VI.5. Resolution No. 14476: Quarterly Financial Report

BE IT RESOLVED that the Board of Trustees accepts the Quarterly Financial Status Report (CCFS 311Q) for the quarter ending June 30, 2009, and directs that it be filed with the Chancellor's Office of the California Community Colleges.

VI.6. Resolution No. 14477: IVC Foundation Master Agreement Approval

BE IT RESOLVED that the Board approves the IVC Foundation Master Agreement attached hereto as Exhibit B.

VII. CLOSED SESSION

1. NEGOTIATIONS UNDER THE EDUCATIONAL EMPLOYMENT RELATIONS ACT
   Conference with District Negotiators: John Lau and Travis Gregory
   Employee Organization: CSEA Chapter 472
   RE: Negotiations

2. NEGOTIATIONS UNDER THE EDUCATIONAL EMPLOYMENT RELATIONS ACT
   Conference with District Negotiators: John Lau and Travis Gregory
   Employee Organization: IVC Chapter of CCA/CTA/NEA
   RE: Negotiations

3. PUBLIC EMPLOYEES DISCIPLINE/DISMISSAL/RELEASE

4. CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION
   Significant exposure to litigation pursuant to subdivision (b) of Section 54956.9
   One Case

VIII. OPEN SESSION

1. Announcement of final action taken

IX. CONSENT AGENDA – HUMAN RESOURCES

IX.1. Resolution No. 14478: Classified Retirement

BE IT RESOLVED that the Board accepts, with sincere regret, the retirement of Jorge Jaimes, Grounds Maintenance Worker II effective October 1, 2009.

BE IT RESOLVED that sincere appreciation be expressed for his 13 years of devoted service to Imperial Valley College.

EXHIBIT B

Master Agreement Between Imperial Valley College Foundation and the Imperial Community College District

THIS AGREEMENT is entered into as of this 2nd day of September 2009, by and between the Imperial Community College District ("District") and the Imperial Valley College Foundation ("Foundation"), a nonprofit organization operated for the benefit of the College (but not an auxiliary described in Education Code §§ 72670 *et seq.*). This agreement completely supersedes all previous written and verbal agreements existing between the parties.

The Foundation is an independent nonprofit corporation existing to serve the District. The Foundation has developed a track record of generating financial support for the programs and facilities of the College. Administration by the Foundation of its fundraising, development, and funds management functions, which by charter may only serve to benefit the District, is most efficiently performed by a private sector, nonprofit entity. So long as the Foundation is performing these functions for the benefit of the District, it is in the interests of the District and the College that the operations of the Foundation be supported by provision of facilities, dedicated personnel and certain administrative services defined in this agreement.

The mission of the Imperial Valley College Foundation is to develop philanthropic support to assist Imperial Valley College in providing accessible educational programs, services and facilities that assure academic and vocational excellence for the students at Imperial Valley College, and that enrich the cultural, economic and civic life of the Imperial Valley.

The Foundation exists to raise and manage private resources supporting the mission and educational and facilities priorities of the District, and provide opportunities for students and a margin of institutional excellence unavailable with state funds.

The Foundation is dedicated to assisting the college in the building of the endowment and in addressing, through financial support and other resources, the long-term academic and other priorities of the college.

The Foundation is a separately incorporated 501 c (3) public organization and is subject to the Brown Act.

The Foundation is responsible for identifying and nurturing relationships with potential donors and other friends of the District, and acknowledging and stewarding philanthropic gifts in accordance with donor intent and its fiduciary responsibilities.

Furthermore, in connection with its fund-raising and asset-management activities, the Foundation and the District cooperate to retain personnel experienced in planning for and managing private contributions and works with the District to advise and assist in such activities.

In consideration of the mutual commitments herein contained, and other good and valuable consideration, receipt of which is hereby acknowledged, the parties agree as follows:

Imperial Community College District

- The Board of Trustees of the Imperial Community College District is responsible for overseeing the mission, leadership, and operations of the college
- The Board of Trustees is responsible for setting priorities and long-term plans for the Imperial Community College District.
- The Board of Trustees is legally responsible for the performance and oversight of all aspects of Imperial Community College District operations
- The Board of Trustees is legally responsible for prudent fiscal management of District finances and facilities

The Foundation's Relationship to the District

- The Foundation is a separately incorporated 501 (c) (3) non-profit organization created to raise, manage, distribute and steward resources to support the various missions of the District.
- The Foundation Board of Directors is responsible for the control and management of all assets of the Foundation, including the prudent management of all gifts consistent with donor intent.
- The Foundation is responsible for the performance and oversight of all aspects of its operations based on a comprehensive set of bylaws that clearly address the Board's Fiduciary responsibilities, including expectations of individual Board Members based upon ethical guidelines and policies.
- The Foundation is responsible to have mutual responsibility to evaluate the District personnel provided to run the Imperial Valley College Foundation.
- The Foundation agrees to continue to adequately perform endowment fundraising, scholarship development and management, and development and funds management of donations and funds raised by campus organizations, departments, and funds raised by the Foundation.
- The Foundation agrees to provide other functions in the legal purview of a 501 C3 Charitable Foundation, and will make every effort to assure that the services and funds provided by the Foundation to the District have a fair market value far surpassing the value of the funds and benefits provided by the District to the Foundation.

The District's Relationship to the Foundation

- The Superintendent/President is responsible for communicating District priorities and long-term plans, as approved by the Board of Trustees, to the Foundation.
- The District recognizes that the Foundation is a private corporation with the authority to keep all records and data confidential consistent with the law.
- The District is responsible to pay the salary and the accompanying benefits for two positions: the Executive Director, Foundation, and a support position, the Advancement Office and College Foundation Coordinator.
- The District believes that the aforementioned arrangement will be beneficial to the District. Accordingly, in order to ensure that the various functions performed by the District's Executive Director, Foundation and the Advancement Office and College Foundation Coordinator be successfully performed, the District shall provide the salary for these positions and the accompanying benefits, at the District's sole cost.
- As long as the Foundation continues to adequately perform endowment fundraising, scholarship development and management, and development and funds management of private donations

and funds raised by campus organizations and departments, and other functions in the legal purview of a 501 C3 Charitable Foundation, and the services and funds provided by the

Foundation to the District have a fair market value far surpassing the value of the funds and benefits provided by the District to the Foundation the district will be responsible for the employment, provision of salary and benefits and share in the evaluation of the Executive Director of the Imperial Valley College Foundation.

- The Parties agree that the individuals hired into the two (2) proceeding positions shall be considered District employees and that their employment shall be governed by the District and the District's applicable policies and procedures regarding hiring, supervision, evaluation, termination and other human resources matters. The District shall set the salary and benefit amounts for the preceding positions in its sole discretion. The District shall, where appropriate and legally permissible, take into account the views of the Foundation Board in regard to the management of the proceeding employees.
- The Executive Director shall provide institutional advancement, grants development and coordination and community relations services on behalf of the District and develop funding opportunities with community, alumni, public granting entities, private foundations and corporate donors as well as manage administrative functions on behalf of the Foundation and for the benefit of the District. The Advancement Office and College Foundation Coordinator shall act in a support position, performing functions related to accomplishing the goals of both the Advancement Office and the Foundation, including institutional advancement, grants development and management and community relations, on behalf of the District and fundraising, donor relations and administrative functions on behalf of the Foundation.
- The Executive Director of the Foundation shall be included as a member of the Superintendent/President's cabinet and senior administrative team.
- The District shall include the Foundation as an active and prominent participant in the strategic planning for the District.
- A member of the Board of Trustees and the Superintendent/President of the District shall serve as ex-officio members of the Foundation Board and both shall assume prominent roles in fund-raising activities.
- The District shall establish and enforce policies that support the Foundation's ability to respect the privacy and confidentiality of donor records.
- The District will provide office space, computer and telephone systems, utilities, office supplies, and other such services that may be necessary or required to fulfill its responsibilities and obligations.
- The District will provide marketing materials as mutually agreed upon by the District representatives and Foundation board.
- The District will provide alumni information at the request of the Foundation in accordance with applicable laws.

Foundation Responsibilities

Fund-Raising

- The Foundation shall create an environment conducive to increasing levels of private support for the mission and priorities of the District.
- The Foundation, in consultation with the Superintendent/President, is responsible for planning and executing comprehensive fund-raising and donor-acquisition programs in support of the District's mission. These programs include annual giving, major gifts, planned gifts, special projects, and campaigns as appropriate.

- The Foundation will establish, adhere to, and periodically assess its gift-management and acceptance policies. It will promptly acknowledge and issue receipts for all gifts on behalf of the Foundation and the District and provide appropriate recognition and stewardship of such gifts.
- The District recognizes that the Foundation bears major responsibility for fund-raising. District representatives will coordinate fund-raising initiatives including major gifts solicitations with the Foundation.
- The Superintendent/President will work in conjunction with the leadership of the Foundation Board and the Foundation Executive Director to identify, cultivate and solicit prospects for private gifts.
- The Foundation shall not accept grants from state or federal agencies, except in special circumstances that are approved by the Foundation Board of Directors, the Board of Trustees and the governmental agency.
- The Foundation shall establish and enforce policies to protect donor confidentiality and rights.

Asset Management

- The Foundation will establish asset-allocation, disbursement, and spending policies that adhere to applicable federal and state laws including the Uniform Prudent Investor Act (UPIA) and the Uniform Management of Institutional Funds Act (UMIFA).
- The Foundation will receive, hold, manage, invest, and disperse contributions of cash, securities, patents, copyrights, and other forms of property, including immediately vesting gifts and deferred gifts that are contributed in the form of planned and deferred-gift instruments.
- The Foundation will engage an independent accounting firm annually to conduct an audit of the Foundation's financial and operational records and will provide the District with a copy of the annual audited financial statement, including management letter.

District Flexibility

- The Foundation will explore current opportunities, including acquisition and management of real estate on behalf of the District for future allocation, transfer, or use.
- When distributing gifted funds to the District, the Foundation will disclose any terms, conditions, or limitations imposed by donor or legal determination of the gift. The District will abide by such restrictions as long as they do not violate applicable laws and provide appropriate documentation.

Transfer of Funds

- The Foundation is the primary depository of private gifts and will transfer funds to the designated entity within the District in compliance with applicable laws, District policies and gift agreements.
- The Foundation's disbursements on behalf of the District must be reasonable business expenses that support the District, are consistent with donor intent and do not conflict with the law.

Foundation Funding and Administration

- The Foundation is responsible for establishing a financial plan to underwrite the cost of Foundation Programs, operations and services.

- The Foundation has the right to use a reasonable percentage of the annual unrestricted funds, assess fees for services, or impose gift taxes, to support its operations.
- The Foundation and District shall amend this MA if other individuals must be employed and mutually agree on the responsibility for payment of salary and benefits of said personnel.

Construction

In the event of dispute, both Parties shall be deemed to have drafted this Agreement. No portion of this Agreement shall be construed for or against either party based on the drafter of the Agreement.

Terms of the Master Agreement (MA)

This Master Agreement, made this _____day of September, 2009, by and between the Board of the Imperial Community College District and the Imperial Valley College Foundation (an Internal Revenue Code 501 (c) (3) nonprofit corporation), is intended to set forth policies and procedures that will contribute to the coordination of their mutual activities.

To ensure effective achievement of the items of the agreement, the District and Foundation officers and board of representatives shall hold periodic meetings to foster and maintain productive relationships and to ensure open and continuing communications and alignment of priorities.

Either party may, upon 90 day prior written notice to the other, terminate this agreement. Notwithstanding the foregoing, either party may terminate this MA in the event the other party defaults in the performance of its obligations and fails to cure the default within a reasonable time after receiving written show cause notice

Should the District choose to terminate this agreement the Foundation may require the District to pay, within 180 days of written notice, all debt incurred by the Foundation on the District's behalf including, but not limited to, lease payments, advanced funds, and funds borrowed for specific initiatives. Should the Foundation choose to terminate this agreement the District may require the Foundation to pay debt it holds on behalf of the Foundation in like manner.

Consistent with provisions appearing in the Foundation's bylaws and its articles of incorporation, should the Foundation cease to exist or cease to be an Internal Revenue Code 501 c (3) organization, the Foundation will transfer its assets and property to the District or to a reincorporated successor Foundation in accordance with the law and donor intent.

The Foundation will conduct an annual review of the Master Agreement.

IN WITNESS WHEREOF, the parties have caused this Master Agreement to be executed by their duly authorized officers as of the day and date first above written.

_____

Carlos Acuña, Board President
Imperial Community College District

_____

Charles Hosken, Board President
Imperial Valley College Foundation