

## **Agreement Pertaining to the Operation of Doña Ana Community College**

This Agreement is between the Regents of New Mexico State University (“*Regents*”), on behalf of its Doña Ana Community College, and the branch community college board of Doña Ana Community College (“*DACC Advisory Board*”) (each individually, a “*Party*” and collectively, the “*Parties*”), and will take effect on the last date signed below (“*Effective Date*”).

### **Background**

- Doña Ana Community College (“*Community College*”) is a component institution under the governing authority of the Regents.
- Advisory Board with respect to Community College is a nonfiduciary body whose purpose is to provide valuable input in support of the Regents’ governance over Community College.
- The Parties have maintained a longstanding and successful collaboration concerning the operation of the Community College.
- This Agreement is adopted in accordance with the requirements of state law and founded on the desire of the Parties to provide quality educational services in accordance with the needs of the Community College service area.

### **Agreement**

#### **I. Definitions.**

“*Advisory Board*” consists of a local school board, or combined local school boards, acting as a single board, situated within the local taxing district that supports the Community College [§21-14-2(A)]<sup>1</sup>.

“*Advisory Committee*” means a committee that acts on Advisory Board’s behalf.

“*Chancellor*” means the Chancellor of the New Mexico State University Community College System or successor position designation.

“*Term*” means a period during which this Agreement has effect.

#### **II. Advisory Board.**

A. **Multiple School District Boards.** If Community College is located in a county with more than one local school district, then Advisory Board may designate an Advisory Committee that comprises two representative board members from each local school board. The Advisory Board may delegate to the Advisory Committee functions and responsibilities of the Advisory Board, but may not delegate any duties assigned to the Advisory Board under §21-14-2(B).

B. **Duties.** Under state law [§21-14-2(B)], the non-delegable duties of the DACC Advisory Board are as follows:

1. enter into a written commitment with the Regents, subject to biennial review by the Parties and to the review and commentary of the New Mexico Higher

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<sup>1</sup> Unless otherwise indicated, all section references are to New Mexico Statutes Annotated, 1978, as amended.

Education Department;

2. act in an advisory capacity to the Regents in all matters relating to the conduct of the Community College;
3. approve the annual operating budget of Community College for recommendation to the Regents;
4. certify to the board of county commissioners any tax levy; and
5. issue the proclamation for the election for tax levies for the Community College if the tax levies are to be presented to the voters of the district at a special election, or approve the ballot question if the tax levies are to be presented to the voters of the district at either the general or regular local election.

C. Meetings.

1. *Purposes.* The DACC Advisory Board must meet as necessary to:
  - a. certify to the board of county commissioners any the tax levy; and
  - b. conduct elections for tax levies for the Community College.
2. *Annual Activity.*
  - a. **Budget.** In addition, the DACC Advisory Board must:
    - i. review the annual operating budget of the Community College for recommendation to the Regents; and
    - ii. upon request of either Party, meet at least once a year with the Regents (Joint Meeting).

*Coordination.* The purpose of the Joint Meeting is to allow each Party to report to the other and make inquiry of the other on all matters relating to the conduct of the Community College.

3. *Additional Meetings.* The Regents, the President of New Mexico State University, the DACC Advisory Board, or the Chancellor may request additional meetings as needed.
4. *Open Meetings Compliance.* All meetings that include either a quorum of the Regents or a quorum of any local school board must be conducted according to the New Mexico Open Meetings Act [§10-15-1 *et seq.*].

III. **Director.** Upon any applicable vacancy, the DACC Advisory Board and the Regents jointly must conduct a search for qualified candidates for a Director. Upon consultation with the DACC Advisory Board, the Regents must then select a Director. [§21-14-2(C).]

IV. **Regents Authority.** Regents have full authority and responsibility over all aspects of the Community College including, but not limited to, academic matters [§21-14-2(D)(1)].

V. **Academic Matters.**

- A. Programs of Study. The Community College will offer educational programs of study that have been approved by the Regents including:
  1. the first two years of college education; or

2. vocational and technical curricula of not more than two years' duration designed to fit individuals for employment in recognized occupations; or
  3. both [§21-14-1(A)].
- B. Employment of Faculty. The Regents must consider application of qualified local applicants before employing teachers of the local school system(s) [§21-14-2(D)(5)].
- C. Credits. The Regents will honor all credits earned by students as though they were earned on the New Mexico State University's main campus in Las Cruces, New Mexico [§21-14-2(D)(2)].

**VI. Financial Matters.**

- A. Management. The Regents are responsible for the financial management of the Community College. The DACC Advisory Board may review all procedures, reports and all other matters related to the financial management of the Community College.
- B. Budget Recommendation. Each year the Chancellor will prepare and present to the DACC Advisory Board a proposed annual budget including a long-range plan for the Community College and the status of each capital outlay project. The DACC Advisory Board must approve an annual budget for the Community College for recommendation to the Regents [§21-14-2(B)(3)].
- C. Funding Sources.
1. *Types*. The Parties intend Community College to be financed by state appropriations, tuition and fees charged to students, grants, gifts, and any other funds that are made available through additional tax levies under the College District Tax Act [§21-2A-1 *et seq.*].
  2. *Appropriation*. The Parties anticipate that the New Mexico Higher Education Department will recommend an appropriation for the Community College based on the Community College's financial requirements [§21-14-9].
  3. *Bond Financing*.
    - a. *Real Property Improvements*. The Regents, on behalf of the Community College, may borrow money through college district general obligation bonds, for the purpose of erecting and furnishing, constructing, purchasing, remodeling and equipping buildings and utility facilities and making other real property improvements or for purchasing grounds, exclusive of stadiums and purchasing and installing computer hardware and software with a useful life equal to or exceeding bond maturity. [§21-2A-6(A)].
    - b. *Taxes*. All tax levied to pay for principal and interest on any general obligation bond of the Community College will be in addition to any taxes levied for operating, maintaining and providing facilities for the Community College under the College District Tax Act [§21-2A-1 *et seq.*].
    - c. *Repayment*. The Parties must cause any repayment of district general obligation bonds to be made in accordance with the College District Tax

Act and to be the general obligation of the college district [§21-2A-7 *et seq.*]. The Regents have no obligation to repay the bonds.

4. *Tuition and Fees.* The Regents will:
  - a. set Community College's tuition and fees [§21-14-5];
  - b. assess to any New Mexico resident residing outside of the Community College service area an out-of-district fee each semester; and
  - c. assess to any non-resident of New Mexico tuition and fees at a higher rate than residents.

#### VII. **Facilities.**

- A. Acquisition of Property in Name of Regents. All property acquired by the Community College, including all property acquired from the proceeds of a bond issue, will be taken in the name of the Regents [§21-14-14].
- B. Cooperative Use of Physical Facilities. Subject to space and other resource constraints:
  1. the Community College will share facilities in support of New Mexico State University's bachelors and appropriate graduate programs; and
  2. the Regents will share facilities on the Las Cruces campus of New Mexico State University in support of the Community College's programs [§21-14-2(D)(4)].

#### VIII. **Term; Termination.**

- A. Duration. The Term is indefinite, beginning on the Effective Date, subject to termination as set forth below.
- B. Termination. If Community College has no general obligation or revenue bond then outstanding, then this Agreement may be terminated either immediately by the Parties' mutual written consent or upon six months' notice by either Party. If Community College has any outstanding general obligation or revenue bond, then neither Party has a right to terminate this Agreement until that outstanding bond is retired, unless otherwise provided by law [§21-14-2(E); referencing §21-13-24.1].
- C. Review. This Agreement is made in order to fulfill the requirements of state law and is subject to biennial review by the Parties and the review and comment of the New Mexico Department of Higher Education [§21-14-2(B)(1)].

IX. **Entire Agreement.** This Agreement constitutes an entire understanding between the Parties concerning its subject matter and supersedes any prior commitment, representation or understanding, whether expressed or implied, spoken or written.

X. **No Third-Party Beneficiaries.** This Agreement is for the benefit of the Parties only. No right or benefit is conferred to any third-party by or through this Agreement.

**APPROVAL AND ATTESTATION**

**Regents of New Mexico State University**

The **Regents of New Mexico State University** duly approved this Agreement at an official meeting on 6/28/2024 (date).

As the duly authorized representative, I attest to the truth of the foregoing statement.

7/2/2024  
Date

Ar Devas Thali  
Chair

**Branch Community College Board**

The DACC Advisory Board duly approved this agreement at an official meeting on 05/02/2024 (date).

10/17/2024  
Date

Robert W. Ford  
Chair