

# Memorandum of Understanding

## by and between the Siskiyou Joint Community College District and the College of the Siskiyous Auxiliary Foundation

This Memorandum of Understanding is made and entered into this 2nd day of November, 1993, by and between the Siskiyou Joint Community College District, hereinafter referred to as "District", and the College of the Siskiyous Auxiliary Foundation, a non-profit corporation, hereinafter referred to as "Foundation", an organization established and operated as an integral part of the District.

### I PURPOSE

Administration by the Foundation of the functions and activities described herein, instead of administration by and through the District, is deemed to be more effective in accomplishing those functions and activities than would be possible under usual governmental budgetary, purchasing, and other fiscal procedures. Further, the District expects to benefit from the experience and expertise of Foundation members.

The purposes for which this Foundation is formed are to promote the general welfare of College of the Siskiyous in the following manner:

- a. By assisting and supporting College of the Siskiyous in the attainment of educational, cultural, and scientific goals.
- b. By assisting and supporting College of the Siskiyous in fulfilling its role in serving the community of which it is a part.
- c. By soliciting, raising, and distributing monies, properties, and other assets for the construction of buildings, for the purchase of equipment, and for other outlay needs.
- d. By assisting and supporting the Operation of various student, alumni, and community services and activities of College of the Siskiyous as are common with educational establishments. These activities will include, but are not limited to, the operation of bookstores and cafeterias, providing both on and off campus housing to students, promoting alumni activities and services, promoting community service programs, and assisting, supporting, or operating other projects that may be deemed appropriate to promote the general welfare of College of the Siskiyous and the students of College of the Siskiyous.

### II DESIGNATION OF RECOGNIZED SERVICE

The Foundation through amendments to this agreement, may administer those functions or activities defined in Section 59259 of Title 5, California Code of Regulations, which are mutually agreed upon by parties.

In the solicitation, raising and distribution of monies, properties and other assets, the Foundation will be able, through its Board of Directors, to make many community contracts that the District would not normally make.

### **III DELINEATION OF AUTHORITY AND RESPONSIBILITY**

The Foundation shall not offer courses for which State funding is received. All services, programs and activities that may be undertaken by the Foundation shall be maintained for the general benefit of the educational programs of the District. Under this agreement, the Foundation may assume any of the services, programs and activities listed in District Implementing Regulations, Section 1.2 in order:

1. To 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. To eliminate undue difficulty that would otherwise arise under the usual governmental, budgetary, purchasing, and other fiscal controls; or,
3. To provide fiscal procedures and management systems that allows effective coordination of Foundation activities with the District in accordance with sound business practices.
4. To benefit from the experience and expertise of the Foundation.
5. That the Foundation will have powers expressly authorized by the Implementing Regulations for Auxiliary Organizations; by its Memorandum of Understanding and By-Laws; and by the California General Non-Profit Corporation Statute.
6. That the Foundation will have an ex-officio Trustee appointed to its Board and will come under the periodic review of the Board of Trustees.
7. That the Foundation will be authorized to invest its funds in accordance with policies adopted by its Board of Directors. And that gifts to the Foundation shall be accepted as authorized by the District's implementing regulations.

### **IV. BOARD OF DIRECTORS**

The Foundation shall have a Board of Directors elected in accordance with its by-laws and consisting of voting membership including a District Trustee acting as principal contact to the District Board of Trustees, College President acting as principal advisor, the College Vice President of Administration acting as Treasurer, and the College Chief Resource Development Officer acting as Secretary.

### **V. PERSONNEL**

Employees of the District may be assigned to duties related to Foundation. These assignments will be made by the President of College of the Siskiyous, approved by the District Board of Trustees, and periodically reported to the District Board of Trustees. Supervision of employees assigned to the Foundation continues to be by the President of the College who may delegate the responsibility to other College administrative staff as necessary.

Foundation employees will be provided salaries and benefits from Foundation funds and working conditions will be comparable to those provided to District employees performing similar services. Foundation employees will not become permanent employees of the District.

## **VI. FACILITIES AND SERVICES**

The Foundation may occupy, operate, and use District facilities and property separately or jointly with the District.

In consideration of the further terms of this agreement, the District will provide the Foundation with suitable space and equipment to perform its functions and activities.

The Foundation shall use the facilities, property, and equipment 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 of the Siskiyou Joint Community College District.

The District will also provide access to the Foundation for services that relate to purchasing, accounting, data processing, duplication, and administration. Costs of these services, which relate to supplies, will be paid for by the Foundation.

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

The District will not charge rent to the Foundation for use of facilities.

## **VII. DISTRICT REIMBURSEMENT**

The District will be reimbursed for the cost of services performed for the Foundation when these services involve costs that are beyond the work-day or work-week of District employees.

The District will be reimbursed for the cost of supplies related to functions performed by the Foundation.

## **VIII. INDIRECT COSTS**

If the Foundation administers a federally-sponsored program, it shall reimburse the District for indirect costs associated with the performance of services by the District or the Foundation 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.

## **IX. MAINTENANCE AND OPERATING EXPENSES**

The District shall provide maintenance and custodial services in the same manner as it provides for its own officers. The Foundation agrees that it will keep and maintain the described facilities in a clean and orderly condition.

## **X. SIGNS, FIXTURES AND EQUIPMENT**

During the term of this agreement, the Foundation shall have the right to erect, place and attach fixtures, signs, and equipment in or upon facilities as authorized by the College of the Siskiyou's President in writing as to number, size, and location. Fixtures, signs, or equipment so erected, placed, or attached by the Foundation can be removed therefrom by the Foundation upon termination of this agreement.

## **XI. PUBLIC RELATIONS**

With respect to any expenditures for public relations or other purposes which would serve to augment District appropriations for the operation of the College, the Foundation may expend funds in such amount and for such purposes as are approved by the Board of Directors of the Foundation. The Foundation shall file with the College President a statement of its policy on accumulation and use of public relations funds. This statement will include the policy and procedures on solicitation of funds, source(s) of funds, purposes for which the funds will be used, allowable expenditures and procedures of control.

## **XII. DISPENSATION OF EARNINGS**

Income generated by the Foundation in excess of costs and provisions for facilities, equipment, maintenance, reserves, and working capital shall be used to benefit College of the Siskiyous and the students of College of the Siskiyous. Provisions shall be established by the Board of Directors of the Foundation to ensure fulfillment by the Foundation of this agreement.

## **XIII. DISSOLUTION OF FOUNDATION**

In the event of the dissolution of the Foundation or upon cessation of operations of the Foundation under this agreement, all assets and liabilities of the Foundation resulting or arising from this agreement shall either be transferred to the Siskiyou Joint Community College District, or a non-profit tax-exempt organization designed by the District, or expended for the benefit of College of the Siskiyous, the students of College of the Siskiyous, or the District. It is understood that in the event the Foundation ceases to be an auxiliary organization it shall retain the assets it brings to this agreement so long as it operates for the benefit of the District.

## **XIV. COVENANT**

During the term of this agreement, the Foundation agrees to maintain its organization and to operate in accordance with the California Education Code and with the regulations of California Code of Regulations, Title 5, as well as the Siskiyou Joint Community College District Implementing Regulations.

## **XV. RIGHT OF ENTRY**

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

## **XVI. THIRD PARTY AGREEMENT**

The Foundation shall not enter into any contract that would obligate designated District facilities, equipment or personnel without prior District approval. Any such contracts must contain thirty-day or sixty-day cancellation provisions with no cancellation penalties.

## **XVII. INSURANCE, INDEMNIFICATION AND RESTORATION**

The Foundation shall be included in the District's insurance policies for all of its regular functions. When special events are sponsored by the Foundation, separate insurance coverage may be required by the District.

The foundation 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 Foundation or in connection with this agreement.

Upon termination of this agreement, the District shall have the option to require at the Foundations' own expense and risk, to restore the facilities as nearly as possible to the condition existing prior to the execution of the agreement. If the Foundation shall fail to do so within ninety (90) days after the District exercises said option, the District may restore the 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 option within thirty (30) days after the expiration of this agreement.

**XVII. REAL PROPERTY**

The Foundation shall not enter into any transaction concerning real property without the prior approval of the College President, and the District Board of Trustees.

**XIX. 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 College President.

**XX. TERMS OF AGREEMENT**

This agreement begins November 2, 1993 and ends upon either party giving sixty (60) days written notice, subject to the provisions of section XIII of this Memorandum of Understanding entitled Dissolution of Foundation.

The Foundation must remain in good standing with the District and comply with the implementing regulations for auxiliary organizations.

**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 Foundation President.

IN WITNESS WHEREOF, this agreement has been executed by the parties hereto.

EXECUTED ON THE DATES SHOWN BELOW:

DATED: November 2, 1993 College of the Siskiyous Foundation  
By signature/Lawrence Moran

DATED: November 2, 1993 Siskiyou Joint Community College District  
By signature/Martha Romero