



NUMMI ENDOWMENT AGREEMENT

The purpose of this endowment is to support the Smith Center facility at Ohlone College with capital improvements.

THIS AGREEMENT is made this 18th day of February, 2009 by and among the Dean of Fine Arts, Business, and Communication, the Vice President of Academic Affairs/Deputy Superintendent of Ohlone College, and the Ohlone College Foundation (“Foundation”), an independent corporation existing for the exclusive benefit of Ohlone College. The Foundation is an organization described under Section 501(c) (3) of the Internal Revenue Code. It should be noted that no other endowment agreement was in effect for the NUMMI funds as of the date of this agreement.

A. **Fund Establishment**

- A1 The intent of the fund is to establish a permanent endowment fund held by the Foundation. The Foundation agrees to establish and administer such endowment fund, which shall be a restricted fund subject to all provisions of this Agreement and known as the:

NUMMI Endowment

B. **Fund Purpose**

- B.1 The purpose of the NUMMI Endowment shall be to provide an annual income stream from the corpus or principal to provide capital improvements to the Smith Center facility at Ohlone College, as deemed appropriate by the Dean of Fine Arts, Business, and Communication and the Vice President of Academic Affairs/Deputy Superintendent. Annually the usage of this income will be approved by the Board of Directors of the Foundation.

C. **Policies and Administration**

- C.1 The Fund shall be invested in accordance with the Foundation’s investment policies, as the Foundation may determine and as the same may be amended from time to time. The assets of the Fund may be pooled with other Foundation property for investment purposes. The Fund value may be protected in accordance with Foundation policy that includes an annual adjustment of the principal or corpus to reflect an increase equal to the increase in the Consumer Price Index (U.S. All City Average).

C.2 The Fund shall retain a minimum corpus of \$102,795 reflective of the Fund balance as of July 1, 2008. At no time shall the endowment corpus be expended or otherwise encumbered.

It should be noted that the fund balance in the endowment (Fund 89-#70962) is in excess of the corpus as of the date of this agreement.

C.3 The Fund shall be subject to such administrative fees as the Foundation may determine and as the same may be amended from time to time. The administrative fee shall be applied to support the Foundation's mission. Information concerning the amount of the Foundation's current administrative fee is available upon request.

C.4 Requests for distribution of NUMMI Endowment funds may be made by the Dean, faculty or staff associated with the Smith Center. Requests must be made to the Foundation in the form of a letter and approved by the Dean of Fine Arts, Business, and Communication and the Vice President of Academic Affairs/Deputy Superintendent.

C.5 All charitable distribution from the Fund shall be identified to the beneficiary as coming from the Fund and the Foundation.

D. **Amendments**

D.1 Subject to the provisions below, a restriction as to the use of the Fund may be released, in whole or in part by the Board of Directors of the Foundation ("Board") with the written consent of the Dean of Fine Arts, Business, and Communication and the Vice President of Academic Affairs/Deputy Superintendent.

D.1.a In the event that the Fund has become obsolete, inappropriate, or impracticable, the Board may designate an alternative Fund use which shall follow as closely as reasonably practicable the intent set forth in the Agreement, or transfer funds into the Foundation General Fund, the Foundation Scholarship Endowment, or the Foundation General Endowment as approved by the Foundation Board of Directors.

D.1.b In no event shall any amendment or modification of this Agreement alter the intention that the Fund shall be (ii) for the benefit of the College; (ii) exclusively for educational purposes in a manner consistent with the provisions of Section 501(c)(3) of the Code or any successor provision thereto; and (iii) such that donations to the Fund shall be deductible for federal income tax purposes to the extent allowed by the provisions of the Code and other applicable legislation and regulations there under.

Agreed and Signed:

For the Fund (Print Name of Dean)

For Ohlone College Foundation (Print Name)

Signature of Dean

Signature of Executive Director

Date of Dean's Signature

Date of Executive Director's Signature

For the Fund (Print Name of V.P.)

Signature of Vice President

Date of Vice President's Signature