a result of an increase of the Consumer Price Index (“**CPI**”). The basis for computing each CPI increase shall be the CPI for All Urban Consumers, Los Angeles-Long Beach-Anaheim, All Items (1982–84 = 100), as published by the United States Department of Labor, Bureau of Labor Statistics (“**Index**”).

As of each Rent Adjustment Date, the Minimum Monthly Rent for the forthcoming Rent Year shall be calculated pursuant to this provision to be equal to the Minimum Monthly Rent in effect during the immediately preceding twelve month period (“**Prior Year**”) multiplied by a fraction, the numerator of which shall be equal to the Index published for the first calendar month of such Rent Year, and the denominator of which shall be equal to the Base Index; provided, however, that in no event shall the annually calculated increase in the Minimum Monthly Rent pursuant to this Sub-article 5.01.B. for the forthcoming Rent Year be less than three percent (3%) of the Minimum Monthly Rent for the prior Rent Year. The “**Base Index**” shall be the Index for the month of the Effective Date (or, if the Index is not published for such month, then the Index published for the month closest, but prior to the Effective Date). For the second and each subsequent calculation pursuant to this Sub-article 5.01.B, the “**Base Index**” shall be redefined as the Index published for the first calendar month of the Rent Year for which the Minimum Monthly Rent has last been calculated pursuant to this Sub-article 5.01.B. The Index for the first calendar month of any given Rent Year, if the Index is not published for such month, shall be the Index published for the month closest, but prior to the first calendar month of such Rent Year. If publication of the Index by any governmental or private agency is discontinued or if it is so modified that it does not accurately reflect the changes in consumer prices from one year to another, then the District and Lessee shall use such other index as is then generally recognized and accepted for similar determination of changes in consumer prices. If the index is revised, it shall be converted in accordance with the conversion factor published by the Bureau of Labor Statistics or any other governmental agency then publishing same.

**5.01.C Percentage Rent. Percentage Rent.** In addition to Monthly Minimum Rent and all other sums payable pursuant to this Lease, Lessee shall, throughout the Term, pay to Lessor, Percentage Rent computed for each calendar month, or partial calendar month, by multiplying the Gross Revenue during each such month, or partial month, by three percent (3%), and deducting from the product obtained thereby the installment of Minimum Monthly Rent applicable to such month, or partial month.

**5.01.C.1** Percentage Rent shall be payable as follows: On or before the tenth (10th) day of each calendar month, Tenant shall compute and pay to Lessor the Percentage Rent due for the preceding month, which payment shall be accompanied by a statement of Gross Revenue for such preceding month. Concurrently with the delivery of the annual statement of Gross Revenue to be provided to Lessor pursuant to paragraph 5.01.C.2, Lessee shall calculate the actual amount of Percentage Rent due for such calendar year and the amounts previously paid to Lessor for such calendar year. If Lessee shall have paid Lessor an amount greater than Lessee is required to pay as Percentage Rent for such calendar year, Lessor shall refund the difference to Lessee, or, at Lessor's option, Lessee may credit the amount of overpayment against Lessee's next payment of Minimum Monthly Rent until such credit is reduced to zero. If Lessee shall have paid an amount that is less than the Percentage Rent required, Lessee shall pay Lessor the difference concurrently with delivery of the annual report of Gross Revenue.

**5.01.C.2** Within sixty (60) days after the close of each calendar year during the Term, Lessee shall provide Lessor with statements setting forth Lessee's Gross Revenue for such calendar year, certified by Lessee as being true and correct. In addition to showing the amount of Lessee's Gross Revenue, such statements shall show the amounts, if any, excluded from Gross Revenue under the provisions of Article 1.28 (c). Lessor may, upon ten (10) business days' notice, during reasonable business hours, have Lessee's records of Gross Revenue audited by Lessor's accountant or other consultants, but in no event more than one time per twelve (12)-month period. Lessor's right to audit the Gross Revenue for any calendar year shall expire on the date three (3) years after the close of such calendar year. Lessor shall maintain the confidentiality of all information obtained by Lessor in connection with any audit, except in connection with any litigation or arbitration proceedings between the Parties, and except further that Lessor may divulge such information to a prospective buyer or encumbrancer of the Premises who agrees to maintain the confidentiality of such information. If Lessor's audit uncovers a deficiency in the Percentage Rent paid to Lessor for any period under audit (an "Audit Deficiency"), Lessee shall promptly pay such Audit Deficiency to Lessor with interest on any Audit Deficiency at an annual rate equal to the prime rate as quoted from time to time by the Wall Street Journal plus two percent (2%) and, if such Audit Deficiency is three percent (3%) or more of the Percentage Rent paid to Lessor for such audit period, Lessee shall also reimburse Lessor for the commercially reasonable cost of such audit provided that such audit is performed by a reputable accounting firm and the fee is not on a commission basis. If Lessee disagrees with Lessor's audit findings, the Parties shall appoint a mutually acceptable third party to audit the books of accounts and records and shall accept the findings of such auditor. The costs of such auditor shall be borne by the party whose initial position on commencement of the third-party audit is farthest from the result determined.

**5.01.D** **Late Charge.** The Parties acknowledge that the District will incur administrative costs and fees if any Rent payment is not received when due and further agree that a late charge of five percent (5%) of the amount past due shall be paid to District.



## **ARTICLE 6. OWNERSHIP AND DISPOSITION OF INSTALLATIONS OR IMPROVEMENTS.**

**6.01 Improvements Owned by Lessee During Term.** Lessee shall own all Improvements, constructed by Lessee upon the Premises, and all alterations, additions, or betterments thereto, until the Expiration Date or Termination Date of this Agreement.

**6.02 District's Election to Receive Improvements.** Upon the expiration or termination of this Agreement, all or any part of the Improvements, structures, buildings, alterations, additions, and betterments to the Premises, and any other Improvements made to or upon the Premises, shall remain upon and be surrendered with the Premises as part thereof and title to the Improvements shall vest in District without compensation to Lessee. All Improvements, structures, buildings, alterations and betterments to the Premises shall be returned to the District in good condition, free from any material defects and without significant deferred maintenance. Nothing contained herein shall be construed to deny or abrogate the right of Lessee to remove any personal property or to receive any and all proceeds which are attributable to the taking in eminent domain of business installations, Improvements, structures, and buildings belonging to Lessee prior to the taking of possession by the condemning authority as said rights are set forth in Article 15 of this Agreement.

**6.04 Title to Certain Improvements Passes to District: Lessee to Maintain.** Notwithstanding anything to the contrary herein, title to all utility lines, transformer vaults and all other service facilities owned and transferable by Lessee constructed or installed by Lessee upon the Premises shall vest in District upon construction or installation to the extent not otherwise owned by Lessee. Notwithstanding the foregoing sentence, such utility lines, transformer vaults and all other service facilities, shall be maintained, repaired, and replaced, if necessary, by Lessee, if needed by Lessee during the term hereof.

## **ARTICLE 7. LESSEE DEFAULT AND DISTRICT REMEDIES.**

**7.01 Events of Default.** The following are deemed to be "Events of Default":

**7.01.A Monetary Defaults.** The failure of Lessee to make any Rent payment, including any Minimum Monthly Rent, Percentage Rent or Additional Rent, when due, or make any other payments required under this Agreement within ten (10) business days after written notice from District that said payments, including a late charge, are due and owing.

**7.01.B Failure to Perform Other Obligations.** Failure of Lessee to keep, perform, and observe any and all other promises, covenants, conditions, and agreements set forth in this Agreement within sixty (60) days after written notice of default thereof from District. Where fulfillment of any such promises, covenants, conditions, or agreements requires activity over a period of time, or performance of nonmonetary obligations by a Sublessee and Lessee has commenced to perform whatever may be required to cure the particular default within

such sixty (60) day period, District will not exercise any remedy available to it hereunder so long as Lessee uses reasonable due diligence in continuing to pursue the performance of whatever may be required to cure the default.

**7.01.C Nonuse of Premises.** The abandonment, vacation, or discontinuance of use of the Premises, or any substantial portion thereof, for a period of sixty (60) days at any one time after written notice from District calling attention to such abandonment, except when prevented by fire, earthquake, strikes, or other similar conditions beyond Lessee's control.

**7.02 Limitation on Events of Default.**

**7.02.A Judicial Defaults.** Notwithstanding any other provision of this Agreement, Lessee shall not be considered in default as to any provisions of this Agreement when such default is the result of or pursuant to, any process, order, or decree of any court or regulatory body of competent jurisdiction, provided Lessee uses best efforts in pursuing whatever is required to obtain release from or reversal of such process, order decree.

**7.02.B Noncurable Defaults.** Notwithstanding anything else contained in this Agreement, Lessee shall not be considered in default under the provisions of this Agreement by failing to cure a default, whether or not caused by Lessee, when Lessee has used best efforts in attempting to cure the default and it is physically impossible to do so.

**7.03 District Remedies Upon Default of Lessee.**

**7.03.A Terminate Agreement.** The District may terminate this Agreement by giving Lessee written notice of termination. On the giving of notice, all of Lessee's rights in the Premises and in all Improvements shall terminate. Promptly after notice of termination, Lessee shall surrender and vacate the Premises and all Improvements shall be left in broom-clean condition. District may re-enter and take possession of the Premises and all remaining Improvements and, except as otherwise specifically provided in this Agreement, eject all parties in possession or eject some and not others, or eject none. Termination under this paragraph shall not relieve Lessee from the payment of any sum then due to District or from any claim for damages previously accrued or then accruing against Lessee, or from Lessee's obligation to remove Improvements in accordance with Article 6.

**7.03.B Keep Agreement in Effect.** Without terminating this Agreement, so long as District does not deprive Lessee of legal possession of the Premises, District may bring suit from time to time for Rent and other sums due, and for Lessee's breach of other covenants herein. No act by or on behalf of District under this provision shall constitute a termination of this Agreement unless District gives Lessee written notice of termination. It is the intention of the Parties to incorporate the provisions of California Civil Code Section 1951.4 by means of this provision.

**7.03.C Termination Following Continuance.** Even though it may have kept this Agreement in effect pursuant to Sub-article 7.03.B, thereafter District may elect to

terminate this Agreement and all of Lessee's rights in or to the Premises unless, prior to such termination, Lessee shall have cured the Event of Default or shall have satisfied the provisions of Sub-article 7.02. hereof.

**7.04 Damages.** Should District elect to terminate this Agreement under the provisions of Sub-article 7.03.A or 7.03.C, District shall be entitled to recover from Lessee as damages:

**7.04.A Unpaid Rent.** The worth, at the time of the award, of the unpaid Rent that had been earned at the time of termination of this Agreement;

**7.04.B Post-Termination Rent.** The worth, at the time of the award, of the unpaid Rent that would have been earned under this Agreement after the date of termination of this Agreement until the date Lessee surrenders possession of the Premises to District; and

**7.04.C Other Amounts.** The amounts necessary to compensate District for the sums and other obligations which under the terms of this Agreement become due upon or as a result of the expiration or termination of this Agreement, but not for recurring obligations arising after the date Lessee surrenders possession. By way of example rather than limitation, those amounts would include unpaid taxes, insurance premiums and utilities for the time preceding surrender of possession, the cost of removal of rubble, debris and other Improvements as provided herein, attorneys' fees, and court costs, but would not include any amount designed to compensate District for the loss of rent, taxes or utilities for the period following Lessee's surrender of possession and the cost of reletting. The "worth, at the time of the award, " as used in Sub-articles A and B of this Sub-article 7.04, is to be computed by allowing interest at the maximum legal rate.

**7.05 District's Right to Cure Lessee's Default.** District, at any time after Lessee commits a default, can cure the default at Lessee's cost. If District at any time, by reason of Lessee's default, pays any sum, the sum paid by District shall be due immediately from Lessee to District at the time the sum is paid. To the extent practicable, District shall give any Encumbrance Holders the reasonable opportunity to cure Lessee's default prior to District's cure herein.

## **ARTICLE 8. DISTRICT DEFAULT AND LESSEE REMEDIES.**

**8.01 District Default.** The occurrence of any of the following shall constitute an event of default on the part of District under this Agreement (a "**District Event of Default**"):

**8.01.A Payments to Lessee.** Failure of District to pay, within five (5) days after Notice is given by Lessee to District, any payment which is due Lessee from District in accordance with this Agreement.

**8.01.B Breach of Other Covenants.** District being in breach of or failing to perform, comply with or observe any term, covenant, warranty, condition, agreement or undertaking of District contained in or arising under this Agreement other than those referred to in Sub-article 8.01.A and such failure continuing for a period of thirty (30) days after Notice

thereof is given by Lessee to District; provided, however, that if such breach or failure cannot reasonably be cured within such thirty (30) day period, such thirty (30) day period shall be extended until such cure is complete so long as District diligently and continuously prosecutes such cure.

### **8.01.C Insolvency.**

(1) District making an assignment for the benefit of creditors, filing (or having filed against it) a petition in bankruptcy, petitioning or applying to any tribunal for the appointment of a custodian, receiver or any trustee for it or a substantial part of its assets, or commencing (or having commenced against it) any proceedings under any bankruptcy, reorganization, arrangement, readjustment of debt, dissolution or liquidation law of any jurisdiction, whether now or hereafter in effect, in which an order for relief is entered or which remains undismissed for a period of ninety (90) days or more; or District by any act or omission indicating its consent to, approval of or acquiescence in any such petition, application or proceeding or order for relief or the appointment of a custodian, receiver or any trustee for it or any substantial part of any of its properties, or suffering any such custodianship, receivership or trusteeship to continue undischarged for a period of ninety (90) days or more;

(2) District being generally unable to pay its debts as such debts become due; or

(3) District having concealed, removed or permitted to be concealed or removed any part of its property, with intent to hinder, delay or defraud its creditors or any of them, or making or suffering a transfer of any of its property which may be fraudulent under any bankruptcy, fraudulent conveyance or similar Law; or suffering or permitting, while insolvent, any creditor to obtain a lien upon any of its property through legal proceedings or distraint which is not vacated within ninety (90) days from the date thereof.

**8.02 Lessee's Remedies Upon District Event of Default.** Lessee shall have all rights and remedies available under Applicable Laws or equity for any District Event of Default. Such rights and remedies shall include, without limitation, the right to exercise self-help as set forth in Sub-article 8.05 hereof. No right or remedy conferred on or reserved to Lessee is intended to be exclusive of any other right or remedy in this Agreement, at law or in equity, but each right and remedy shall be cumulative and shall be in addition to any other right or remedy given under this Agreement or now or hereafter existing at law or in equity.

**8.03 Notice and Cure Periods.** District and Lessee acknowledge and agree that no Event of Default or District Event of Default shall have occurred under this Agreement unless and until any and all applicable Notice shall have been given and applicable cure or grace periods shall have expired.

**8.04 No Waivers.** No failure by any Party hereto to insist upon the strict performance of any provision of this Agreement or to exercise any right, power or remedy consequent to any breach thereof, and no waiver of any such breach, or the acceptance of full or partial Rent or other payment during the continuance thereof, shall constitute a waiver of any future breach or of any such provision. No waiver of any breach shall affect or alter this

Agreement, which shall continue in full force and effect, or the rights of any party hereto with respect to any other then existing or subsequent breach.

**8.05 Self-Help.** In case of an Event of Default or a District Event of Default constituting a failure to pay any money or to do any act to satisfy any of the obligations or covenants which a Party is required to pay, do, or satisfy under the provisions of this Agreement, the non-defaulting party may, at its option, after Notice to the defaulting party, pay any or all such sums, do any or all such acts or incur any expense whatsoever to remedy the failure to perform any one or more of the covenants herein contained. The defaulting party shall repay the same on demand, together with interest at the rate provided in Sub-article 17.10 hereof calculated from the date payment is made by the non-defaulting party.

## **ARTICLE 9. MORTGAGEE PROTECTION.**

**9.01 Right to Cure Lessee Default.** Any trustee, beneficiary, mortgagee, or lender under a deed of trust, mortgage, or similar security instrument of the Lessee to which District has given its consent pursuant to Article 10 shall have the right at any time during the term of its encumbrance, and while this Agreement is in full force and effect, to do any act or thing required of Lessee in order to prevent a termination of Lessee's rights hereunder, and all such acts or things so done shall prevent a termination of Lessee's rights hereunder the same as if done by Lessee.

**9.02 Rights Contained in Encumbrance.** An Encumbrance Holder shall also have all the rights with respect to the Premises as set forth in the deed of trust, mortgage, or other lending instrument consented to by the District, including the right to commence an action against the Lessee for the appointment of a receiver and to obtain possession of the Premises under and in accordance with the terms of said deed of trust, mortgage, or other lending instrument.

**9.03 Delay in Exercising Termination Remedy.** District shall not exercise any remedy available upon the occurrence of an Event of Default unless it shall first have given written notice of such default to each and every Encumbrance Holder of Lessee as provided herein. Such notice shall be sent by registered mail or certified mail, return receipt requested, postage prepaid, simultaneously with the notice or notices to Lessee, to each such Encumbrance Holder addressed as shown on the deed of trust, mortgage, or security instrument, or as District shall otherwise be instructed in writing by such Encumbrance Holder. An Encumbrance Holder shall have the right and the power to cure the Event of Default specified in such notice in the manner prescribed below. If such Event(s) of Default are so cured, this Agreement shall remain in full force and effect.

**9.03.A Manner of Mortgagee Curing Default.** Curable Events of Default may be cured by an Encumbrance Holder in the following manner:

(1) If the Event of Default is in the payment of Rent, taxes, insurance premiums, utility charges or any other sum of money, an Encumbrance Holder may pay the same to District or other payee within sixty (60) days after mailing of the aforesaid notice of default to the Encumbrance Holder. If, after any such payment by an Encumbrance

Holder, the Lessee pays the same, or any part thereof to District, District shall promptly refund said payment to such Encumbrance Holder.

(2) If the Event of Default cannot be cured by the payment of money as aforesaid, but is otherwise curable, the default shall be cured:

(a) If an Encumbrance Holder cures, remedies and corrects the default within ten (10) days after the termination of Lessee's cure period as provided in Sub-article 7.01; provided, however, if curing of such default requires activity over a period of time, such default may be cured if within said ten (10) days an Encumbrance Holder commences and thereafter continues to use reasonable due diligence to perform whatever may be required to cure the particular default; in the event that Lessee commences to cure such a default within Lessee's sixty (60) day period and thereafter fails or ceases to pursue the cure with reasonable due diligence, the Encumbrance Holder's ten (10) day period shall commence upon the later of the end of Lessee's sixty (60) day period or the date upon which District notifies the Encumbrance Holder that Lessee has failed or ceased to pursue the cure with reasonable due diligence; or

(b) If during said sixty (60) days, the Encumbrance Holder notifies District of its intent to commence foreclosure, and within sixty (60) days after the mailing of said notice of default, said Encumbrance Holder, (i) actually commences foreclosure proceedings by filing a notice of default or by filing a complaint for judicial foreclosure and prosecutes the same thereafter with reasonable diligence, said sixty (60)-day period shall be extended by the time necessary to complete such foreclosure proceedings, or (ii) if said Encumbrance Holder is prevented from commencing foreclosure by any order, judgment, or decree of any court or regulatory body of competent jurisdiction, and said Encumbrance Holder diligently seeks release from or reversal of said order, judgment or decree, said sixty (60) day period shall be extended by the time necessary to obtain the release from or reversal of said order, judgment or decree and thereafter to complete such foreclosure proceedings. Within thirty-five (35) days after such foreclosure sale and the vesting of title free of redemption in the purchaser thereat, whether or not such purchaser is the Encumbrance Holder, said purchaser shall, as a condition to the completion of such transfer, cure, remedy, or correction of the default, commence and thereafter diligently pursue the performance of the thing or work required to be done to cure, correct, and remedy said default.

**9.03.B Noncurable Defaults.** If a particular Event of Default is impossible to cure, the Encumbrance Holder shall not be obligated to cure the default.

**9.04 Nonmerger.** In the event that an Encumbrance and the Lessee's interest under this Agreement shall at any time become vested in one owner, the lien of the Encumbrance shall not be destroyed or terminated by application of the doctrine of merger. In such a circumstance, for purposes of this Agreement, the applicable time periods and performances required of the party holding both the Lessee's interest and the Encumbrance would be the time periods and performances specified for the Lessee as opposed to an Encumbrance Holder.

**ARTICLE 10. ASSIGNMENTS, TRUST DEED BENEFICIARIES, MORTGAGEES AND SUCCESSORS.**

**10.01 Assignments.** Except as specifically provided in this Article 10, Lessee shall not, without the prior written consent of District, either directly or indirectly give, assign, hypothecate, encumber, transfer, or grant control of this Agreement or any interest, right, or privilege therein, or sublet the whole or any portion of the Premises, or license the use of the same in whole or in part. Any change in ownership of Lessee shall constitute an assignment of Lessee's interest under this Agreement. In addition, for purposes of this provision, the following acts of Lessee shall require the prior written consent of District to be effective: (1) the change in one or more general partners in a Lessee which is a limited partnership, except (a) by death of a general partner and his replacement by a vote of the limited partners or by the remaining general partners, or (b) if any general partner owning more than fifty percent (50%) of the interests of the partnership acquires the interest of another general partner owning fifteen percent (15%) of the interests in the partnership; (2) the sale, assignment, or transfer of fifty percent (50%) or more of the stock in a corporation which owns or is the general partner in a partnership which owns the leasehold. Neither this Agreement nor any interest therein shall be assignable or transferable in proceedings in attachment, garnishment, or execution against Lessee, or in voluntary or involuntary proceedings in bankruptcy or insolvency or receivership taken by or against Lessee, or by any process of law including proceedings under the Bankruptcy Act.

**10.01.A Approval Not Unreasonably Withheld.** District shall not unreasonably withhold its approval of a proposed assignee. It shall not be unreasonable for District to consider the following in deciding whether to approve or disapprove a proposed assignment: the financial terms to the extent, if any, that they may affect the efficient operation or management of the Premises; the financial condition of the proposed assignee; any adverse impact on the Campus or District that may result from the reputation of the proposed assignee; or the management of the Premises by the proposed assignee or the proposed assignee's manager, or any of the foregoing. Nothing herein shall preclude District from considering other reasonable factors.

**10.01.B Procedure.** Requests for approval of any proposed assignment shall be processed in accordance with the procedures set forth in writing by the District and which may be modified.

**10.01.C Involuntary Transfers Prohibited.** Except as otherwise specifically provided in this Agreement, neither this Agreement nor any interest therein shall be assignable or transferable in proceedings in attachment, garnishment, or execution against Lessee, or in voluntary or involuntary proceedings in bankruptcy or insolvency or receivership taken by or against Lessee, or by any process of law including proceedings under the Bankruptcy Act.

**10.02 Terms Binding Upon Successors and Sublessees.** Except as specifically otherwise provided herein, each and all of the provisions, agreements, terms, covenants, and conditions herein contained to be performed, fulfilled, observed, and kept by the Lessee hereunder shall be binding upon the heirs, executors, administrators, successors, and assigns of the Lessee, and all rights, privileges and benefits arising under this Agreement in favor of the Lessee shall be available in favor of its heirs, executors, administrators, successors, and assigns. Notwithstanding the foregoing, no assignment or subletting, by or through Lessee in violation of the provisions of this Agreement shall vest any rights in any such assignee or Sublessee. Any approved assignment of this Agreement shall not release the assignor of all liability arising on or after the effective date of such assignment.

**10.02 No Interest in Fee.** Lessee's right and the rights or an assignee, lender, mortgagor, subtenant or any other person shall be limited solely to the rights created in the Lease and shall not provide any other interest in the Premises or District Property. The security for any mortgage, deed of trust or other security instrument shall not include any rights in the fee interest of the Premises or District Property.

## **ARTICLE 11. TAXES, UTILITIES AND OTHER CHARGES.**

**11.01 Lessee to Pay Taxes.** In addition to the Minimum Monthly Rent and other obligations described herein, Lessee shall pay and discharge as Additional Rent all Taxes. As used herein, the term "**Taxes**" shall include any form of real property, general or special tax, supplemental tax assessed pursuant to Chapter 3.5 commencing with Section 75 of the California Revenue and Taxation Code, gross receipts tax (including any fee, levy, or charge imposed on the gross receipts of District under and measured solely by this Agreement), assessment, license fee, license tax, business license fee, business license tax, commercial rental tax, levy, charge, penalty, tax or similar imposition, imposed by any authority having the direct power to tax, including any city, county, state or federal government or any school, agricultural, lighting, parking, traffic, drainage or other improvement or special assessment district thereof, as against any legal or equitable interest of District or Lessee in the Premises and/or any Lessee Improvements thereon, including, without limitation any tax, fee, levy or charge in substitution, partially or totally, of any tax, fee, levy or charge previously included within the definition of Taxes, it being acknowledged by Lessee and District. Proposition 13 applies to the Premises and taxes, fees, levies and charges may be imposed by governmental agencies for such services as fire protection, street, sidewalk and road maintenance, refuse removal and other governmental services formerly provided without charge to property owners or occupants. Taxes shall also include any increase in taxes resulting from a reassessment of the Premises as a result of a change in ownership or transfer by District and/or any taxes resulting from a change in the law that alters the method by which such taxes are levied. District and Lessee intend that all such new and increased taxes, fees, levies and charges and all similar taxes, fees, levies and charges be included with the definition of Taxes for the purposes of this Agreement. Lessee shall not, however, pay or be responsible for (and the definition of Taxes for purposes of this Agreement shall not include) any taxes, fees, levies or charges imposed on or measured by the income, inheritance, franchise, excess profits, items of tax preference or gross receipts of District (other than a tax, fee, levy or charge imposed on the gross receipts of District under and measured solely by this Agreement). Lessee shall be authorized by the District to receive all property Tax statements directly from the taxing authorities; however, if for any reason, Tax statements or new or supplemental statements are sent to District, District shall immediately provide such statements to Lessee.

**11.02 Timing of Payment of Taxes.** Subject to Lessee's right to pay Taxes in installments as provided below, all payments of Taxes to be made by Lessee pursuant to this Section 11 shall be made before any fine, penalty, interest or costs may be added thereto for non-payment. Lessee shall furnish to District, no later than fifteen (15) days after the date when any Taxes payable by Lessee pursuant to this Agreement would become delinquent, appropriate evidence establishing the payment thereof.



**11.03 Installment Payment.** If by law any Tax is payable or may, at the option of the taxpayer, be paid in installments, Lessee may pay such Tax, together with any accrued interest in the unpaid balance of such Tax, in installments as they become due.

**11.04 District's Right to Cure.** Subject to the provisions of Sub-article 11.06 below, if Lessee, in violation of the provisions of this Agreement, fails to timely pay and discharge any Tax, District may (but shall not be obligated to) pay or discharge it, provided that Lessee shall have failed to pay such Tax within fifteen (15) days after notice from District of District's intention to pay the same. Any amount so paid by District and the amount of all costs, expenses, interest and penalties connected therewith (including reasonable attorneys' fees) shall be payable by Lessee as Additional Rent and shall be reimbursed to District by Lessee on demand, with interest thereon at the rate of ten percent (10%) per year.

**11.05 *Lessee acknowledges that the Premises are and shall continue to be subject to possessory interest taxes, and that such taxes are the responsibility of Lessee. This statement is intended to comply with Section 107.1 of the California Revenue and Taxation Code.***

**11.06 Contesting Taxes and Liens.** Lessee shall have the right to contest the amount or validity of any Tax or lien by appropriate legal proceedings, provided that Lessee protects District, the Premises and all Improvements. This right shall not be deemed or construed in any way as relieving or modifying Lessee's covenants to pay any such Tax or obligation imposed by a lien at the time and in the manner provided in this Article 11. District shall, upon written request and at Lessee's sole cost and expense, join in any such proceedings, if Lessee determines that it shall be necessary or appropriate for District to do so in order for Lessee to properly prosecute such proceedings, or the taxing authority joins District in any proceeding. Lessee hereby agrees to indemnify and defend District from any costs, expenses, and liabilities (including, without limitation, reasonable attorneys' fees) arising from any such proceeding. If the District joins in any such proceedings, absent a request by Lessee to so join, District shall be solely responsible for any and all of District's costs and expenses incurred therewith.

**11.07 Utilities.** As of the Effective Date, Lessee shall be solely responsible for and shall pay all charges for water, sewer, gas, heat, electricity, communication and cable services and all other utilities delivered to the Premises. District shall not be liable in damages or otherwise for any failure or interruption of any utility service, and no such failure or interruption shall entitle Lessee to terminate this Agreement or abate the Rent and other charges hereunder.

## **ARTICLE 12. INSURANCE.**

**12.01 Lessee's Insurance.** Except as otherwise indicated, prior to Lessee's entry on the Premises and at all times during the Term, Lessee shall, at its sole expense, maintain in effect the following policies of insurance related to the Premises and Improvements:

(a) **Liability.** Lessee, at its expense, shall at all times during the Term maintain (or cause to be maintained) in full force comprehensive general liability insurance with not less than \$3,000,000 per occurrence/\$5,000,000 general aggregate covering each of the following: bodily injury, death, or property damage liability per occurrence, general aggregate, personal and advertising injury, products and completed operations, with respect to District,

including liquor law or “dram shop” liability, when liquor or alcoholic beverages are served at the Premises. The policy shall provide for coverage for all costs including, without limitation, fire suppression costs, in the event a fire ignites on or from the Premises and (i) damages surrounding properties; or (ii) requires public or private fire suppression activities. Further, the policy shall provide that its coverage is primary over any other insurance coverage available to District, its successors, assigns, agents and employees.

(b) Casualty Insurance. Lessee, at its expense, shall at all times during the Term maintain (or cause to be maintained) Special Perils Form Property Insurance, including Equipment Breakdown and flood, and excluding earthquake coverage, on the Premises and all alterations, extensions and replacements thereof, for the full replacement cost at the time of the loss, including any increased cost of construction (but excluding foundations and footings) and without reduction for depreciation, of the Premises, naming District as a loss payee as its interest may appear. The determination of the full replacement cost amount shall be adjusted annually to comply with the requirements of the insurer and District. In addition, each policy shall contain inflation guard coverage and a waiver of co-insurance provisions. Lessee hereby releases District from any and all liability for damage or loss to the Premises and all alterations, extensions and replacements thereof, unless such damage or loss is caused by the gross negligence of District, its members, managers, employees, agents or independent contractors, without regard to the amount of insurance proceeds recovered from Lessee’s insurer. The maximum deductible shall be \$25,000 of total insured value unless otherwise consented to by District.

(c) Employer’s Liability. After the completion of the Project, Lessee, at its expense, shall maintain or cause to be maintained continuously in force at all times during the remainder of Term, if Lessee, or any management company managing the Project or any businesses on the Premises, has any employees, Workers’ Compensation Insurance per statutory benefit levels, including Employer’s Liability Insurance, in the minimum amount of \$1,000,000 per accident and \$1,000,000 disease policy limit.

(d) Business Interruption. After the completion of the Project, Lessee, at its expense, shall at all times during the Term maintain business income (loss of Minimum Annual Rent) insurance in amounts sufficient to compensate Lessee for the greater of (i) Gross Revenues for twelve (12) months; or (ii) six (6) months of operating expenses including debt service and rent and containing a 365-day extended period of indemnity endorsement which provides that after the physical loss to any of the Lessee Improvements and personal property has been repaired, the continued loss of income will be insured until such income either returns to the same level it was at prior to the loss, or the expiration twelve (12) months from the date that the Improvements and Lessee’s personal property are repaired or replaced and operations are resumed, whichever first occurs, and notwithstanding that, the policy may expire prior to the end of such period. The amount of coverage shall be adjusted annually to reflect the rents and profits or income payable during the succeeding twelve (12) month period.

(e) Automobile Insurance. If applicable, during the Term, Lessee, at its expense, shall maintain Comprehensive Automobile Liability Insurance including all owned, hired, leased, assigned and non-owned vehicles, with a minimum combined single limit of \$1,000,000 per accident.

(f) Excess Liability. Lessee, at its expense, shall maintain continuously in force at all times during the Term, excess liability insurance in compliance with the following:

(1) Injury/Property Insurance with a minimum limit not less than \$10,000,000 per occurrence and in the aggregate, inclusive, however, of above stated coverages. Such policy also is to provide a “drop down” feature in case the limits of the primary policy are exhausted.

#### **12.01.A Requirements of Lessee’s Policies**

(1) All of the policies required to be maintained in Sub-article 12.01 are collectively referred to as “**Lessee’s Policies**.” Subject to Lessee’s best efforts to procure Lessee’s Policies under the following terms, Lessee shall, as of the Effective Date, deliver to District evidence that said insurance policies have been paid as required above with original certificates signed by an authorized agent of the applicable insurance companies evidencing such insurance satisfactory to District. ACORD form certificates of insurance and endorsements must be delivered to District prior to Lessee’s entry on the Premises. Lessee shall renew all such insurance and deliver to District certificates and ACORD form certificates of all policies and endorsements evidencing such renewals at least thirty (30) days before any such insurance shall expire. Lessee further agrees that each such insurance policy:

(A) shall provide for at least thirty (30) days prior written notice to District prior to cancellation for any reason other than non-payment of premium and at least ten (10) days prior written notice to District prior to any cancellation due to non-payment of premium;

(B) shall contain an endorsement or agreement by the insurer that any loss shall be payable to District in accordance with the terms of such policy notwithstanding any act or negligence of District, Lessee or any other person which might otherwise result in forfeiture of such insurance;

(C) shall waive all rights of subrogation against District;

(D) shall include standard, primary and non-contributory clauses in favor of District;

(E) may be in the form of a blanket policy, provided that, Lessee hereby acknowledges and agrees that failure to pay any portion of the premium therefor which is not allocable to the Improvements and the Premises or any other action not relating to the Improvements and the Premises which would otherwise permit the issuer thereof to cancel the coverage thereof, would require the Improvements and the Premises to be insured by separate, single-property policies and the blanket policy must properly identify and fully protect the Improvements and the Premises as if a separate policy were issued for one hundred percent (100%) of replacement cost of the Improvements at the time of loss and otherwise meet all of District’s applicable insurance requirements set forth in this Sub-article 12.01.A;

(F) shall be carried only with insurance companies licensed

to do business in this state with Best's Insurance Guide Financial Rating of A VIII or better or otherwise acceptable to District. All insurance required of Lessee shall be in a form reasonably satisfactory to District; and

(G) To the extent possible, name the District as an additional insured; and

(H) None of the requirements contained herein as to types and limits of insurance coverage to be maintained by Lessee is intended to and shall not in any manner limit or qualify the liabilities and obligations assumed by Lessee. Notwithstanding requirements in agreements between Lessee and any third parties, District shall have no responsibility for insurance deductibles or self-insured retentions.

**12.02 Contractor Insurance Requirements.** In addition to the insurance set forth above, as of the Commencement of Construction, Lessee's contractors (collectively "**Contractor**") and subcontractors performing any work in or about the Premises shall obtain and maintain, at their expense:

(a) Commercial General Liability insurance for Contractor's construction work written on an occurrence form with policy limits of not less than \$1,000,000 per occurrence/\$2,000,000 general aggregate providing coverage for claims including damages because of bodily injury, sickness or disease, including occupational sickness or disease, and death of any person; personal injury and advertising injury; damage because of physical damage to or distribution of personal property, including loss of use of personal property; and bodily injury or property damage arising out of completed operations.

(b) Automobile Liability covering vehicles owned, and operated by Contractor, with policy limits of no less than \$1,000,000 per accident, for bodily injury, death of any person, and property damage arising out of the ownership, maintenance and use of the motor vehicles.

(c) The Contractor may achieve the required limits and coverage for CGL and Automobile Liability through a combination of primary and excess or umbrella liability insurance, provided such primary and excess or umbrella insurance policies result in the same or greater coverage as the coverage required under Sub-article 12.02, and in no event shall any excess or umbrella liability insurance provide narrower coverage than the primary policy. Any excess policy shall not require exhaustion of the underlying limits only through the actual payment by the underlying insurers.

(d) Workers' Compensation Insurance per statutory benefit levels, including Employer's Liability Insurance, in the minimum amount of \$1,000,000 each accident, \$1,000,000 disease policy limit and \$1,000,000 disease each employee.

(e) If a contractor is required to furnish professional services as part of the work on the Project, the Contractor shall procure Professional Liability insurance covering performance of the professional services, with policy limits of not less than \$1,000,000 per claim/and in the aggregate.

(f) Contractor's policies shall include appropriate endorsements to cover all sub-contractors performing services or work in connection with the Project.

(g) Contractor's policies shall be through insurance companies meeting the Best's rating standard set forth in Section 12.01.A and shall name Lessee and District as additional insureds.

(h) In addition to the contractor's policies required above, Lessee shall require Contractor to carry excess liability coverage in the amount set forth in Sub-article 12.01 or it will otherwise obtain an Owners/Contractors Protective (OCP) liability policy to protect its interests in an amount no less than the excess liability policy to be provided by Lessee per Sub-article 12.01 above, in which case such OCP shall name District as additional insured.

(i) During the period of any construction, renovation or alteration of the Project, Lessee shall further procure a completed value, "**Course of Construction**" insurance policy in non-reporting form covering all construction work for the Project.

**12.03 Waiver of Subrogation.** Lessee (which shall include its Contractors) intend that its property loss risks shall be borne by reasonable insurance carriers to the extent above provided, and Lessee hereby agrees to look solely to, and seek recovery only from, such insurance carriers in the event of a property loss to the extent that such coverage is agreed to be provided hereunder. Lessee hereby waives all rights and claims against District for such losses, and waives all rights of subrogation of such insurers, provided such waiver of subrogation shall not affect the right of the insured to recover thereunder. The insurance policies to be carried by Lessee hereunder shall be endorsed such that the waiver of subrogation shall not affect the right of the insured to recover thereunder, so long as no liability is asserted against District.

**12.04 Periodic Review of Insurance.** Periodically, but not more than once in any five (5)-year period, District may review the type and policy limits of the insurance required herein and, if in the reasonable discretion of District, conditions have changed so that it is prudent to (i) require a type of insurance to address new or changed risks; and/or (ii) increase policy limits to reflect changes in economic conditions including, without limitation, increases in the cost of living or increases or changes in the nature or amount of potential liability arising for Lessee's use and occupancy of the Premises, District may require such changes in the required policies. If District makes such determination within its reasonable discretion, District shall notify Lessee in writing of such change and Lessee shall have thirty (30) business days in which to provide and thereafter maintain insurance of the type and amounts included in District's notice.

## **ARTICLE 13. INDEMNIFICATION.**

**13.01 Lessee's Indemnification.** Lessee does hereby agree to defend, indemnify and hold District, and each of its members, managers, agents and assigns, harmless from and against any and all liability for any injury to or death of any person or persons or any damage to property in any way arising out of or in connection with the condition, use, construction of the Improvements, occupancy of the Premises, or activities of Lessee or Lessee's affiliates, officers, members, managers, executives, attorneys, employees, agents, contractors, successors and assigns and their respective officers, agents, servants, employees, and

independent contractors (collectively, the “**Lessee Affiliates**”) in or about the Premises and from all costs, expenses and liabilities (including, but not limited to, court costs and reasonable attorneys’ fees) incurred by District in connection therewith, excepting, however, (i) any liability arising prior to the Effective Date unless expressly assumed by Lessee hereunder, or (ii) any liability caused by or resulting from the gross negligence or willful misconduct of District.

**13.02 Limitation of District Liability.** Except for District’s express representations or warranties contained in this Agreement, District and District’s Affiliates shall have no liability extending beyond District’s or District’s Affiliates’ interest in the Premises. Moreover, under no circumstances shall District or District’s Affiliates be responsible for any lost profits or other consequential damages that might be incurred by Lessee as a result of District’s (i) breach of this Agreement; (ii) action; or (iii) inaction.

## **ARTICLE 14. MAINTENANCE AND REPAIR OF PREMISES.**

### **14.01 Lessee's Obligations.**

**14.01.A Maintenance and Repair.** Lessee, at its sole cost and expense, expressly agrees to cause the Premises and all Improvements thereon to be maintained in a first-class, safe, clean, properly functioning, attractive, sanitary condition, free from all structural defects, to the satisfaction of District and in compliance with all Applicable Laws. All roofing, plumbing, wiring, paving, HVAC and other physical elements of the Premises and Improvements shall be maintained and repaired according to accepted industry standards for high-quality multi-family dwelling projects. District shall have no obligation whatsoever for any maintenance, repair or other physical condition of the Premises or the Improvements. Lessee shall promptly repair any damage to the Premises or the Improvements. Concurrent with the Effective Date of this Agreement and on each five (5) year anniversary thereafter, Lessee shall submit to District a written plan for the maintenance and repair for the next five-year period to maintain the Premises and the Improvements (“**Maintenance Plan**”). District shall approve or disapprove the Maintenance Plan within forty-five (45) days after receipt. Lessee shall substantially comply with the Maintenance Plan.

**14.01.B Cleanliness and Safety.** Lessee further agrees to provide proper containers for trash and garbage and to keep the Premises, both land and water areas thereof, free and clear of rubbish and litter. Upon reasonable notice to Lessee, District shall have the right to enter upon and inspect the Premises at any time for cleanliness and safety. Lessee shall also, from time to time, make any and all necessary repairs to or replacement of any equipment, structure(s), or other physical Improvements, upon the Premises, in order to comply with any and all regulations, laws or ordinances of the State of California, County of Santa Barbara, or other governmental body, which may be applicable, or as required in writing by the District to Lessee incident to the provisions of this Article 14. Lessee's obligation to maintain and restore is absolute, and is not in any way dependent upon the existence or availability of insurance proceeds except as otherwise provided in this Article 14. Restoration shall be conducted in accordance with Article 4.

**(3)14.01.C Monetary Reserves.** Lessee shall at all times cause to be maintained created and maintained for the development on the Premises, monetary reserves adequate to maintain the Premises and Improvements in the condition required by this

Agreement. The reserves shall be held in a financial institution on terms and conditions reasonably acceptable to District to ensure that the reserves will not be removed from the account or otherwise used for purposes other than the maintenance and repair of the Premises. The parties agree that the DRE requirements for maintaining reserves shall be a guideline to evaluate the adequacy of Lessee's reserves. However, District reserves the right to require financial reserves in excess of the DRE requirements if reasonably necessary to provide adequate assurance the Premises and Improvements are maintained in the manner provided in this Agreement. On or before December 1 of each year, Lessee shall deliver to District evidence, acceptable to District, that reserves have been maintained as required by this Article Sub-article 14.01.C. Any dispute under this Article regarding the amount of the reserves required to be maintained shall be resolved by arbitration as provided in **Article 14.14** of this Lease.

**14.02 Option to Terminate for Uninsured Casualty.** Lessee shall have the option to terminate this Agreement and be relieved of the obligation to restore the Improvements on the Premises where the damage or destruction resulted from a cause which was not required to be insured against and which was not actually fully insured against (such a cause being hereinafter referred to as an "**Uninsured Loss**"), in accordance with this Sub-article 14.02. Lessee may exercise this option only where all of the following occur:

(a) As soon as reasonably practicable following the Uninsured Loss, Lessee shall secure the Premises and all Improvements thereon against trespassers and preclude the occupancy and use by all persons of those portions of the Premises and Improvements thereon which are unsafe or unfit for use.

(b) No more than sixty (60) days following the Uninsured Loss, Lessee shall notify District of its election to terminate this Agreement; to be effective, this notice must include all of the following:

(i) A copy of Lessee's notification to Encumbrance Holders of Lessee's intention to exercise this option to terminate; and

(ii) Lessee's certification under penalty of perjury that Lessee has delivered or mailed such notification to the Encumbrance Holders in accordance with Sub-article 17.09;

(c) No later than sixty (60) days following the Uninsured Loss, Lessee shall, at its expense, deliver to District copies of all reports to or for Lessee by engineers, architects, general contractors and/or other experts engaged for the assessment of the damage to the Improvements located on the Premises and for the estimate of the cost of repair or reconstruction thereof, as well as copies of any financial analysis or appraisal prepared by or for Lessee in connection with the repair or reconstruction of such Improvements or Lessee's decision regarding termination of this Agreement.

(d) No more than sixty (60) days following the giving of the casualty termination notice, or such longer time as may be reasonably necessary, Lessee shall, at Lessee's expense: 1) remove all debris and other rubble from the Premises and Improvements located thereon; 2) continue to secure the Premises and Improvements located thereon against

trespassers; and 3) preclude the occupancy and use of those portions of the Premises and Improvements which are unsafe or unfit for use. At District's election, Lessee shall remove all remaining Improvements on the Premises. The obligations in this Sub-article 14.02 shall be personal obligations of Lessee and shall survive the termination of this Agreement.

(e) No more than sixty (60) days following the Uninsured Loss, Lessee shall deliver to District a quitclaim deed to the Premises, in recordable form, which, absent this Agreement being kept in full force under this Agreement, terminates the leasehold estate under this Agreement free and clear of any and all Encumbrances and Subleases. This quitclaim deed shall be cancelled and destroyed if termination of this Agreement is prevented under the Agreement.

(f) Termination is not delayed or prevented in accordance with this Agreement.

(g) In the event that Lessee commences restoration following an Uninsured Loss, and during the restoration process discovers a condition which has a material negative impact on the feasibility of completing the restoration, then Lessee shall have a revived option to terminate this Agreement as follows:

(i) The condition also must not have been actually known to Lessee or discoverable by Lessee through reasonable investigation prior to the commencement of restoration.

(ii) Lessee shall send District a casualty termination notice identifying the previously unknown condition within thirty (30) days of Lessee's discovery of such condition, together with any new reports and information of the type set forth in Sub-article 14.02(3). With the exception of the shorter time period contained in the preceding sentence, the provisions of Sub-articles 12.02. (1) through (6), both inclusive, shall apply to the new casualty termination notice.

**14.02.A Option to Terminate for Insured Casualty.** Lessee shall have the option to terminate this Agreement and be relieved of the obligation to restore the Improvements on the Premises where the damage or destruction resulted from a cause required to be insured against by this Agreement (an "**Insured Casualty**"), where all of the following occur:

(1) No more than sixty (60) days following the insured loss, Lessee notifies District of its election to terminate this Agreement and within one hundred eighty (180) days thereafter delivers to District all proceeds owed by the insurer to Lessee; such obligations to District in this Sub-article 14.02.A(1) and those in Sub-article 14.02.B(2) shall survive the termination of this Agreement;

(2) No more than sixty (60) days following the loss, Lessee delivers to District a quitclaim deed to the Premises, in recordable form, terminating the leasehold estate free and clear of any and all Encumbrances and Subleases; and

(3) The Insured Casualty occurs within the last ten (10) years



of the Term.

**14.02.B Effect of Failure to Restore Where Agreement Not Terminated.** In the event that this Agreement is not terminated in accordance with Sub-article 14.02. following an Uninsured Loss, the provisions of this Sub-article 14.02.B shall apply.

(1) Lessee shall be obligated to restore the Improvements on the Premises and perform all other obligations contained in this Agreement; provided, however, that if such termination is prevented by the operation of this Agreement, then Lessee's liability shall be limited to that liability which Lessee would have had if termination had occurred and the Lessee's assignee shall have the obligation to restore the Improvements on the Premises and perform all other obligations contained in this Agreement.

(2) The subsequent failure to complete restoration of the Improvements shall be an Event of Default under this Agreement, and the cost of such restoration shall be an additional item of recoverable damages under Article 7 from the party who is responsible for such restoration under the terms of Article 14.

**14.03 District's Right to Make Repairs.** District shall have no obligation whatsoever to make any repairs or perform any maintenance on the Premises.

**14.03.A Repairs Not Performed by Lessee.** If Lessee fails to make any repairs or replacements as required by this Agreement, District may notify Lessee of said default in writing, and should Lessee fail to cure said default and make repairs or replacements within a reasonable time as established by District, District may make such repairs or replacements and the cost thereof, including; but not limited to, the cost of labor, materials and equipment, shall be charged against Lessee and shall become a part of the rent for the period next following the period of default, or at District's sole discretion, the same may be prorated over a period of time to be determined by District.

**14.03.B Other Repairs.** District may at its own cost and at its sole discretion do any necessary filling, grading, slope protecting, or repair of water system, sewer facilities, roads, or other District facilities in order to protect the Premises or the adjoining premises.

**14.04 Notice of Damage.** Lessee shall give prompt notice to District of any fire or damage that may occur from any cause whatsoever. Lessee shall keep and maintain the Premises and all Improvements of any kind which may be erected, installed or made thereon by Lessee in good and substantial repair and condition, including painting, and shall make all necessary repairs and alterations thereto, except as otherwise provided in Article 14.

**14.05 Waiver of Civil Code Rights.** The parties' rights shall be governed by this Agreement in the event of damage or destruction. The parties hereby waive the provisions of California Civil Code Section 1932 and any other provisions of law that provide for contrary or additional rights.

## **ARTICLE 15. CONDEMNATION.**

**15.01 Definitions.**

**15.01.A Condemnation.** "Condemnation" means (1) the exercise of any governmental power of eminent domain, other than District, whether by legal proceedings or otherwise, by a condemnor, and (2) a voluntary sale or transfer to any condemnor, either under threat of condemnation or while legal proceedings for condemnation are pending.

**15.01.B Date of Taking.** "Date of Taking" means the date the condemnor has the right to possession of the Premises being condemned.

**15.01.C Award.** "Award" means all compensation, sums or anything of value awarded, paid or received on a total or partial condemnation.

**15.01.D Condemnor.** "Condemnor" means any public or quasi-public authority, or private corporation or individual, having the power of condemnation.

**15.02 Parties' Rights and Obligations to be Governed by Agreement.** If, during the Term of this Agreement, there is any taking of all or any part of the Premises, any Improvements on the Premises or any interest in this Agreement by Condemnation, the rights and obligations of the Parties shall be determined pursuant to the provisions of this Article 15.

**15.03 Total Taking.** If the Premises are totally taken by Condemnation, this Agreement shall terminate on the Date of Taking.

**15.04 Effect of Partial Taking.** If any portion of the Premises or the Improvements thereon are taken by Condemnation, this Agreement shall remain in effect, except that Lessee may elect to terminate this Agreement if the remaining portion of the Premises are rendered unsuitable (as defined herein) for Lessee's continued use. The remaining portion of the Premises shall be deemed unsuitable for Lessee's continued use if, following a reasonable amount of reconstruction, Lessee's business on the Premises could not be operated at an economically feasible level.

**15.04.A Exercise of Election to Terminate.** Lessee may exercise this option only where all of the following occur:

(1) As soon as reasonably practicable following the taking, Lessee shall secure the Premises and Improvements located thereon against trespassers and preclude the occupancy and use of those portions of the Premises and Improvements located thereon which are unsafe or unfit for use.

(2) No more than ninety (90) days after the nature and extent of the taking have been finally determined, Lessee shall notify District of its election to terminate this Agreement. Such notice shall also specify the date of termination, which shall not be prior to the date of taking. To be effective, this notice must include all of the following:

(a) A copy of Lessee's notification to the Encumbrance Holders of Lessee's intention to exercise this option to terminate; and

(b) Lessee's certification under penalty of perjury that Lessee has delivered or mailed such notification to the Encumbrance Holders in accordance with Sub-article 17.09;

Notice complying with this Sub-article 15.04.A(2) is hereinafter called a "**Condemnation Termination Notice.**" District shall be entitled to rely upon the foregoing notice and certification as conclusive evidence that Lessee has notified all of the above-named parties regarding Lessee's desire to terminate this Agreement. District shall have no responsibility to determine if Lessee sent notice to any other person, party or entity.

(3) Concurrently with the Condemnation Termination Notice, Lessee shall, at its expense, deliver to District copies of all reports to or for Lessee by engineers, architects, general contractors and/or other experts engaged for the assessment of the damage to the Premises and for the estimation of the cost of repair or reconstruction, as well as copies of any financial analysis or appraisal prepared by or for Lessee in connection with the repair or reconstruction of the Premises or Lessee's decision regarding termination of this Agreement.

(4) As soon as reasonably possible, Lessee shall, at Lessee's expense and at District's election, remove all remaining Improvements on the Premises. Such obligations shall be personal obligations of the Lessee and survive the termination of this Agreement .

(5) Concurrently with the Condemnation Termination Notice, Lessee delivers to District a quitclaim deed to the Premises, in recordable form, terminating the leasehold estate free and clear of any and all Encumbrances and Subleases. This quitclaim deed shall be cancelled and destroyed if termination of this Agreement is prevented under its terms.

(6) Termination is not delayed or prevented in accordance with this Agreement.

**15.04.B Agreement Continues in Absence of Exercise.** In the absence of termination of this Agreement in accordance with Sub-article 15.04.A, then Lessee shall be obligated to restore the Improvements, at its expense, on the Premises as nearly as possible to its value, condition and character immediately prior to such taking whether or not the Awards or payments, if any, on account of such taking shall be sufficient for the purpose, and perform all other obligations contained in this Agreement. Rent, however, shall be abated pursuant to Sub-article 15.05, below. In case of a taking for temporary use, Lessee shall not be required to effect restoration until such taking is terminated.

**15.04.C Failure to Restore When Agreement Not Terminated.** In the event this Agreement is not terminated in accordance with Sub-article 15.04.A following a partial condemnation, then the provisions of this Sub-article 15.04.C shall apply.

(1) If termination is prevented by the terms of this Agreement, then Lessee's liability shall be limited to that liability which Lessee would have had if termination had occurred and the Lessee's assignee shall have the obligation to restore

the Improvements on the Premises and perform all other obligations contained in this Agreement.

(2) District shall not exercise its remedy of terminating this Agreement for Lessee's failure to restore the Improvements on the Premises (as opposed to any Assignee's failure to restore) following a partial condemnation unless it shall first have given written notice of such default to the Lessee and the Encumbrance Holders. Such notices shall be sent to the addresses given in such report, by the means provided for in Sub-article 17.09.

**15.05 Effect of Partial Taking on Rent.** If any portion of the Premises is taken by Condemnation and this Agreement remains in full force and effect as to the portion of the Premises not so taken, the Rent shall be reduced as of the Date of Taking in the same proportion that the Fair Market Value of the portion of the Premises taken bears to the Fair Market Value of the entire Premises immediately prior to the taking. All other obligations of the Lessee under this Agreement shall remain in full force and effect.

**15.06 Waiver of Code of Civil Procedure Section 1265.130.** Each Party waives the provisions of California Code of Civil Procedure Section 1265.130 allowing either Party to petition the Superior Court to terminate this Agreement in the event of a partial taking of the Premises.

**15.07 Award.** Awards and other payments on account of a taking, less, costs, fees and expenses incurred in the collection thereof ("**Net Awards and Payments**"), shall be applied as follows:

**15.07.A Partial Taking Without Termination.** Net Awards and Payments received on account of a partial taking, which does not result in the termination of this Agreement or a taking for temporary use shall be held by District and applied as follows:

First, to pay the cost of restoration of the Premises;

Second, the balance, if any, shall be divided between District and Lessee pro rata, as nearly as practicable, based upon (1) the then value of District's interest in the Premises (including its interest hereunder) and (2) the then value of Lessee's interest in the remainder of the Term of this Agreement excluding Bonus Value (for such purposes, the Term of this Agreement shall not be deemed to have terminated even if Lessee so elects under Article 15.04);

Third, in case of such a partial taking, Lessee shall furnish to District and any Encumbrance Holder evidence satisfactory to District and the Encumbrance Holder of the total cost of the restoration.

**15.07.B Taking for Temporary Use.** Net Awards and Payments received on account of a taking for temporary use shall be paid to Lessee; provided, however, that if any portion of any such award or payment is paid by the Condemnor by reason of any damage to or destruction of the Improvements, such portion shall be held and applied as provided in the first sentence of Sub-article 15.07.A above.

**15.07.C Total Taking and Partial Taking with Termination.** Net Awards and Payments received on account of a total taking or a partial taking which results in the termination of this Agreement shall be allocated as follows:

First, there shall be paid to Encumbrance Holders an amount equal to the sum of any unpaid principal amount of any Encumbrance secured by the Premises plus any costs, expenses and other sums due under the loan documents, if any, and any interest accrued thereon, all as of the date on which such payment is made;

Second, there shall be paid to Lessee an amount equal to the value of the Lessee's interest in the remainder of the term of this Agreement, including the value of the ownership interest in and use of the Improvements constructed on the Premises, determined as of the date of such taking over the amount paid to Encumbrance Holders under the preceding paragraph (for such purposes, the Term shall not be deemed to have terminated even if Lessee so elects under Article 15.04). Lessee shall not be entitled to any compensation based upon the difference between the then fair market rent of the Premises and the rent actually being paid pursuant to this Agreement ("**Bonus Value**"); and

Third, the balance shall be paid to District.

## **ARTICLE 16. TITLE AND WARRANTIES.**

**16.01 AS IS Agreement** . Lessee acknowledges that, except with respect to and subject to any representations and warranties of District provided in this Agreement, Lessee shall lease the Premises "AS IS" and in its present conditions, status and state of repair, including without limitation, all matters disclosed by District and any latent defects and other matters not detected in Lessee's inspections. Lessee acknowledges that except for the representations made by District contained in this Agreement, District has made no representation or warranty, express or implied, as to the Premises or as to value, condition, state of maintenance or repair, fitness for use, state of title, access, availability of utilities, capacity for development, compliance with laws (including without limitation building codes, safety codes, zoning laws and ordinances, and environmental laws), water availability, agricultural or other conservation restrictions of the Premises.

**16.02 District's Representations and Warranties.** District makes no representations or warranties of any kind whether express or implied, concerning the Premises except as follows:

(a) District owns fee title to the Premises subject to that certain preliminary title report, dated as of [REDACTED] ("**Title Report**"), and those matters affecting title to the Premises created by acts of Lessee. Production of the Title Report shall be at Lessee's expense.

(b) This Agreement has been duly authorized by all necessary official action on District's part.

(c) District has the right to make this Agreement and the making thereof does not constitute a default under any agreement to which District is a party nor under any instrument affecting title to the Premises.

(d) Full and complete possession of the Premises, subject to the rights of Existing Lessees, shall be tendered to Lessee by District concurrently with the Effective Date.

(e) To District's actual knowledge as of the Effective Date, there are no condemnation or eminent domain proceedings pending, threatened, or contemplated, against the Premises, or any part thereof. District has not received any notice, oral or written, of the desire of any public authority or other entity to take or use the Premises, or any part thereof. To District's actual knowledge, as of the Effective Date, no moratorium or other Applicable Laws, judgment, ruling or decree of any court or governmental agency has been enacted, adopted, issued, entered, or is pending or in effect, that could materially and adversely affect the Premises or Lessee's ability to develop and operate the Premises for Project related purposes.

(f) To District's actual knowledge, there is no litigation or proceeding pending or against District, nor has District been served with any notice of litigation or, to District's knowledge, has any person threatened to file a proceeding or litigation against or relating to the Premises or any part thereof.

(g) During the Term, Lessee shall have the quiet enjoyment and uninterrupted right of use and possession of the Premises free from interference by District or anyone claiming by, through or under District, subject to the rights of the Existing Lessees.

(h) OFAC Compliance. As of the Effective Date, District is not, and shall not become, a person or entity with whom Lessee is prohibited or restricted from doing business under any Applicable Law, including, without limitation, Executive Order No. 13224 and the List of Specially Designated Nationals and Blocked Persons promulgated by the Department of the Treasury Office of Foreign Assets Control (such Laws collectively, as amended, modified or supplemented from time to time, the "**Terrorism Laws**"). District consents, acknowledges and agrees that Lessee may take any necessary or appropriate action under the Terrorism Laws.

**16.03 Lessee's Representation and Warranties.** Lessee represents and warrants that:

(a) Lessee is a limited liability company in good standing, duly formed and validly existing under the Laws of the State of California. Lessee has the authority and power to enter into this Agreement and to consummate the transaction provided for herein. This Agreement and all other documents executed and delivered by Lessee constitute legal, valid, binding and enforceable obligations of Lessee. There are no claims or defenses, personal or otherwise, or offsets whatsoever to the enforceability or validity of this Agreement. The person executing this Agreement on behalf of Lessee has been duly authorized to do so.

(b) The execution, delivery and performance by Lessee of its obligations under this Agreement will not conflict with or result in a breach of any Applicable Laws, judgment, decree or order by which Lessee is bound, or any contract or other agreement to which Lessee is a party or by which Lessee is bound, or Lessee's certificate of incorporation or bylaws.

(c) **OFAC Compliance.** As of the Effective Date Lessee is not, and shall not become, a person or entity with whom District is prohibited or restricted from doing business under any Law, including, without limitation, the Terrorism Laws. Lessee consents, acknowledges and agrees that District may take any necessary or appropriate action under the Terrorism Laws.

## **ARTICLE 17. MISCELLANEOUS.**

**17.01 Quiet Enjoyment.** Lessee, upon performing its obligations hereunder, shall have the quiet and undisturbed possession of the Premises throughout the Term of this Agreement, subject, however, to the terms of Article 4.

**17.02 Time.** Except as specifically otherwise provided in this Agreement, time is of the essence of this Agreement and applies to all times, restrictions, conditions, and limitations contained herein.

**17.03 No District Representations and Warranties.** District makes not representations or warranties of whatsoever character or kind, whether express or implied with respect to the Premises including, without limitation, the condition of the Premises, the suitability of the Premises for any specific conditions, the number of Student Units that will be required by District or the likelihood of any governmental actions or approvals with respect to the Project. Lessee enters this Agreement solely based on its own investigation and study and is not relying on any statement, representation, information or warranty provided by District.

**17.04 Holding Over Creates Month-to-Month Tenancy.** If Lessee holds over after the expiration of this Agreement for any cause, such holding over shall be deemed to be a tenancy from month-to-month only, at the same rental per month and upon the same terms, conditions, restrictions and provisions as herein contained.

Such holding over shall include any time employed by Lessee to remove machines, appliances and other equipment during the time periods herein provided for such removal.

**17.05 Waiver of Conditions or Covenants.** Except as stated in writing by the District to the contrary, any waiver by District of any breach of any one or more of the covenants, conditions, terms, and agreements of this Agreement shall not be construed to be a waiver of any subsequent or other breach of the same or of any other covenant, condition, term, or agreement of this Agreement, nor shall failure on the part of District to require exact full and complete compliance with any of the covenants, conditions, terms, or agreements of this Agreement be construed as in any manner changing the terms hereof or estopping District from enforcing the full provisions hereof, nor shall the terms of this Agreement be changed or altered in any manner whatsoever other than by written agreement of District and Lessee. No delay, failure, or omission of District to re-enter the Premises or to exercise any right, power, privilege, or option, arising from any default, nor any subsequent acceptance of rent then or thereafter accrued shall impair any such right, power, privilege, or option or to be construed as a waiver of or acquiescence in such default or as a relinquishment of any right. No notice to Lessee shall be required to, restore or revive "time of the essence" after the waiver by District of any default. No

option, right, power, remedy, or privilege of District shall be construed as being exhausted by the exercise thereof in one or more instances.

**17.06 Remedies Cumulative.** The rights, powers, options, and remedies given District by this agreement shall be cumulative, except as otherwise specifically provided for in this Agreement.

**17.07 Right of Entry.** In any and all cases in which provision is made herein for termination of this Agreement, or for exercise by District of right of entry or re-entry upon the Premises, or in case of abandonment or vacation of the Premises by Lessee, Lessee hereby irrevocably appoints District the agent of Lessee to enter upon the Premises and remove any and all persons and property whatsoever situated upon the Premises and place all or any portion of said property, except such property as may be forfeited to District, in storage for the account of and at the expense of Lessee.

Lessee hereby exempts and agrees to save harmless District from any cost, loss or damage arising out of or caused by any such entry or re-entry upon the Premises and the removal of persons and property and storage of such property by District and its agents.

**17.08 Place of Payment and Filing.** All rentals shall be paid to and all statements and reports herein required shall be filed with the District. Checks, drafts, and money orders shall be made payable to the District.

**17.09 Service of Written-Notice or Process.** Any notice required to be sent under this Agreement shall be sent in compliance with and subject to this Sub-article 17.09. If Lessee is not a resident of the State of California, or is an association or partnership without a member or partner resident of said State, or is a foreign corporation, Lessee shall file with District a designation of a natural person residing in the County of Santa Barbara, State of California, giving his name, residence, and business address, as the agent of Lessee for the service of written notice or for service of process in any court action between Lessee and District, arising out of or based upon this Agreement, and the delivery to such agent of written notice or a copy of any process in such action shall constitute a valid service upon Lessee.

If for any reason service of such written notice or of such process upon such agent is not possible, then Lessee may be personally served with such written notice or process outside of the State of California and such service shall constitute valid service upon Lessee; and it is further expressly agreed that Lessee is amenable to such process and submits to the jurisdiction of the court so acquired and waives any and all objection and protest thereto.

Written notice addressed to Lessee at the Premises above-described, or to such other address that Lessee may in writing file with District, shall be deemed sufficient if said notice is delivered personally or, provided in all cases there is a return receipt requested and postage or other delivery charges prepaid, by registered or certified mail, Federal Express or DHL, or such other services as Lessee and District mutually agree upon from time to time and, concurrently, notice shall be delivered in the same manner to Lessee's attorney at the address that Lessee files from time to time, in writing, with District. Each notice shall be deemed received and the time period for which a response to any such notice must be given or any action taken with respect thereto, including cure of any prospective Event of Default, shall commence to run from the date of actual receipt of the notice by the addressee thereof in the case of personal delivery, or upon the expiration of the fifth (5th)



business day after such notice is sent from within the United States in the case of such other method of delivery as authorized in this section.

Copies of any written notice to Lessee shall also be simultaneously sent by any method provided in the previous paragraph to any Encumbrance Holder of which District has been given written notice and an address for service. Notice given to Lessee as provided for herein shall be effective as to Lessee notwithstanding the failure to send a copy to such Encumbrance Holder or any Sublessee.

As of the date of execution hereof, the persons authorized to receive notice on behalf of District and Lessee are as follows:

DISTRICT: Allan Hancock Joint Community College District  
Attn:  
[Address]  
[Address]

With a copy to: Adamski Moroski Madden & Green LLP  
Attn: Thomas D. Green, Esq.  
6633 Bay Laurel Place  
Avila Beach, CA 93424

LESSEE: Vernon Property Group, LLC  
Attn:  
[Address]  
[Address]

With a copy to: Reicker Pfau Pyle & McRoy, LLP  
Attn: Robert Forouzandeh, Esq.  
1421 State Street, Suite B  
Santa Barbara, CA 93101

**17.10 Interest.** In any situation where District has advanced sums on behalf of Lessee pursuant to this Agreement, such sums shall be due and payable immediately upon demand. If not paid in full within fifteen (15) days of written demand, the unpaid amounts shall bear interest at the rate of fifteen percent (15%) annually from the date such sums were first advanced until the time repayment is received. In setting this default rate of interest, the Parties do not intend to violate any usury laws.

**17.11 Captions.** The captions contained in this Agreement are for informational purposes only and are not to be used to interpret or explain the particular provisions of this Agreement.

**17.12 Attorneys' Fees.** In the event of any action or proceeding to enforce this Agreement, the prevailing party shall be entitled, in addition to all other relief, to recover its costs and attorneys' fees. In the event District is represented by the District Counsel, the court shall award reasonable attorneys' fees.

**17.13 Time for Approvals.** Except where a different time period is specifically provided for in this Agreement, whenever in this Agreement the approval of the District, is required, approval or disapproval shall be given by District within forty-five (45) days from the date of the receipt for the request for approval, and approval shall be deemed given unless prior to such forty-five (45) days District either (a) disapproves such request, or (b) notifies Lessee that it is not reasonably possible to complete such review within the forty-five (45)-day period, provides a brief statement as to the reasons therefor, and provides a final date for approval or disapproval by District (the "**Extended Time**"). If District does not act within such Extended Time, the approval shall be deemed given. The time limits in this Sub-article 17.13 shall not apply unless the particular approval is requested upon a written notice sent in accordance with Sub-article 17.09, which bears the following caption in all capital letters:

**“NOTICE. THIS IS A NOTICE UNDER ARTICLE 17.13 OF THE DEVELOPMENT AND LEASE AGREEMENT BETWEEN ALLEN HANCOCK JOINT COMMUNITY COLLEGE DISTRICT AND VERNON PROPERTY GROUP. FAILURE OF THE DISTRICT TO RESPOND TO THIS REQUEST WITHIN FORTY-FIVE (45) DAYS WILL BE DEEMED APPROVAL.**

**17.14 Estoppel Certificates.** Each Party agrees to execute, within ten (10) business days of the receipt of a written request therefor from the other Party, a certificate stating: that the Agreement is in full force and effect and is unmodified (or stating the contrary, if true);and that, to the best knowledge of such party, the other party is not then in default under the terms of this Agreement (or stating the grounds for default if such be the case). Prospective purchasers and lenders may rely on such statements. In addition, Lessee agrees within ten (10) days after written request by District, to execute a Subordination, Non-Disturbance, and Attornment agreement in the form requested by District’s lender.

**17.15 Memorandum of Agreement.** Concurrently with the execution of this Agreement, the parties shall execute and record in the office of the Santa Barbara County Recorder the Memorandum of Agreement, a copy of which is attached hereto and incorporated herein as **Exhibit G.**

**17.16 Indemnity Obligations.** Wherever in this Agreement there is an obligation to indemnify or hold harmless, irrespective of whether or not the obligation so specifies, it shall include the obligation to defend and pay reasonable attorneys fees and court costs.

**17.17 Parties Represented by Consultants, Counsel.** Both District and Lessee have entered this Agreement following advice from independent financial consultants and legal counsel of their own choosing. This document is the result of combined efforts of both Parties and their consultants and attorneys. Thus, any rule of law or construction which provides that ambiguity in a term or provision shall be construed against the draftsman shall not apply to this Agreement.

**17.18 Governing Law.** This Agreement shall be governed by and interpreted in accordance with the laws of the State of California. Venue for any actions arising under this Agreement shall be the County of Santa Barbara.

#### **ARTICLE 18. PERSONAL GUARANTEES.**

**18.01** In lieu of providing a security deposit under this Agreement, Lessee shall provide personal guaranties from Bradley Vernon and Brett Vernon, jointly and severally, guarantying the full performance of all terms and conditions under this Agreement including, without limitation the construction of all Improvements and completion of the Project, up to one million dollars (\$1,000,000) (“**Personal Guarantees**”). These Personal Guarantees shall be in the form attached hereto as **Exhibit H** and shall remain in full force and effect for two (2) years after at least (i) 180 units are substantially complete and ready for occupancy; and (ii) all Student Suites are substantially complete and ready for occupancy.

**18.02** Two (2) years after at least (i) 180 units are substantially complete and ready for occupancy; and (ii) all Student Suites are substantially complete and ready for occupancy, the Personal Guarantees required by Sub-article 18.01 shall be limited, to only provide for the guarantees of: (i) two years Minimum Monthly Rent; and (ii) all other Rent and financial obligations required of Lessee by this Agreement for a period of two years.

#### **ARTICLE 19. FORCE MAJEURE.**

Except as otherwise expressly provided in this Agreement, if the performance of any act required by this Agreement to be performed by either District or Lessee is prevented or delayed by reason of any act of God, strike, lockout, labor trouble, inability to secure materials, restrictive governmental laws or regulations, or any other cause (except financial inability) not the fault of the party required to perform the act, the time for performance of the act will be extended for a period equivalent to the period of delay and performance of the act during the period of delay will be excused. However, nothing contained in this Article 19 shall excuse the prompt payment of Rent by Lessee as required by this Agreement or the performance of any act rendered difficult or impossible solely because of the financial condition of the party required to perform the act. Notwithstanding anything to the contrary in this Article 19, the time for performance shall not be extended due to the failure of or delay by a governmental agency to consider, issue or approve any permits, approvals or authorizations required for the development of the Premises as provided in this Agreement. An endemic, pandemic or other circumstances resulting from public concern, restrictions or limitation arising from disease or contagion shall not be a force majeure event under this Article 19 unless governmental regulations or actions prohibit activities which are required for the performance of this Agreement and only to for the period such activities are so prohibited.

#### **ARTICLE 20. NON-DISCRIMINATION.**

There shall be no discrimination against or segregation of any person or group of persons on account of race, religion, sex, sexual orientation, national origin, age, physical, mental or economic status in the construction, operation, lease sublease, use, occupancy, tenure or enjoyment of the Premises or the Improvements thereon or any part thereof and neither Lessee nor any person claiming under or through Lessee, shall establish or permit any such practice of

discrimination or segregation with reference to the construction of the Improvements or the selection, location, number, use or occupancy of employees, contractors, subcontractors, laborers, or materialmen, tenants, lessees, subtenants, sublessee, invitees or vendees of the Premises or the Improvements thereon or any part thereof.

*[Remainder of Page Left Intentionally Blank]*

**IN WITNESS WHEREOF**, District and Lessee have executed this Agreement as of the Effective Date.

**"DISTRICT"**

**"LESSEE"**

ALLAN HANCOCK JOINT COMMUNITY  
COLLEGE DISTRICT

VERNON PROPERTY GROUP, LLC

By: \_\_\_\_\_

By: \_\_\_\_\_

Name: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Title: \_\_\_\_\_

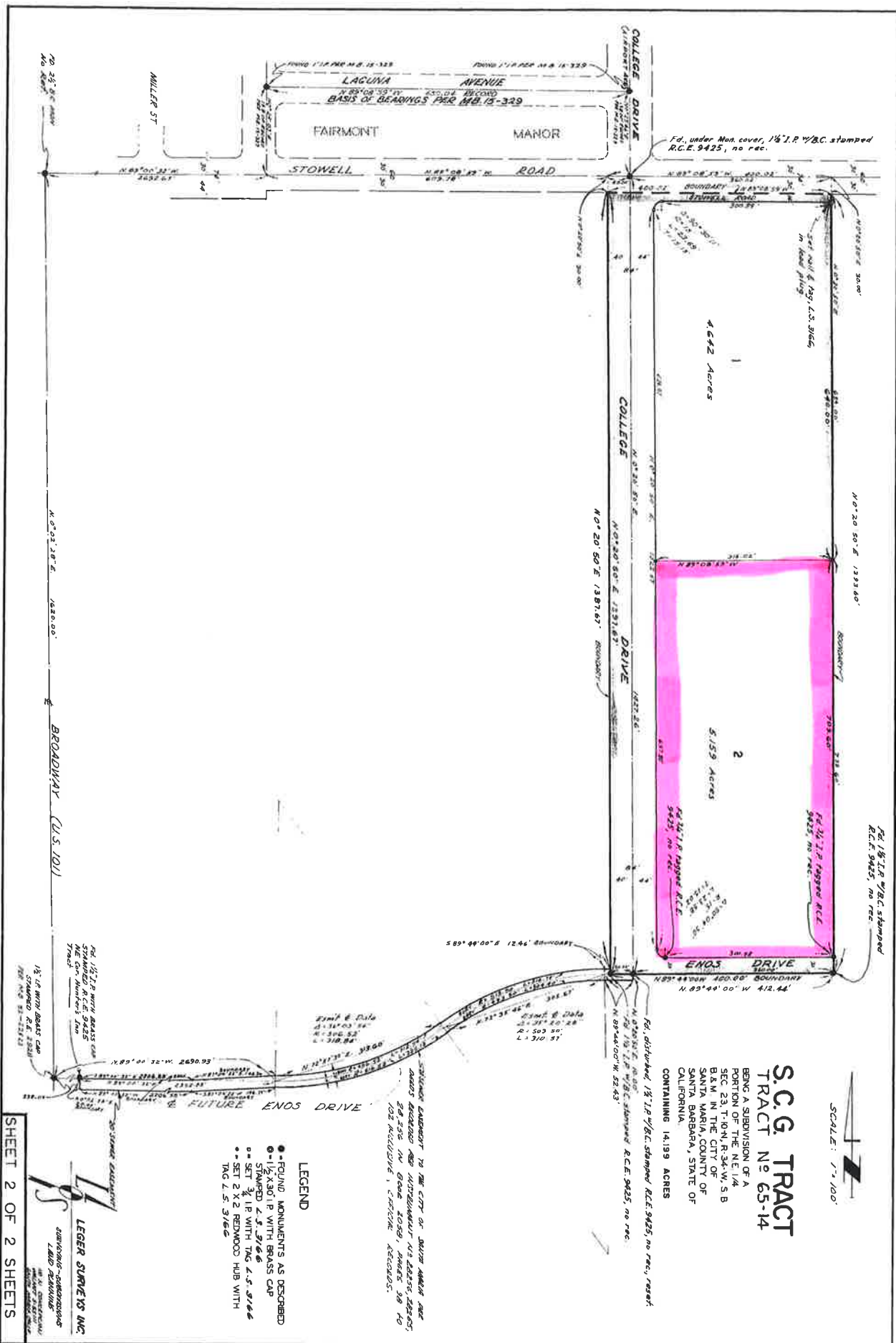
**EXHIBIT A**  
**Property Description**

The parcels are commonly identified as:

Lot 2, recorded in Tract 65-14, in the City of Santa Maria, in the County of Santa Barbara, State of California, according to the Map of Santa Maria recorded August 26, 1966 in Book 75, Page 10 of Maps, in the office of the County Recorder of said County.

The subject properties are also known as Santa Barbara County Assessor's Parcel Numbers (APNs) 128-066-031.

**EXHIBIT B**  
**Map of Premises**  
**(attached)**





**EXHIBIT C**  
**Map of Campus**  
**(attached)**

To be approved by the District in its sole and reasonable discretion.

**EXHIBIT D**  
**Project Description and Development Plan**

To be approved by the District in its sole and reasonable discretion.

**EXHIBIT E**  
**Form of Student Sublease**

To be approved by the District in its sole and reasonable discretion.

**EXHIBIT F**  
**Construction Standards and Specifications**

To be approved by the District in its sole and reasonable discretion.

**EXHIBIT G**  
**Form of Memorandum of Agreement**  
**(attached)**

**RECORDING REQUESTED BY  
AND WHEN RECORDED MAIL TO:**

Adamski Moroski Madden Cumberland & Green  
P.O. Box 3835  
San Luis Obispo, California 93403-3835  
Attn: Thomas D. Green

A.P.N.: \_\_\_\_\_

Space above this line for Recorder's Use

**MEMORANDUM OF AGREEMENT**

THIS MEMORANDUM OF AGREEMENT ("**Memorandum**") is made as of \_\_\_\_\_, 2023 by and between Allan Hancock Joint Community College District ("**District**") and The Vernon Group, LLC, a California limited liability company ("**Lessee**").

1. District is the owner of that certain unimproved real property consisting of approximately 5.16 acres located on the District's Santa Maria Campus and more particularly described on **Exhibit A** attached hereto and depicted on **Exhibit B** attached hereto (the "**Premises**").
2. District and Lessee have entered into that certain Development and Lease Agreement dated \_\_\_\_\_, 2023 ("**Agreement**") wherein Lessee leases the Premises from the District for the purpose of constructing and operating student residential dwellings, commercial business, and temporary food "trucks" in accordance with the Project. Any capitalized term not otherwise defined herein shall have the meaning ascribed to it in the Agreement.
3. The Term of the Agreement shall be Ninety-Nine (99) years after the Rent Commencement Date unless the Agreement is earlier terminated as provided therein.
4. Lessee shall not, without prior written consent of District, either directly or indirectly give, assign, hypothecate, encumber, transfer, or grant control of this Agreement or any interest, right, or privilege therein, or sublet the whole or any portion of the Premises, or license the use of the same in whole or in part.
5. This Memorandum is executed and filed in the office of the Santa Barbara County Recorder pursuant to subarticle 17.15 of the Agreement.

IN WITNESS WHEREOF, District and Lessee have duly executed this Memorandum as of the day and year first written above.

**DISTRICT**  
**Allan Hancock Joint**  
**Community College District**

**LESSEE**  
**The Vernon Group, LLC,**  
**a California limited liability company**

By: \_\_\_\_\_

By: \_\_\_\_\_

**EXHIBIT H**  
**Form of Personal Continuing Guaranty**  
**(attached)**



## PERSONAL CONTINUING GUARANTY

This Continuing Guaranty (“**Guaranty**”) dated as of \_\_\_\_\_ is made by \_\_\_\_\_ (“**Guarantor**”), in favor of Allan Hancock Joint Community College District (“**District**”).

### RECITALS

A. District and The Vernon Group, LLC, a California limited liability company (“**Lessee**”) have entered into that certain Development and Lease Agreement dated \_\_\_\_\_, 2023 (“**Agreement**”) wherein Lessee leases the Premises from the District for the purpose of constructing and operating student residential dwellings, commercial business, and temporary food “trucks” in accordance with the Project. Any capitalized term not otherwise defined herein shall have the meaning ascribed to it in the Agreement.

B. As a condition of entering into the Agreement and in lieu of providing a security deposit under the Agreement, District has required that Guarantor execute and deliver this Guaranty.

### GUARANTY

Now, therefore, in order to induce Guarantor to enter into the Agreement, and in consideration thereof, Guarantor hereby agrees as follows:

1. Obligations Guaranteed. For consideration, the adequacy and sufficiency of which is acknowledged, Guarantor unconditionally guaranties and promises (a) to pay to District on demand, in lawful United States money, all Obligations to District of Lessee, and (b) to perform all undertakings of Lessee in connection with the Obligations. “**Obligations**” is used in its most comprehensive sense and includes any and all debts, liabilities, rental obligations, and other obligations and liabilities of every kind of Lessee to District, arising from, out of, or in relation to the Agreement whether made, incurred or created previously, concurrently or in the future, whether voluntary or involuntary and however arising, whether incurred directly or acquired by District by assignment or succession, whether due or not due, absolute or contingent, liquidated or unliquidated, legal or equitable, whether Lessee is liable individually or jointly or with others, whether incurred before, during or after any Bankruptcy, reorganization, insolvency, receivership or similar proceeding (“**Insolvency Proceeding**”), and whether recovery thereof is or becomes barred by a statute of limitations or is or becomes otherwise unenforceable, together with all expenses of, for and incidental to collection, including reasonable attorneys' fees.

2. Continuing Nature/Revocation/Reinstatement. This Guaranty is in addition to any other guaranties of the Obligations, is continuing and covers all Obligations, including those arising under successive transactions which continue or increase the Obligations from time to time, renew all or part of the Obligations after they have been satisfied, or create new Obligations. Revocation by one or more signers of this Guaranty

or any other guarantors of the Obligations shall not (a) affect the Obligations under this Guaranty of a non-revoking Guarantor; (b) apply to Obligations outstanding when District receives written notice of revocation, or to any extensions, renewals, readvances, modifications, amendments or replacements of such Obligations; or (c) apply to Obligations, arising after District receives such a notice of revocation, which are created pursuant to a commitment existing at the time of the revocation, whether or not there exists an unsatisfied condition to such commitment or District has another defense to its performance. All of District's rights pursuant to this Guaranty continue with respect to amounts previously paid to District on account of any Obligations which are thereafter restored or returned by District, whether in an Insolvency Proceeding of Lessee or for any other reason, all as though such amounts had not been paid to District; and Guarantor's liability under this Guaranty (and all its terms and provisions) shall be reinstated and revived, notwithstanding any surrender or cancellation of this Guaranty. District, at its sole discretion, may determine whether any amount paid to it must be restored or returned; provided, however, that if District elects to contest any claim for return or restoration, Guarantor agrees to indemnify and hold District harmless from and against all costs and expenses, including reasonable attorneys' fees, expended or incurred by District in connection with any such contest. No payment by Guarantor shall reduce the Guaranteed Liability Amount hereunder unless, at or prior to the time of that payment, District receives Guarantor's written notice to that effect. If any Insolvency Proceeding is commenced by or against Lessee or Guarantor, at District's election, Guarantor's obligations under this Guaranty shall immediately and without notice or demand become due and payable, whether or not then otherwise due and payable.

3. Extent of Liability. The joint and several liability of Guarantor shall not exceed the sum of \$1,000,000 during the Initial Term, as defined in Section 16, of this Guaranty. This Guaranty shall be limited to guarantying (i) two years Minimum Monthly Rent; and (ii) all other Rent and financial obligations required of Lessee by the Agreement for a period of two years following the end of the Initial Term.

The liability of Guarantor under this Guaranty is exclusive and independent of any security for or other guarantee of the indebtedness of Lessee, whether executed by Guarantors or any other party, and the liability of Guarantors under this Guaranty is not affected or impaired by any of the following:

- a. Any indebtedness exceeding Guarantors' liability;
- b. Any direction of application by Debtor or any other party;
- c. Any other continuing or other guaranty, undertaking, or maximum liability of Guarantors or of any other party as to the indebtedness of Debtor;
- d. Any payment on or in reduction of any other guaranty or undertaking;
- e. Any notice of termination of this Guaranty as to future transactions given by, or the death or termination of, or the revocation or release of any obligations under this Guaranty of, any other of the Guarantors;
- f. Any dissolution, termination, or increase, decrease, or changes of personnel of any of the Guarantors; or

- g. Any payment made to the District on the indebtedness that District repays to Lessee pursuant to court order in any bankruptcy, reorganization, arrangement, moratorium, or other debtor relief proceeding. Guarantors waive any right to the deferral or modification of Guarantor's obligations by virtue of any such proceeding.

4. Authorization. Guarantor authorizes District, without notice and without affecting Guarantor's liability under this Guaranty, from time to time, whether before or after any revocation of this Guaranty, to (a) renew, compromise, extend, accelerate, release, subordinate, waive, amend and restate, or otherwise amend or change the interest rate, time or place for payments or any other terms of all or any part of the Obligations; (b) accept delinquent or partial payments on the Obligations; (c) take or not take security or other credit support for this Guaranty or for all or any part of the Obligations, and exchange, enforce, waive, release, subordinate, fail to enforce or perfect, sell, or otherwise dispose of any such security or credit support; (d) apply proceeds of any such security or credit support and direct the order or manner of its sale or enforcement as District, at its sole discretion, may determine; and (e) release or substitute Lessee or any guarantor or other person or entity liable on the Obligations.

5. Waivers. To the maximum extent permitted by law, Guarantor waives (a) all rights to require District to proceed against Lessee or proceed against, enforce or exhaust any security for the Obligations or to marshal assets or to pursue any other remedy in District's power whatsoever; (b) all defenses arising by reason of any disability or other defense of Lessee, the cessation for any reason of the liability of Lessee, any defense that any other indemnity, guaranty or security was to be obtained, any claim that District has made Guarantor's obligations more burdensome or more burdensome than Lessee's obligations, and the use of any proceeds of the Obligations other than as intended or understood by District or Guarantor; (c) all presentments, demands for performance, notices of nonperformance, protests, notices of protest, notices of dishonor, notices of acceptance of this Guaranty and of the existence or creation of new or additional Obligations, and all other notices or demands to which Guarantor might otherwise be entitled; (d) all conditions precedent to the effectiveness of this Guaranty; (e) all rights to file a claim in connection with the Obligations in an insolvency proceeding filed by or against Lessee; (f) all rights to require District to enforce any of its remedies; and (g) until the Obligations are satisfied or fully paid, with such payment not subject to return, (i) all rights of subrogation, indemnification or reimbursement, (ii) all rights of recourse to any assets or property of Lessee, or to any collateral or credit support for the Obligations, (iii) all rights to participate in or benefit from any security or credit support District may have or acquire, and (iv) all rights, remedies and defenses Guarantor may have or acquire against Lessee. District may foreclose, either by judicial foreclosure or by exercise of power of sale, any deed of trust which secures any Obligations, and even though such foreclosure or exercise may destroy or diminish Guarantor's rights against Lessee, Guarantor shall remain liable for any part of the Obligations remaining unpaid after foreclosure.

6. Guarantor to Keep Informed. Guarantor acknowledges that he is a member of that The Vernon Group, LLC, a California limited liability company and that, as such, the District has no duty or obligation, and Guarantor hereby waives same, to provide any information whatsoever to Guarantor regarding any aspect of the Lessee's performance under the Agreement.

7. Subordination. All obligations of Lessee to Guarantor which presently or in the future may exist ("**Guarantor Claims**") are hereby subordinated to the Obligations. At District's request, Guarantor's Claims will be enforced and performance thereon received by Guarantor only as a trustee for District, and Guarantor will promptly pay over to District all proceeds recovered for application to the Obligations without reducing or affecting Guarantor's liability under other provisions of this Guaranty.

8. Authorization. If Lessee is a corporation, partnership, limited liability company or other entity, District need not inquire into or verify the powers of Lessee or authority of those acting or purporting to act on behalf of Lessee, and this Guaranty shall be enforceable with respect to any Obligations District grants or creates in reliance on the purported exercise of those powers or authority.

9. Assignments. Without notice to Guarantor, District may assign the Obligations and this Guaranty in whole or in part, and may disclose to any prospective or actual purchaser of all or part of the Obligations any and all information District has or acquires concerning Guarantor, this Guaranty and any security for this Guaranty.

10. Effect on Heirs and Assigns. This Guaranty and the liability and obligations of Guarantors under this Guaranty are binding on Guarantors and their respective heirs, executors, and assigns, and inure to the benefit of and are enforceable by Lessee and its successors, transferees, and assigns.

11. Multiple Guarantors/Lessees. When there is more than one Lessee named herein or when this Guaranty is executed by more than one Guarantor, then the words "**Lessee**" and "**Guarantor**", respectively, shall mean all and any one or more of them, and their respective successors and assigns, including debtors-in-possession and Bankruptcy trustees; words used herein in the singular shall be considered to have been used in the plural where the context and construction so requires in order to refer to more than one Lessee or Guarantor, as the case may be.

12. Attorney Fees. Guarantor agrees to pay all costs, including, without limitation, attorney fees and expenses, incurred by District in enforcing the terms of this Guaranty, whether or not suit is filed. Guarantor agrees to indemnify and hold District harmless from all liability, loss, damage, or expense (including, without limitation, attorney fees) that it may incur under this Guaranty, or in connection with the Agreement and Obligations guaranteed by this Guaranty, the enforcement of any of District's rights or remedies, any action taken by District under this Guaranty, or by reason or in defense of any claims and demands that may be asserted against District arising out of the Collateral.

13. Integration/Severability/Amendments. This Guaranty is intended by Guarantor and District as the complete, final expression of their agreement concerning its subject matter. It supersedes all prior understandings or agreements with respect thereto and may be changed only by a writing signed by Guarantor and District. No course of dealing, or parole or extrinsic evidence shall be used to modify or supplement the express terms of this Guaranty. If any provision of this Guaranty is found to be illegal, invalid or unenforceable, that provision shall be enforced to the maximum extent permitted, but if fully unenforceable, that provision shall be severable, and this Guaranty shall be construed as if that provision had never been a part of this Guaranty, and the remaining provisions shall continue in full force and effect.

14. Joint and Several Obligations. If more than one Guarantor signs this Guaranty, the obligations of each Guarantor under this Guaranty are joint and several, and independent of the Obligations and of the obligations of any other person or entity. A separate action or actions may be brought and prosecuted against any one or more guarantors, whether action is brought against Lessee or other guarantors of the Obligations, and whether Lessee or others are joined in any such action.

15. Notice. Any notice, including notice of revocation, given by any party under this Guaranty shall be effective only upon its receipt by the other party and only if (a) given in writing and (b) personally delivered or sent by United States mail, postage prepaid, and addressed to District or Guarantor at their respective addresses for notices indicated below. Guarantor and District may change the place to which notices, requests, and other communications are to be sent to them by giving written notice of that change to the other.

16. Term of Guaranty. Guarantor shall be responsible for all Obligations from the effective date of this Guaranty and continuing for two-years from the date (i) 180 units are substantially complete and ready for occupancy; and (ii) all Student Suites are substantially complete and ready for occupancy (“**Initial Term**”). Following the end of the Initial Term, Guarantor shall only be responsible for (i) two years Minimum Monthly Rent; (ii) and all other Rent obligations required by Lessee by the Agreement for a period of two additional years (“**Continuing Term**”). The dates referenced herein are connected to the Project.

17. California Law to Apply. This Guaranty shall be governed by and construed according to the laws of California, and Guarantor submits to the non-exclusive jurisdiction of the state or federal courts in California.

Executed on \_\_\_\_\_, 2023 at San Luis Obispo, California.

Guarantor acknowledges having received a copy of this Guaranty and having made each waiver contained in this Guaranty with full knowledge of its consequences.

**DISTRICT**

Allan Hancock Joint Community College District

By \_\_\_\_\_

Address for Notice:

[Address]

[Address]

**GUARANTOR**

By \_\_\_\_\_

Address for Notice:

[Address]

[Address]