PERALTA COMMUNITY COLLEGE DISTRICT

AGREEMENT FOR EMPLOYMENT OF CHANCELLOR

This Employment Agreement ("Agreement") is made and entered into this 12th day of June, 2012, by and between the Board of Trustees of the Peralta Community College District ("District") or ("Board") and José M. Ortiz, Ed.D. ("Dr. Ortiz/ Chancellor").

RECITALS

WHEREAS, the District desires to employ, by contract, as an "at-will" employee, the services of Dr. Ortiz as the Chancellor for the District in accordance with applicable provisions of the District rules, regulations, Board policies and the terms of this Agreement; and

WHEREAS, Dr. Ortiz desires to be employed, by contract, as the at-will Chancellor for the District in accordance with applicable provisions of the District rules, regulations, Board policies and the terms of this Agreement; and

WHEREAS, it is the desire of the District to provide certain compensation and benefits; and establish certain conditions of employment for the position of Chancellor through this Agreement.

NOW, THEREFORE, in consideration of the mutual covenants herein contained, the parties agree as follows:

TERMS

I. Appointment of Chancellor:

The Board hereby appoints José M. Ortiz, Ed.D. to the position of Chancellor for the Peralta Community College District and Dr. Ortiz hereby accepts such appointment under the terms and conditions of this Agreement.

II. Term of Agreement:

A. Initial Term: The term of this Agreement shall be for the three (3) year period commencing on July 2, 2012 and ending on June 30, 2015.

B. Contract Renewal: The Board will consider renewing this Agreement on or before June 30, 2014 and on or before June 30th of every year thereafter for an additional one-year term such that at any given time, the Chancellor is not operating within the last academic year of this Agreement. This Agreement will automatically terminate on June 30, 2015, unless the party that wishes to renew it

and informs the other of its intention to renew by sending a notice in writing not less than sixty (60) days prior to the renewal date as expressed in this provision.

1. If the Chancellor wishes to renew the Agreement, he must request that the Board timely notice a "closed session" for this purpose.

2. If the Board intends to renew this Agreement, it must cause that a "closed session" be properly noticed for this purpose.

3. In the event this Agreement is renewed in accordance with this section, the Board shall ratify the renewal extension in an open meeting of the Board.

III. At-Will Employment:

Chancellor is an "at-will" employee, employed by contract who shall serve at the pleasure of the Board. Accordingly, the Board may terminate Chancellor's employment under this Agreement at any time, with or without cause. This provision may not be altered except by a written instrument executed by Chancellor, and formally approved by the Board, which specifically references this Agreement and Section.

IV. Duties and Responsibilities:

A. Chancellor shall commence his duties no later than July 2, 2012. Except as otherwise provided for in this Agreement, Chancellor shall not receive any compensation and benefits until he has commenced his duties as the full-time Chancellor for the District.

B. Chancellor shall be the Chief Executive Officer of the District and the Secretary to the Board of Trustees, and shall have the primary responsibility for the execution of Board Policies. He shall have all powers and perform all duties of the position as provided by law, subject to Board approval.

C. Chancellor shall perform his duties and responsibilities as set forth in the California Education Code and Board Policies, as well as rules and regulations of the Board of Governors of the California Community Colleges, and rules, regulations, policies and directions of the Board and shall perform such other duties and functions as the Board may from time to time assign.

D. At the direction of the Board, Chancellor shall serve as the District's primary liaison agent with governmental and community civic organizations, including but not limited to the Peralta Colleges Foundation, and shall effectively and positively represent the District in all District community and civic activities.

E. Chancellor agrees to devote his productive time, ability and attention to the District's business and shall not engage in any other activity which conflicts with the time and responsibilities for the position. For the duration of this Agreement, Chancellor shall not hold secondary employment, and shall be employed exclusively by the District, subject to any exceptions approved in writing by the Board.

F. Chancellor shall be responsible to the Board for the proper administration of all affairs of the District. Chancellor shall administer and enforce policies established by the Board on behalf of the District, and promulgate rules and regulations as necessary to implement District policies.

G. Chancellor shall perform such duties and responsibilities professionally, ethically, and with due diligence, demonstrating the highest standards of excellence and reputation for the District.

V. Hours of Work:

Chancellor shall be an exempt employee under FLSA and shall not receive overtime or extra compensation for work performed outside normal business/office hours. Chancellor is appointed to manage the District's business with twenty -four hour and seven day a week responsibility and is expected to devote necessary time outside normal office hours to the business of the District. Thus, Chancellor's schedule of work each day and week may vary in response to the requirements of the work to be performed; however, Chancellor is expected to spend sufficient hours at the District's Office to perform his duties. The Chancellor shall advise the Board in advance whenever he is going to be out of the District area and unable to immediately respond in person to an emergency situation.

VI. Termination of Employment and Severance:

A. Termination by Chancellor: Chancellor may terminate this Agreement and his employment with the District for any or no reason, by giving the Board at least sixty (60) days written notice in advance of termination. Any such termination shall be effective on a date mutually agreed upon between Chancellor and the Board. During the notice period, all the rights and obligations of the parties under this Agreement shall remain in full force and effect. Chancellor shall continue to receive and be entitled to his prorated salary and benefits up until the effective date of the termination.

B. Termination by the Board: The Board may terminate this Agreement and Chancellor's employment with the District with or without cause at any time, in the sole discretion of the Board upon thirty (30) days written notice before the termination date. For purposes of this Agreement, the phrases "for cause" or "with cause" only relate to Chancellor's potential entitlement to severance, and do not alter his at-will status.

C. Non-renewal: The Board may elect not to renew this Agreement for any reason by providing written notice to the Chancellor in accordance with Education Code section 72411 and any other applicable law or term of this Agreement.

D. Termination without Cause: In the event the Board terminates Chancellor's employment without cause, the Chancellor shall be entitled to severance pay of a lump sum payment equal to the unexpired term of the Agreement or for eighteen (18) months base salary, whichever is less, consistent with the requirements of Government Code section 53260 et seq. Further, any cash settlement shall not include any other non-cash items of value except health benefits, which will be continued for the same number of months upon which the cash settlement formula was based.

1. Liquidated Damages: The parties agree that this sum constitutes liquidated damages in recognition of the extreme difficulty of determining actual damages to the Chancellor resulting from the Agreement's termination without cause. These liquidated damages represent the Chancellor's sole and exclusive remedy for any and all damages, known or unknown, tort, contract or otherwise, flowing from the termination of Chancellor's employment with the District. The parties recognize that upon payment of the liquidated damages sum, the Chancellor will be foreclosed from bringing any action or proceeding of any nature against the District. Said payment of severance pay shall be conditioned upon Chancellor signing a waiver and release agreement forever releasing and waiving any and all claims in a form acceptable to the District. Chancellor shall not receive any severance payments if such a waiver and release agreement is not executed by the parties.

2. Payment of Severance: Chancellor shall receive the severance payment in a lump sum payment minus all applicable deductions within fifteen (15) business days after execution of the waiver and release agreement.

E. Termination "For Cause": If Chancellor is terminated "for cause," the District shall not owe any severance under this Agreement. The determination about whether Chancellor is terminated "for cause" shall be made in the complete discretion of the Board. A termination "for cause" may include any ground enumerated in Education Code section 87732, or failure by the Chancellor to perform his responsibilities as set forth in this Agreement, as defined by law or as specified in the Chancellor's job description. Grounds for termination may include, but not be limited to, the following:

(a) immoral or unprofessional conduct;

(b) dishonesty;

(c) unsatisfactory performance after being provided a reasonable opportunity to improve based upon a mutually agreed upon performance improvement plan;

(d) evident unfitness for service;

(e) physical or mental condition that makes him unfit to instruct or associate with students;

(f) persistent violation of, or refusal to obey, the school laws of the state or reasonable regulations prescribed for the government of the community colleges by the board of governors or by the District;

(g) conviction of a felony or of any crime involving moral turpitude or an abuse of office or position, as defined in Government Code Section 53243.4;

(h) conduct specified in Section 1028 of the Government Code;

(i) improper use of District funds;

(j) unauthorized use of District property;

(k) willful misconduct or malfeasance;

(l) Other failure of good behavior either during or outside of employment such that the Chancellor's conduct causes discredit to the District.

2. Criminal Convictions: If Chancellor is convicted of a crime involving an abuse of his office or position, pursuant to Government Code Section 53243.2, regardless of the term of this Agreement, if this Agreement is terminated, any cash settlement related to the termination that Chancellor may receive from District shall be fully reimbursed to the District.

3. Procedure for Removal "For Cause": Removal of Chancellor by the District for cause shall be effected only by a majority vote of the whole Board as then constituted, convened in a regular Board meeting. The Board shall not terminate this Agreement pursuant to this paragraph until a written statement of the grounds for termination has first been served upon the Chancellor. The Chancellor shall then be entitled to a conference with the Board, at which time the Chancellor shall be given a reasonable opportunity to address the Board's concerns. The Chancellor shall have the right to have a representative of his choice at the

conference with the Board. The Chancellor agrees that such conference with the Board shall satisfy the Chancellor's right to any hearing otherwise required by law.

4. Retreat Rights: If Chancellor has acquired retreat rights under California Education Code Section 87458, the District and Chancellor agree that Chancellor will retain his retreat rights if Chancellor is reassigned to a management position that is funded by non-General Funds, such as grants and categorical funds, as long as Chancellor would have been able to be reassigned to a first-year probationary faculty position at the time Chancellor was offered a reassignment to another management position funded by non-General funds.

VII. Compensation and Benefits:

A. Base Salary: Chancellor shall be paid an annual base salary of two hundred and sixty thousand dollars ($260,000.00) per year beginning July 2, 2012. The Chancellor's salary shall be payable in twelve (12) approximately equal monthly installments.

B. Salary Increases: Any increase in the Chancellor's salary in the second and subsequent years of the Agreement shall be based upon performance. If after the first year of employment, Chancellor has a "meets expectations" or better rating on his annual performance evaluation and he meets or exceeds the mutually agreed upon objective verifiable measures, he shall receive an annualized increase in his base salary for the second year of employment in an amount not less than twenty thousand dollars ($20,000.00). A salary increase, if any, in the third and subsequent years will be based upon performance and will be consistent with salary adjustments granted to faculty and management. A change in salary shall not constitute the creation of a new Agreement nor extend the termination date of this Agreement.

C. Additional Consideration/Benefits: In addition to the compensation provided above, the District agrees to provide the following to Chancellor in consideration for the services provided pursuant to this Agreement:

1. Except as otherwise provided for in this Agreement, the District shall provide Chancellor the same benefits as provided to management/confidential employees and as they may be amended from time to time.

2. Vacation: Chancellor shall be entitled to twenty-two (22) working days of paid vacation per year. Chancellor may accumulate unused vacation days, to a maximum of forty-four (44) days. Chancellor shall receive payment

for all accrued unused vacation at the time of his separation from employment at a rate equal to Chancellor's final salary rate.

3. Chancellor shall be entitled to all health, dental, retirement, sick leave, holidays and life insurance benefits afforded to all District management/confidential employees. The District reserves the right to change or alter any of the benefits during the term of this Agreement and such change or alteration shall become an addendum to this Agreement and incorporated into this Agreement by reference, except for retirement benefits that are governed by law. Chancellor shall be eligible fo retirement benefits upon the same terms as those benefits are provided for District employees.

4. Pre-2004 Post-Retirement Medical Plan: In consideration of Chancellor's prior employment with the District from April 2002 through June 30, 2005, Chancellor shall be entitled to participate in the District's pre-2004 Post-Retirement Medical Plan and receive those medical benefits as were provided by the District in effect at the time of his prior employment with the District. Chancellor's 3 years and 2 months of prior service shall serve as an equivalent of 2 years prior service credit and 2 years will be credited towards the required 5 (years) of service necessary for vesting and retirement in the District's Post- Retirement Medical Plan. Thus, Chancellor must retire from the District in accordance with District policy and procedures for academic managers/educational administrators on or after June 30, 2015 in order to receive the pre -2004 Post-Retirement Medical Plan.

5. Tax Deferred Annuity/ Deferred Compensation: In addition to the annual salary, Chancellor shall receive twenty-five thousand dollars ($25,000.00) annually for the purpose of funding a 403(b) tax deferred annuity plan and/or a 457 deferred compensation plan. Chancellor shall receive a lump sum payment for this purpose no later than July 31, 2012 for the first year of the Agreement and by June 30th of each year thereafter, for the duration of this Agreement.

6. Moving and Relocation Expenses: Within ten business (10) days following the execution of this Agreement, District will pay Chancellor a one-time lump sum payment of twenty thousand dollars ($20,000.00) in consideration for reasonable and necessary moving and relocation expenses incurred by Chancellor to facilitate his relocation to a residence within the Peralta Community College District's service area (Alameda, Albany, Berkeley, Emeryville, Oakland, and Piedmont).

VIII. Automobile:

Chancellor shall be entitled to receive mileage reimbursement at the IRS approved rate for any job related travel outside of District limits in accordance with the District's mileage reimbursement policy. Chancellor will not receive a monthly automobile allowance.

IX. General Business Expenses and Outside Professional Activities:

A. Professional Memberships: The Board agrees to annually budget and pay for professional dues and subscriptions reasonably necessary to ensure Chancellor's participation in such programs that enhance Chancellor's standing and the District's reputation, including national, regional, state and local associations and organizations. These organizations will include, but are not limited to, the Oakland Metropolitan Chamber of Commerce (membership).

B. Business Travel: The Board agrees to annually budget and pay for reasonable travel and subsistence expenses of Chancellor for official travel and meetings, including but not limited to statewide and national meetings and conferences related to higher education and other matters which may affect the District. Additionally, on behalf of the District, Chancellor will attend the National Conference on Race & Ethnicity in American Higher Education from May 29 through June 2, 2012 and District will reimburse Chancellor for reasonable travel and subsistence expenses related to his attendance and participation.

C. Community Memberships: The Board acknowledges the value of having Chancellor participate and be directly involved in local civic and business organizations on behalf of the District consistent with and not in conflict with District policies, the Education Code and state and federal laws. Accordingly, the Board shall annually budget and pay reasonable membership fees and dues to enable Chancellor to become an active member.

D. Expense Reimbursement: Except as otherwise provided for in this Agreement, Chancellor is entitled to reimbursement for incidental expenses necessarily and reasonably incurred and paid by him in the performance of his duties. Chancellor shall execute and submit an expense reimbursement form with appropriate supporting documentation to the District for any such claims, as required by District laws or policies, prior to receipt of any expense reimbursement.

E. Travel Approval: All out of District travel by Chancellor must be permitted by District policy and have authorization and approval in accordance with District policies and procedures.

F. Expenses Audit: All expenses incurred by Chancellor are subject to audit by the Board conducted by an internal or external auditor.

X. Indemnification:

The District shall defend, hold harmless and indemnify Chancellor against any tort, civil rights, personnel, discrimination, professional liability claim or demand or other legal action, whether groundless or otherwise, arising out of an alleged act of omission occurring in the performance of Chancellor's duties in accordance with state law and the provisions of the District's Memorandum of Understanding with its liability insurance carrier, as may be amended from time to time.

XI. Notices:

Notices pursuant to this Agreement shall be in writing and served by mail via the United States Postal Service, first class postage prepaid, addressed as follows:

The District:
Peralta Community College District
Board of Trustees
Attention: Board President
333 East 8th Street
Oakland, California 94606

Chancellor :
José M. Ortiz, Ed.D.
331 Garden Street
Arroyo Grande, CA 93420

Alternatively, notices required pursuant to this Agreement may be personally served in the same manner as is applicable to civil judicial process. Notice shall be deemed given as of the date of personal service or as of the date of mailing of such written notice, postage prepaid, with the United States Postal Service.

XII. Performance Evaluations:

The Board shall review and evaluate the performance of Chancellor at least once every year. Within the first three (3) months of Chancellor's employment with the District, Chancellor and Board shall mutually develop an evaluation process and tool that incorporates the District's goals, objectives and expectations, to be used by the Board in the evaluation of Chancellor's performance in the future. Chancellor will timely place on the District Board's agenda each year or as otherwise directed by the Board, a "closed session" for the purpose of his performance evaluation.

XIII. Physical Examination:

The Chancellor shall have a complete medical examination by a District – approved physician upon the request of the Board. Such request shall be no more than once annually or upon providing reasonable reasons for such request. The results of this examination shall be given directly to the Chancellor; however, the examining physician shall advise the Board in writing of the Chancellor's continued physical fitness to perform the duties of Chancellor.

The Chancellor agrees to execute all appropriate medical releases to allow the District's medical provider(s) to review prior medical records of the Chancellor necessary to conduct the physical examination and/or the fitness for duty evaluation provided for under this section. The costs of any required medical examination shall be paid by the District. District will maintain the privacy of all health information, as required by applicable federal and state laws.

XIV. Miscellaneous:

A. Entire Agreement: The text herein shall constitute the entire agreement between the parties. This Agreement may not be modified, except by written agreement executed by both parties.

B. Severability: If any provision, or any portion thereof, contained in this Agreement is held unconstitutional, invalid, or unenforceable, the remainder of this Agreement, or portion thereof, shall be deemed severable, shall not be affected, and shall remain in full force and effect.

C. Governing Law: This Agreement shall be governed by the laws of the State of California.

D. The parties agree that any ambiguity in this Agreement shall not be construed or interpreted against, or in favor of, either party.

E. This Agreement may be executed in counterparts containing original signatures.

IN WITNESS WHEREOF, the parties have entered into this Employment Agreement as of the day and year first written above and hereby indicate their acceptance and agreement to the terms contained herein by their signatures below.

CHANCELLOR:

_____ 5.15.12

José M. Ortiz, Ed.D., Chancellor — Date

DISTRICT:

by: _____ _____

Cy Gulassa, President — Date
Board of Trustees
Peralta Community College District

Approved as to legal form:

_____

Jayne W. Williams, Esq., Special Counsel