

Master Agreement By and Between
the Napa Valley Community College District and
the Napa Valley College District Auxiliary Services Foundation

This agreement was entered into, by and between the Napa Valley District, a California community college district duly organized under the laws of the State of California, specifically, the California Education Code, hereinafter referred to as the "District," an organization duly organized and existing pursuant to the laws of the State of California, and the Internal Revenue Code, specifically section 501(c)(3), and an auxiliary organization established under the laws of the State of California.

1. Purpose and Finding

The Foundation has been created to provide administration of the functions and activities described herein, instead of administration by the District. This Foundation is deemed to be more effective in accomplishing these functions and activities than would be possible under the District budget, purchasing and other fiscal procedures of the District.

2. Areas of Service, Authorized Foundation Functions and Activities

The Foundation shall undertake administration of its functions, instead of those functions being performed by the District, for the purposes of providing services to the District, involving and gaining the support of alumni and members of the community, and generating revenue in support of the District.

The Foundation will conduct the following services and programs authorized herein so as:

- To provide fiscal procedures and management procedures that allow the District to carry on educational related activities not normally funded by State appropriations;
- To eliminate the undue uncertainty that would otherwise arise under the usual governmental budgetary, purchasing and other fiscal controls except as expressly prohibited by the Education Code or Title 5 of the District;
- To provide fiscal procedures and management systems facilitating effective coordination of the Foundation's supportive activities with the District in accordance with sound business practices;
- To be a highly visible and identifiable entity to the public so that donor intentions are fulfilled.

The Foundation's activities, services and programs shall be conducted for the general benefit of the District and are limited to the functions set forth in 501(c)(3) of the Internal Revenue Code, authorized by the District to conduct the following services, programs and functions:

- Bookstore;
- Food and Campus Services;
- Facilities and equipment;
- Workshops, conferences, etc. in support of the District;
- Solicitation and administration of gifts, bequests, pledges, endowments and trusts for the benefit of the District and its students;
- Community relations and public relations of the District and its students;
- Alumni activities;
- Public relations programs and activities to gain public support for the District.

The Foundation may be authorized by a written agreement to perform additional services, programs, functions in one or more written contracts between the Parties. The Foundation shall provide only those services, programs and functions authorized by a written agreement with the District.

The Foundation shall be responsible for the expenditure of funds. The Foundation may expend funds in such amounts, as are approved by the Board of Directors of the Foundation with regard to public relations and other purposes which would serve to augment and enhance the District's public relations. Superintendent/President a statement of its policy on accumulation and use of funds. Such statement will include the policy and procedure on solicitation of funds, source of funds, purposes for which the funds will be used, allowable expenditures, and procedures of control.

If the Superintendent/President determines that any activity or appropriation planned by the Foundation is not consistent with District policy, the activity or appropriation shall not be implemented. Further, should an activity or appropriation be determined by the Superintendent/President to be an operation outside the acceptable policy of the Board of Directors, such activity or appropriation shall be discontinued by the Superintendent/President until such time as an adjustment is made.

Funds of the Foundation shall be used for purposes consistent with District policy and shall not be used:

- To support or oppose any candidate for public office, whether particular or not, or to support or oppose any issue before the voters of this State or any subdivision thereof or any city, municipality, or local governmental entity of any kind.
- To make personal loans for non-educationally related purposes, except that such loans may be made when specifically authorized by a trust instrument under which funds were received.

3. District Services Provided to Foundation's Reimbursement Obligations

In accordance with Civic Center Act (Education Code § 82542) the Foundation may operate and use, either separately or jointly with the District, such facilities as are deemed appropriate and are consistent with the policies, rules, and regulations which have been or may be adopted by the Board of Trustees. The Foundation agrees that it will keep and maintain the described facilities in a clean and orderly condition. The District shall pay for normal, reasonably anticipated maintenance costs and repairs.

The District may charge the Foundation for the use and occupancy of District facilities to be used by the Foundation in connection with the performance of its functions. The District shall provide the Foundation with written notice of the amount of such charges for the 2017/18 and 2018/19 fiscal years. Thereafter, the District shall provide the Foundation with at least 90 days written notice prior to the end of each fiscal year. Such written notice shall specify the use of District facilities and the amount of rent to be paid on a per square foot basis. Any rent charge shall not require involved methods of compensation.

The right to use any of the District facilities or equipment included in this Agreement or amendments shall cease upon written notice by the Superintendent/President that the facilities are needed for the exclusive use of the District.

The District and its agents shall have the right to enter District facilities utilized or occupied by the Foundation or any part thereof for the purpose of examination.

The District reserves the right to charge the Foundation for costs related to excessive use or beyond normal wear and tear of District facilities utilized by the Foundation.

The District shall provide services performed by District employees, District agents, or District agents in support of the Foundation as may be agreed by the Parties. Operations of the Foundation under this Agreement shall be under the general supervision of the District officials.

The Foundation shall provide full reimbursement to the District for the costs of services performed by the District employees under the direction of the Foundation including, but not limited to, the salary and benefits of Foundation support staff. The District shall reimburse the District for that portion of the employee's full-time assignment (and corresponding benefits) that is spent in providing such services. Reimbursement for services performed by District employees for the Foundation shall be simple and equitable.

Notwithstanding the foregoing requirement for full reimbursement, up to 50% of the reimbursement by the Foundation may be in the form of non-monetary benefits that the Foundation provides to the District. Such non-monetary benefits shall be assigned a good faith reimbursement value by the District. The District and the Foundation shall mutually determine at least annually the amount and the method for determining the amount to be reimbursed by the Foundation for such services. If the Foundation is involved with a specially funded program (including federal programs) and the District shall determine a mutually agreed upon amount. To the extent the Foundation shall be liable for indirect costs relating to such program.

4. Allocation of Expenses

Income generated by the Foundation in excess of costs of equipment, maintenance, wear and tear, and other expenses shall be used for the benefit of the students and college programs as determined by the Board of Directors of the Foundation and approved by the Superintendent/President. Money may be expended for services, property, including health care, and other expenses for use of students, faculty members, or employees of the Napa Valley Community College District.

5. Covenant Re Existence

During the term of this Agreement, the Foundation agrees to maintain its existence and comply in accordance with California Education Code sections 79670-79675 and with the California Code of Regulations, sections 59950-59970, as well as the District's implementing regulations.

6. Good Standing

The Foundation must remain in good standing with the District. Otherwise, this Agreement shall immediately terminate and the District shall not be bound by its terms.

7. Real Property Matters

The Foundation shall not acquire, lease, or purchase real property either by lease involving payments of more than \$25,000 per annum and duration terms of more than one year, or by purchase without prior approval of the Superintendent/President.

8. Third Party Agreements By The Foundation

The Foundation shall not enter into any agreement with the District which requires the District to provide equipment or personnel, without the prior written approval of the District. The District shall not delegate to the Foundation the authority to enter into and manage rental or lease of District facilities or equipment of up to five (5) years duration.

9. Submission of Annual Program and Budget

The Board of Directors shall submit its program and budget for the next fiscal year to the District Superintendent for his/her approval or before the start of the fiscal year.

10. Insurance, Indemnification, and Liability

The District shall provide and maintain for the Foundation and its officers, agents, and employees, officers errors and omissions coverage for the Foundation and its managers.

In the event that the District is unable to maintain such coverage for the Foundation, the District shall provide (30) days notification to the Foundation. In the event of such notice of cancellation by the District, the Foundation shall secure the appropriate coverage under its own name.

The Foundation agrees to indemnify, defend and hold 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 and by arising out of or in any way connected with the use of or the use of facilities provided by the Foundation, provided that the loss, damage, or liability does not arise from the intentional or negligent acts or omissions of the District, its officers, agents, or employees.

Upon termination of this Agreement, the District shall have the right to require the Foundation, at its own expense and risk, to restore and make good as nearly as possible to the condition existing prior to the execution of the Agreement. The District shall have the right to remove or restore property at the risk of the Foundation, and all costs and expenses of such removal or restoration shall be paid by the Foundation upon demand of the District. The District shall have the right to exercise this right within thirty (30) days of the termination of this Agreement and thereafter.

11. Termination of Agreement

This Agreement may be terminated by either party at any time with thirty (30) days notice. The provisions of this Agreement shall remain in effect until the termination of the Agreement. The Foundation shall have necessary use of facilities and assets of the District until termination of the Agreement.

12. **Distribution**
Upon cessation of the operation of the Foundation under this Agreement, unless extended or renewed, the net assets of the Foundation resulting or arising from the operation of the Foundation shall be distributed to the District or expended for the benefit of the District or automatically revert to the District.


13. **Notices**
All notices hereunder 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.

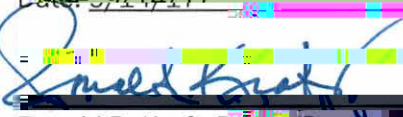
Notice to the
Carolee Cattolica, Special Assistant/Managing Director
Napa Valley Community College
2277 Napa-Vallejo Hwy.
Napa, CA 94558

Notice of the District shall be addressed to
Ronald Kraft, Ph.D., Superintendent/President
Napa Valley Community College District
2277 Napa-Vallejo Hwy.
Napa, CA 94558

14. **Supersedeure and Authorization**
This Agreement supersedes all prior Master Agreements between the parties hereto. The individuals whose signatures appear below certify that this Agreement has been approved by their respective governing Boards and has received all approvals required under California Law.

IN WITNESS WHEREOF, this Agreement has been executed by the parties hereto as of this 14th day of Sept., 2017.


Ronald D. Kraft, Ph.D.
President
Board of Trustees
Napa Valley Community College District
Date: 9/14/17


Ronald D. Kraft, Ph.D.
Chair
Board of Directors
Napa Valley Community College District Auxiliary
Services Foundation
Date: 10-1-17