MASTER AGREEMENT
BETWEEN
THE PERALTA COMMUNITY COLLEGES DISTRICT
AND
THE PERALTA COLLEGES FOUNDATION

This agreement ("Agreement") is made and entered into this 24th day of January 2006, by and between the Peralta Community College District ("District") and The Peralta Colleges Foundation ("Auxiliary"), an auxiliary organization established and operated for the benefit of the District and its students. This Agreement completely supersedes all previous written and verbal agreements existing by and between the parties.

I. BACKGROUND AND PURPOSE

The Auxiliary is a non-profit corporation existing to serve the District through support of the District and its students in the furtherance of its mission to provide accessible, high quality adult learning opportunities to meet the educational needs of the multicultural East Bay community. Administration by the Auxiliary of the functions and activities described herein, instead of administration by and through the District, is deemed to be more effective in accomplishing these functions and activities than would be possible under the District budgetary, purchasing and other fiscal procedures.

The Auxiliary has developed a track record of generating financial support for programs and student educational costs at the colleges. A District-paid employee most efficiently performs administration of Auxiliary's fund-raising, development, and funds management functions, which by its by-laws may only serve to benefit the colleges and its students. So long as the Auxiliary is performing these functions for the benefit of the colleges and its students, it is in the interests of the colleges and the District that the operations of the Auxiliary be supported by the provision of facilities, equipment, administrative services, and financial support for employment of staff, operation of the Auxiliary office, including expenses such as publications, donor recognition and awards, marketing materials and other similar items without restriction.

The purpose of this agreement is to establish the relationship between the District and the Auxiliary for the Auxiliary's solicitation and administration of programs involving gifts, bequests and trusts on behalf of the District pursuant to California Code of Regulations, Title 5, Section 59259(j). This agreement also establishes the terms under which the District will employ staff, provide space and administrative support to the Auxiliary, and to establish other parameters of the relationship between the District, colleges, and the Auxiliary.

II. PROVISION OF SERVICES AND FACILITIES

It is the good-faith business judgment of the Board of Trustees that the services and funds provided by the Auxiliary on to the District have a fair market value far surpassing the value of the support for administrative services, facilities, equipment, and general operations provided by the District and the colleges to the Auxiliary under this agreement.

The Auxiliary shall, by prior agreement, reimburse the District for certain expenditures incurred by the District as a result of certain activities of the Auxiliary. The District shall invoice the Auxiliary for such expenditures, indicating items charged and the method of determining costs.

The District may provide certain services, at fair market value, to the Auxiliary, which may include office space, telephones, custodial and facilities maintenance services, equipment and information systems service and advice, personnel and related assistance and other similar services as from time to time agreed upon in writing. The Auxiliary may also provide certain specified services to the District, which shall be designated in writing, for which the District shall reimburse the Auxiliary within thirty (30) days of the time any invoice is submitted.

The Auxiliary may occupy, operate, and use District facilities and property separately or jointly with the District as identified by agreements made from time to time by the Chancellor and the designated representative of the Auxiliary which may be the Board President or Executive Director of the Auxiliary. The Auxiliary shall use the facilities and property only for those services and functions that are consistent with the policies, rules, and regulations, which have been or may be adopted by the Board of Trustees or Chancellor of the Peralta Community College District. The right to use any of the District facilities or equipment pursuant to the terms and conditions of this agreement shall terminate upon ninety (90) days' written notice by the Chancellor.

The Auxiliary agrees that it shall keep and maintain the facilities it uses in a clean and orderly condition and shall, if required by the District, at its own expense at reasonably frequent intervals, and in a lawful manner, dispose of all waste from the facilities. The Auxiliary further agrees that it will keep the described facilities in good repair.

The Auxiliary must remain in good standing by providing the District with services and funds that have a fair market value surpassing the value of the support for administrative services, facilities, equipment, and general operations provided by the District and the colleges to the Auxiliary. Otherwise, this Agreement shall immediately terminate and the Auxiliary shall terminate all contracts with third parties and meet the provisions of this Agreement.

III. AREAS OF SERVICE

The Auxiliary, through amendments to this agreement, may administer functions or activities defined in Section 59259 of the California Code of Regulations, Title 5. Other services may be provided if first approved by the Peralta Board of Trustees and the Board of Governors of the California Community Colleges.

The Auxiliary shall engage only in those activities that are in support of and consistent with State and Federal laws and with the policies, rules, regulations and program goals of the District.

IV. AUTHORITY AND RESPONSIBILITY OF AUXILIARY ORGANIZATIONS

The Auxiliary shall not offer courses for which State funding is received.

All services, programs and activities that may be undertaken by the Auxiliary shall be maintained for the general benefit of the educational programs of the District. Upon Board of Trustees approval, the Auxiliary may assume any of the services, programs and activities listed in the District Implementing Regulations in order to:

1) Provide the fiscal means and the management procedures that allow the District to carry on educationally related activities not normally funded by the State;

2) Eliminate the undue difficulty that would otherwise arise under the usual governmental budgetary, purchasing, and other fiscal controls; or

3) Provide fiscal procedures and management systems that allow effective coordination of the Auxiliary activities with the District in accordance with sound business practices.

Gifts to the District thereof shall be accepted under the provisions of Board Policy 6.35.

The Auxiliary may not enter into any contract or other business arrangement involving real property, either by lease or by purchase, without prior notification and consultation with the Chancellor and the approval of the Board of Trustees.

V. ACCOUNTING AND ANNUAL AUDITS

An independent certified Public Accountant shall be retained by and paid for by the District and shall annually audit all of the District's auxiliary funds. Such audit reports shall be supplied to the District in a timely manner following their completion. The Auxiliary shall annually publish an audited statement of its financial condition and make it available to any person upon request. Distribution of a published audited statement of the Auxiliary's condition at a regularly scheduled meeting of the District's Board shall constitute compliance with the publication requirement.

VI. COVENANT

During the term of this agreement, the Auxiliary agrees to maintain its existence and to operate in accordance with Sections 72670-72682 of the California Education Code and with the regulations of Sections 59250-59276 of the California Code of Regulations, Title 5, as well as the District's Board Policies and Implementing Procedures.

VII. SIGNS, FIXTURES AND EQUIPMENT

During the term of this agreement, the Auxiliary shall have the right to place and attach fixtures, signs and equipment in or upon facilities as authorized by the Chancellor in writing as to number, size, and location. Fixtures, signs or equipment so erected, placed or attached by the

Auxiliary shall be and remain the property of the Auxiliary and be removed by the Auxiliary upon the termination of this agreement.

VIII. RIGHT OF ENTRY

It is understood and agreed that at any time the District or its designee shall have the right to enter the facilities occupied by the Auxiliary or any part thereof for legitimate District purposes of examination or supervision, upon 48 hours notice, to inspect the property and examine files and records, excepting confidential employee and donor files and records. The District shall have emergency access and right of entry to the property at any time.

IX. INDIRECT COSTS

If the Auxiliary administers a federally sponsored program, it shall reimburse the District for indirect costs associated with the performance of services by the District for the Auxiliary relating to the federally sponsored project. Such reimbursement will take into consideration the District's federal indirect cost rate and the approved indirect cost allocation, if any, of the federal program award.

X. DISPOSITION OF EARNINGS

Income generated by the Auxiliary in excess of the costs and appropriate provision for equipment maintenance, working capital and reserves shall be used solely to benefit the District and its students as determined by the Auxiliary's Board and approved by the Chancellor. The Auxiliary's Board shall establish provisions for the acceptance, management and investment of gifts to insure the good stewardship and fiduciary responsibilities of the Auxiliary for endowments and other gifts,

XI. ALIGNMENT OF INTERESTS WITH DISTRICT

So long as this agreement is in force and effect:

1) The Chancellor shall serve as a member of the Board of Directors of the Auxiliary and shall attend all meetings of the Auxiliary Board of Directors, and in cases when the Chancellor is absent, assign a designee to attend on his/her behalf;

2) The Chancellor shall have the right to cause the Auxiliary to cease any activity deemed, in his or her judgment, to be contrary to the interests of the District or inconsistent with policies or purpose of the District;

3) Only upon prior approval from the Auxiliary Board of Directors, in accordance with the Auxiliary's prescribed rules, shall the District Board of Trustees, Chancellor, and District employees/agents solicit funds on behalf of the Auxiliary and expend funds from the Auxiliary's account.

4) Written notice of all Auxiliary Board of Directors meetings stating the place, day and hour of the meeting shall be given at least seven days prior to the date thereof to the Chancellor or his/her delegate;

5) The Auxiliary shall maintain books and records of Auxiliary activities for a minimum of five (5) years, which shall be made available to the District upon request. However, confidential records such as anonymous donations may be restricted; and

6) The Auxiliary shall provide to the District an annual statement of benefits and services to the District.

7) Any member of the Auxiliary Board of Directors who wishes to enter into a contractual relationship with the Peralta Community College District for provisions of goods and/or services by a business entity in which the member is a director, officer, partner, trustee, manager, or employee shall disclose, in writing, his or her position as a member of the Auxiliary Board to the District Board of Trustees.

XII. DISTRIBUTION OF ASSETS UPON CESSATION

Upon cessation of operations of the Auxiliary under this agreement, unless amended or renewed, the net assets of the Auxiliary resulting or arising from this agreement shall be either transferred to the District or expended for the benefit of the District.

XIII. PUBLIC RELATIONS

With respect to expenditures for public relations or other purposes which would serve to augment District appropriations for the operation of the District, the Auxiliary may expend funds in such amounts and for such purposes as are approved by the Board of Directors of the Auxiliary.

XIV. THIRD PARTY AGREEMENTS BY AUXILIARY

The Auxiliary shall not enter into any contract that would obligate the District without the prior written approval of the Chancellor and which shall be for the benefit of the District.

XV. SUBMISSION OF ANNUAL PROGRAM AND BUDGET

The Auxiliary's Board shall submit its program and budget for the next fiscal year to the Chancellor for approval on or before the beginning of each fiscal year. Should the Chancellor determine that any program or appropriation planned by the Auxiliary is not consistent with the policies of the Board of Trustees, the program or appropriation shall not be implemented. Further, should a program or appropriation which had received approval, upon review, be determined by the Chancellor to be operating outside of the scope of the policies of the Board of

Trustees, then that program or appropriation shall be discontinued by direction of the Chancellor upon further review is accomplished and an appropriate adjustment is made.

XVI. INSURANCE AND INDEMNIFICATION, AND RESTORATION

The Auxiliary shall be included in the District's insurance policies for all of its regular functions. When special events are sponsored by the Auxiliary, the District may require the Auxiliary to secure additional insurance coverage.

The Auxiliary agrees to indemnify, defend, and save harmless the District, its officers, agents, and employees from any and all loss, damage, or liability that may be suffered or incurred by the District, its officers, agents and employees, caused by, arising out of, or in any way connected with the use of the described facilities by the Auxiliary in connection with this agreement.

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

XVII. NONASSIGNABILITY

This agreement is not assignable by either party.

XVIII. TERM OF AGREEMENT

The Agreement may be terminated by either party giving ninety (90) days written notice, subject to the provisions of this Agreement.

XIX. NOTICES

All notices herein required to be given, or which either party may give to the other, shall be deemed to have been fully given when made in writing and received by the Auxiliary's Board President and the District's Chancellor at the following address:

333 East Eighth Street
Oakland, CA 94606

IN WITNESS WHEREOF, the parties hereto as of the date first above written have executed this agreement in duplicate.

The Peralta Community College District

By: Linda Handy
Linda Handy, President
Board of Trustees
Peralta Community College District

Date: 9/12/06

The Peralta Colleges Foundation

By: Alona Clifton
Alona Clifton, President
Peralta Colleges Foundation Board

Date: 9/14/06

Approved as to Form:

By: Thuy Thi Nguyen
Thuy Thi Nguyen, General Counsel
Peralta Community College District

Date: 8/17/06

BOARD OF TRUSTEES
OF THE
PERALTA COMMUNITY COLLEGE DISTRICT

Minutes of the Board of Trustees, Regular Work Session Meeting, January 24, 2006, 5:37 PM, District Administration Center, 333 E. 8th Street, Oakland, CA 94606

Present: Trustees Clifton, González Yuen, Gulassa, Hodge, Riley, Withrow, President Handy, Student Trustee Andrews

Absent: Student Trustee Watkins-Tanner

The regular work session was convened into open session at 5:37 PM by President Handy for the purpose of reporting to the public the topics to be discussed in closed session. The closed session convened at 5:37 PM by President Handy who presided; the closed session adjourned at 6:45 PM; the regular work session meeting convened at 7:13 PM by President Handy who presided. The roll was called by the recording secretary.

REPORT OF CLOSED SESSION ACTIONS

Vice President Withrow announced that at tonight's closed session the Board voted to approve the public appointment of Patrick J. Kriwanek as Division Dean II, Fine & Applied Arts and Physical Education, Laney College, effective February 1, 2006, ending June 30, 2007, salary: $95,000, by the following called vote: AYES: 7; NOES: 0; ABSTAIN: 0; ABSENT: 0.

APPROVAL OF AGENDA

ACTION: Upon a motion by Trustee Withrow, seconded by Trustee Riley, the Board voted to [illegible] speaking about building articulation agreements with colleges and universities. Tanner was absent. (Later

6. Consider Approval of Master Agreement Between the Peralta Community College District and the Peralta Colleges Foundation

The Master Agreement clarifies the Foundation's relationship with the District as an auxiliary organization. It also establishes the terms under which the district will employ staff, provide space and administrative support to the Foundation. The Chancellor recommends approval.

7. Consider Approval of Student Elections Code **(Removed from the agenda)**

Pursuant to the Student Services Committee, the four Associated Students organizations approved the adoption of this uniform student elections code for the election of associated officers and student propositions.

8. Consider Entering into Contract with Moore, Iacofano Goltsman, Inc., for Strategic Planning

This is to request authorization to enter into a contract with Moore Iacofano Goltsman, Inc. (MIG) for Phase 2 of Peralta's Strategic Planning Process. MIG will provide facilitator training to all team members implementing the District-wide Strategic Planning Initiatives, assist in the facilitation of the Strategic Plan Steering Committee, prepare camera-ready copy of the summary reports of each meeting, work with the Board of Trustees in their Planning Work Sessions, assist in the compilation of data for the Environmental Scan Report, and assist in the preparation of quarterly and annual reports on the progress of Peralta's Strategic Planning. Contract specifications are: Length of contract: 18 months; Amount: $74,690.