

OHLONE COMMUNITY COLLEGE DISTRICT

RESOLUTION NUMBER 12/04-05

Adoption of a 403(b) Tax Sheltered Annuity Plan and Governmental 457(b) Deferred Compensation Plan

WHEREAS, the Governing Board of the Ohlone Community College District ("District"), designated as a governmental employer as defined in Section 457(e)(1)(A) of the Internal Revenue Code ("IRC") as amended, desires to adopt a Tax Sheltered Annuity Plan that qualifies under IRC Section 403(b) ("the TSA/403(b) Plan"), and a governmental non-qualified Deferred Compensation Plan that qualifies under IRC Section 457(b) ("the DCP/457(b) Plan") in which employees, and specified de minimus independent contractors, are permitted to make voluntary salary reductions; and to which the District may elect from time to time to make employer contributions on behalf of selected employees; and

WHEREAS, the Governing Board, District officials, or other District employees, make no representations or recommendations and bear no responsibility for any employee's/participant's selection of specific investment options made available under the DCP/457(b) Plan and/or the TSA/403(b) Plan ("the Plans"). The Governing Board, District officials, or other District employees, make no representations to employees about the advisability, appropriateness, or income tax consequences of participating in any TSA/403(b) and/or DCP/457(b) account(s) to which contributions are made, and that each employee, and not the District or Governing Board, shall be individually responsible for the determination of those eligible limits.

THEREFORE, BE IT RESOLVED THAT:

1. The TSA/403(b) Plan which, at all times, is intended to conform with the requirements of IRC Section 403(b) is adopted, and the following qualified investment options will be made available for selection by employees:
 - Fixed annuities which are qualified under IRC Section TSA/403(b)(1); and
 - Variable annuities that are qualified under IRC Section TSA/403(b)(1); and
 - Custodial accounts investing only in regulated investment company stock under IRC Section TSA/403(b)(7).
2. The DCP/457(b) Plan which, at all times, conforms with the requirements of IRC Section DCP/457(b) is adopted, and the following investment options shall be held in trust, or in annuity contracts, or in custodial accounts that comply with IRC Section 457(g) for the exclusive benefit of employees and their beneficiaries who voluntarily choose to participate in the DCP/457(b) Plan:
 - Fixed Annuities, Variable Annuities, Custodial Accounts, and Trust Accounts.
3. Individuals who will be permitted to participate in the District's DCP/457(b) Plan are described in the Plan Document and the Adoption Agreement.
4. All eligible employees of the District are given the opportunity to participate in the District's TSA/403(b) Plan, and to enter into an amendment of employment contract for the purpose of effecting a reduction in the salary paid to such employee. Persons who are not employees are prohibited from participation.

Administration and Compliance: It is the intention of the members of the Governing Board that the District's TSA/403(b) Plan and DCP/457(b) Plan will conform with the applicable federal and state statutory requirements, and that the employee salary reduction contributions to the TSA/403(b) Plan and DCP/457(b) Plan be within eligible limits as set out in IRS regulations as currently stated, or as amended in the future. The Governing Board authorizes the President/Superintendent or designee, to develop appropriate procedures to

conduct a compliance review, followed by an ongoing compliance initiative, and to install necessary controls to insure that the TSA/403(b) and DCP/457(b) Plans are operated in conformance with the Internal Revenue Code and relevant state regulations, including related regulations as currently stated, and as amended in the future.

To assist the District in meeting the above requirements stated in this resolution, the Board hereby authorizes and directs the President/Superintendent or designee, to engage the services of an independent third party administrator ("the Administrator"). The President/Superintendent or designee, and the Administrator are further authorized to act on the Board's behalf with respect to all other aspects of the TSA/403(b) Plan and the DCP/457(b) Plan.

The President/Superintendent or designee is the District's Plan Administrator, and is hereby authorized and directed to execute the actions necessary to properly establish and administer the Plans, including the selection or eviction of investment option providers for the Plans, and entering into contracts or agreements as necessary to carry out the duties of the District's Plan Administrator, and where applicable, to execute procedures required to attain and maintain the qualified status of the Plans.

Employer Contributions: The Governing Board hereby authorizes the President/Superintendent or designee to develop and implement employer contributions if any, to the TSA/403(b) Plan and DCP/457(b) Plan as necessary and appropriate; and to establish Administrative Policies that conform to the federal and state code and relevant regulations for those contributions.

That this Resolution is hereby adopted and approved, and supersedes and replaces any and all prior resolutions and plans of the District, authorizing a TSA/403(b) Tax Sheltered Annuity and a DCP/457(b) Deferred Compensation Plan for its eligible employees.

District Name: Ohlone Community College District

Adopted by the Governing Board:

Meeting Date: February 9, 2005

Certified by the Secretary of the Board:

Name: Nick Nardolillo

Signature: _____