

**REVISED MASTER AGREEMENT
BY AND BETWEEN THE
BOARD OF GOVERNORS OF THE CALIFORNIA COMMUNITY COLLEGES
AND THE
FOUNDATION FOR CALIFORNIA COMMUNITY COLLEGES
(AUXILIARY ORGANIZATION)**

This Revised Master Agreement between the Board of Governors of the California Community Colleges (Board) and the Foundation for California Community Colleges (Foundation) is entered into when signed by all parties. It replaces the previous agreement between the parties, dated March 1, 2004.

I. RECOGNITION OF AUXILIARY ORGANIZATION

The Foundation, a non-profit public benefit corporation, has been authorized to operate as a system wide auxiliary organization of the Board under the provision of Article 6 (commencing with Section 72670) of Chapter 6 of Part 45 of Division 7 of Title 3 of the Education Code, pursuant to the *Procedures* of and with the express authorization of the Board. Unless otherwise indicated, the Chancellor's Office of the California Community Colleges (Chancellor's Office) will implement the terms of this agreement, including receiving the benefits and meeting the obligations of the Board.

II. AREAS OF SERVICE

The Foundation is authorized to initiate, manage and administer for the benefit of the Board functions and activities that are consistent with the provisions of Education Code Sections 72670-72682 including, but not limited to: (1) gifts, bequests, devises, endowments, and trusts; (2) organizing and conducting workshops, conferences, events and institutes; (3) development and acquisition of facilities, initiatives, activities supplies, services and equipment; (4) public relations programs; (5) contracts for the employment of students by state agencies pursuant to the Government Code Section 19133; and (6) voluntary cooperative purchase agreements that benefit community college districts and the Chancellor's Office. In carrying out these functions and activities, the Foundation may receive funds and dispense funds received in a manner that promotes the general welfare of the Board or Chancellor's Office, as determined by the Board, or advances the mission of the California Community Colleges system, including, but not limited to, (1) supplementing the total programs and activities of the Board, and (2) aiding the Board in fulfilling its role to provide leadership and direction in the continuing development of the community colleges system as an integral and effective element in the structure of higher education in California.

Solely for the purpose of carrying out the aforesaid activities, the Foundation is authorized, pursuant to Education Code Section 71025, to use the name "California Community Colleges," subject to any restrictions or conditions the Chancellor may determine necessary.

III. USE OF PERSONNEL AND OTHER SERVICES

A. Personnel Services Provided by the Chancellor's Office

The Foundation shall reimburse the Chancellor's Office for the full cost (including salary, benefits, approved overtime, and necessary travel expenses) for services provided by Chancellor's Office personnel, as may be mutually agreed upon in writing by the Chancellor and the President of the Foundation.

B. Other Services Provided by the Chancellor's Office

The Chancellor's Office may provide printing, postage, supplies, etc. for the Foundation, for which the Foundation shall fully reimburse the Chancellor's Office.

IV. USE OF FACILITIES AND PROPERTY

A. Use of Other Facilities and Property

- (1) The Foundation may use, without charge, Chancellor's Office meeting rooms, at times that they are not being used for Chancellor's Office purposes, to hold meetings of the Foundation's Board of Directors or for other Foundation business.
- (2) The Foundation may occupy, operate, and use other Chancellor's Office facilities and property separately or jointly with the Chancellor's Office by the written mutual agreement of the Chancellor and President of the Foundation. Any such agreement shall state the charge, rental, if any, for the use of such facilities and property.
- (3) The Foundation shall use facilities and property only for those services and functions that are consistent with procedures, policies, rules, and standing orders, which have been or may be adopted by the Board.
- (4) The right to use any of the Chancellor's Office facilities and equipment included in this agreement or addendums or amendments thereto shall cease upon written notice by the Chancellor that the facilities are needed by the Board or Chancellor.

V. REIMBURSEMENT FOR PERSONNEL, SERVICES, AND FACILITIES

- A. Consistent with the requirements of Education Code, section 72670.5(c), the Foundation shall provide full reimbursement to the Chancellor's Office for any services performed by the employees of the Chancellor's Office under the direction of, or on behalf of, the Foundation. The Chancellor's Office shall submit a monthly invoice to the Foundation itemizing the amounts owed for services provided to the Foundation by the Chancellor's Office pursuant to Sections III and IV of this Agreement. In preparing such invoices, the Chancellor's Office shall offset the value of any goods, services or funds provided by the Foundation to the Chancellor's Office, provided that such goods, services or funds were expressly requested or accepted by the Chancellor, and for which the parties have entered into a separate agreement that complies with State Contracting Manual, section 3.18 (C), and applicable state laws.
- B. If the Chancellor's Office elects to participate in any cooperative purchase agreement negotiated by the Foundation, it shall so notify the Foundation and any donation by the vendor which may be directly attributable to the purchase by the Chancellor's Office shall be made directly to the Chancellor's Office and not to the Foundation. Any such donations accepted by the Chancellor after the effective date of this Agreement shall not be included in the calculation of the fair market value of goods and services contributed by the Foundation pursuant to Paragraph A.

- C. If the fair market value of goods, services, and funds provided by the Foundation to the Board or the Chancellor's Office, as determined in Paragraph A above, surpasses the value of the personnel, facilities, and administrative services provided by the Chancellor's Office to the Foundation under this Agreement, and as set forth in Paragraph A above, no reimbursement from the Foundation to the Chancellor's Office shall be required. If the fair market value of the goods, services, and funds provided by the Foundation is less than the value of the personnel, facilities, and administrative services provided by the Chancellor's Office to the Foundation under this Agreement, the Foundation shall reimburse the Chancellor's Office for the difference pursuant to Paragraph A. All Agreements for such goods, services and funds must still meet the requirements set forth in Paragraph A above.

VI. AUDIT

The Foundation shall retain an independent CPA firm annually to audit the Foundation in the manner specified in Education Code, section 72672(a). Any audit conducted shall comply with the procedures of the Chancellor's Office as contained in *California Community Colleges Auxiliary Organization Accounting and Reporting System*. In particular, the independent CPA firm will review documentation supporting the determination made pursuant to Section V as to the fair market value of the services and funds provided to the Board or Chancellor's Office by the Foundation during the year for which the audit is being conducted. Such audit reports shall be provided to the Board in a timely manner following their completion.

VII. COVENANT

During the term of this Agreement, the Foundation agrees to maintain its existence and to operate in accordance with Sections 72670 through 72682 of the Education Code and with the procedures and policies of the Board.

VIII. SIGNS, FIXTURES AND EQUIPMENT

During the term of this Agreement, the Foundation shall have the right to place and attach fixtures, signs and equipment in or upon facilities as authorized by the Chancellor or his/her designee in writing as to the number, size, and location thereof. Fixtures, signs or equipment so erected, placed or attached by the Foundation shall be and remain the property of the Foundation and shall be removed therefrom by the Foundation upon the termination of this Agreement, or at the request of the Chancellor or his/her designee.

IX. RIGHT OF ENTRY

It is understood that at any time the Board and its agents shall have the right to enter the described facilities or any part thereof for the purpose of examination or supervision.

X. DISPOSITION OF EARNINGS

Income generated by the Foundation in excess of costs and provisions for equipment, maintenance, reserves and working capital shall be used by the Foundation to benefit the Board and the Chancellor's Office as described in II. Reserves shall be established by the Board of Directors of the Foundation to insure fulfillment by the Foundation of the Agreement.

XI. DISTRIBUTION OF ASSETS UPON CESSATION

The property of the Foundation is irrevocably dedicated to charitable purposes and no part of the net income or assets of the Foundation shall ever inure to the benefit of any director or officer of the Foundation or to the benefit of any private person.

Upon the dissolution or winding up of the Foundation, its assets remaining after payment, or provision for payment of all debts and liabilities of the corporation, with the approval of the Board, shall be distributed exclusively for a public purpose to one or more state or local governments, or agencies or instrumentalities of state or local governments, organized and operated exclusively for charitable and educational purposes meeting the requirements for exemption provided by section 214 of the California Revenue and Taxation Code.

XII. EXPENDITURE OF FUNDS

With respect to expenditures for purposes for which would serve to augment Board appropriations for the operation of the Board or Chancellor's Office, the Foundation may expend funds in such amount and for such purposes as are approved by the Board of Directors of the Foundation.

XIII. THIRD PARTY AGREEMENTS BY FOUNDATION

The Foundation shall not enter into any contract that would obligate the Board services, facilities, or equipment without the prior approval of the Chancellor or his/her designee.

XIV. INSURANCE, INDEMNIFICATION, AND RESTORATION

The Foundation shall, at all times, maintain insurance policies for all of its regular functions and for any special events sponsored by the Foundation. The Chancellor's Office may require separate insurance coverage for certain Foundation sponsored special events.

The Foundation agrees to indemnify, defend, and hold harmless the Board and the Chancellor's Office, its officers, agents, and employees from any and all claims, losses, damages, or liabilities that may be suffered or incurred by the Board and/or the Chancellor's Office, its officers, agents and employees, caused by or arising out of, or in any way connected with the operation of the Foundation or the use of the Board facilities by the Foundation. The parties further agree that to the extent permitted by law, no personal liability under this Agreement shall be asserted against any of Foundation's officers, agents, or employees, nor shall any recourse be had to any personal property or assets of any of Foundation's officers, agents, or employees, except as covered by the insurance the Foundation is required to maintain under this Agreement.

Upon termination of this Agreement, the Board shall have the option to require the Foundation, at the Foundation's own expense and risk, to restore the facilities as nearly as possible to the condition existing prior to the commencement of use of the facilities by the Foundation. But if the Foundation shall fail to do so within ninety (90) days after the Board exercises said option, the Board may restore the property at the expense of the Foundation and all costs and expenses of such removal or restoration shall be paid by the Foundation upon demand of the Board. The Board shall have the right to exercise this option within thirty (30) days after expiration of this Agreement, but not thereafter.

XV. REAL PROPERTY

The Foundation shall not enter into any transaction concerning real property without prior approval of the Chancellor of his/her designee.

XVI. NONASSIGNABILITY

This Agreement is not assignable by the Foundation, either in whole or in part, nor shall the Foundation permit anyone else to use the described facilities or any part thereof without written permission of the Chancellor or his/her designee.

XVII. TERM OF AGREEMENT

The Foundation must remain in good standing with the Board. If the Foundation is removed from the Board's list of auxiliary organizations in good standing, this Agreement will immediately terminate and the Foundation will terminate any contracts with third parties and meet the provisions of this Agreement entitled "Distribution of Assets Upon Cessation."

This Agreement shall be for a period of five (5) years commencing on January 1, 2004 and ending December 31, 2008. The agreement shall be automatically renewed for additional five year periods beginning January 1, 2009 unless the Board provides a written Notice of Intent not to Renew to the Foundation not less than six months in advance of the expirations date of this Agreement. The Board also may terminate this Agreement at any time with not less than six months written notice when the agreement will expire. No later than January 31 of each year the Foundation shall provide a written report to the Board, summarizing its annual operations. This report shall include a copy of the annual audit report. Future extension, amendment or renewal of this Agreement shall take into consideration these annual reports. Should the Board fail to extend the period or terminate the Agreement, the Foundation may operate until the Agreement period expires and upon said expiration, the Foundation shall cease and meet the provisions of this Agreement entitled "Distribution of Assets Upon Cessation."

XVIII. INCORPORATION OF BOARD PROCEDURES

Incorporated into, and made a part of this Agreement as though fully set forth herein, are the Board Procedures for Recognition and Oversight of Systemwide Auxiliary Organizations as set forth in Chapter 2.5 (commencing with Section 250) of the *Procedures and Standing Orders of the Board of Governors*.

XIX. DISPUTES

In the event of a dispute, the Foundation agrees to file a "Notice of Dispute" with the Chancellor within ten (10) working days of discovery of the problem. Within ten (10) working days, the Chancellor or his/her designee shall meet with the President of the Foundation for purposes of resolving the dispute. The decision of the Chancellor shall be final.

XX. MEETINGS

Notwithstanding any contrary provision of the Foundation's Articles of Incorporation or Bylaws, all meetings of the Board of Directors of the Foundation shall be noticed and conducted in accordance with the requirements of the Ralph M. Brown Act (*Government Code* Section 54950 et seq.).

XXI. NOTICES

All notices herein required to be given, or which may be given by either party to the other, shall be deemed to have been fully given when made in writing and received by the President of the Foundation or the Chancellor.

IN WITNESS WHEREOF, this Agreement has been executed by the parties hereto as of the date when signed by all parties below.

**Board of Governors of the California
Community Colleges**

Foundation for California Community Colleges

By: _____

By: _____

Name: Brice Harris

Name: Keetha Mills

Title: Chancellor

Title: President and Chief Executive Officer

Date: _____

Date: _____