MEETING OF THE BUSINESS AFFAIRS COMMITTEE OF THE BOARD OF TRUSTEES

Community College of Philadelphia Wednesday, November 18, 2015 – 9:00 A.M.

Present:

Mr. Jeremiah White (chaired); Ms. Suzanne Biemiller (*via* teleconference), Mr. Steve Herzog, Ms. Jennie Sparandara (*via* teleconference), Stella Tsai, Esq., Dr. Donald Generals, Mr. Jacob Eapen, Mr. Todd Murphy, Mr. James P. Spiewak and Victoria Zellers, Esq.

AGENDA - PUBLIC SESSION

(1) <u>Memorandum of Understanding (MOU) between the College Foundation and the College (Action Item):</u>

<u>Discussion</u>: Mr. Eapen stated that at the November 12, 2015 Foundation Board meeting, the Foundation Board approved the attached MOU. (Please see <u>Attachment A</u>.) Mr. Eapen noted that there were two minor changes from the version previously provided to the Committee. He noted that these changes are in Sections 2, 3 and 5 and are highlighted.

Action: Mr. Herzog moved and Ms. Sparandara seconded the motion that the Committee recommended to the full Board the approval of the Memorandum of Understanding between the College Foundation and the College. The motion passed unanimously.

<u>Please Note</u>: Upon further review, another minor change was noted which does not affect the scope or intent of the MOU. In Section 6 (a)(ii), the word "default" was changed to "breach" to reflect a more accurate term as it applies to a failure of the parties to adhere to contract terms. This section is also highlighted.

(2) <u>Short-Term Capital Budget Plan (Information Item)</u>:

Mr. Eapen provided an overview of the College's short-term Capital Budget Plan. Please refer to Attachment B. Mr. Eapen discussed the sources of funds for the capital items and explained in detail the intended use of the funds. In response to a question from Mr. Herzog, Mr. Spiewak noted that any remaining funds could only be used for capital projects. Ms. Biemiller asked about the extent of spending at the West Regional Center in light of the potential changes at that location. Staff responded that one item is related to the relocation of the security desk so that the ADA accessible ramp entrance becomes the only entrance on Ludlow Street, and that the renovation to the Biology Lab has been scaled back to be mostly cosmetic in nature. Ms. Zellers informed the Committee that the Burt Hill litigation is ongoing and that the College will appeal the trial court's order to the Commonwealth Court.

(3) Other Informational Item:

Ms. Zellers and Dr. Generals provided the Committee members with an update on the status of negotiations with the Philadelphia School District related to the use of Ben Franklin High School and its equipment for the College's advanced manufacturing programs.

(4) Next Meeting Date:

The next regularly scheduled meeting of the Committee is scheduled for Wednesday, January 20, 2016 at 9:00 A.M. in the Isadore A. Shrager Boardroom, M2-1.

ATTACHMENT A

MEMORANDUM OF UNDERSTANDING BETWEEN THE COMMUNITY COLLEGE OF PHILADELPHIA FOUNDATION AND COMMUNITY COLLEGE OF PHILADELPHIA

Memorandum of Understanding Between the Community College of Philadelphia Foundation and Community College of Philadelphia

THIS MEMORANDUM OF UNDERSTANDING ("MOU"), entered into as of this day of
2015, by and between Community College of Philadelphia, an instrumentality of the Commonwealth of
Pennsylvania (the "College") and the Community College of Philadelphia Foundation, a Pennsylvania non-
profit corporation (the "Foundation").

INTRODUCTION

The College is an institution of higher learning education whose primary mission is to meet the post-secondary educational needs of the Philadelphia community by providing a range of accessible and affordable academic and technical training programs designed to prepare students for entrepreneurship, the vocational world or future academic studies. The College's primary sources of revenue are tuition payments and appropriations from the Commonwealth of Pennsylvania and City of Philadelphia. To supplement its revenue, the College works with the Foundation, which regularly seeks other funding sources to assist the College with its capital development and expansion and enhancement of its programs.

The Foundation was established in 1985 to support the College's mission by bringing together community leaders who will serve as ambassadors of the College and expand educational opportunities for students of the College. The Foundation is a non-profit corporation with a governance structure independent of the College. The Foundation serves the College by creating partnerships with individuals, businesses, organizations, and foundations to solicit and raise funds from a variety of private sources. Based on donor intent, the Foundation invests those funds, whether money or other assets, for the benefit of the College, enabling the College to achieve academic, strategic and other long-term goals that would not be achievable without the support of the Foundation.

The College and the Foundation have been working together on shared goals since the Foundation's inception. The Foundation has played an integral role in the success of the College. Due, in part, to the growth of their interdependence, the College and the Foundation have concluded that it is in their best interests to set forth their respective roles and responsibilities in writing and are entering into this MOU for that purpose.

NOW, THEREFORE, in consideration of the mutual covenants herein contained and intending to be legally bound, the College and the Foundation agree as follows:

- 1. <u>Foundation's Fundraising Efforts</u>. The Foundation enhances and enriches the educational experiences of the College's students by providing external resources to support the College's mission. In furtherance of advancing the College's mission, the Foundation shall produce and maintain programs which solicit and raise funds earmarked for the College. In this regard, and in consultation with the College, the Foundation shall:
 - (a) create an environment and value statement conducive to increasing levels of private support for the College by engaging in activities that include, but are not limited by, the following:
 - (i) involve community, civic and business leaders in the College's activities;

- (ii) involve the College community (administrators, faculty, staff, students, alumni) in fundraising and community activities;
- (iii) create business and community partnerships that drive revenue;
- (iv) hold special events and outings;
- (v) publicize College success stories, in conjunction with the College's Marketing Department, to our intended audiences and, engage them using the press and social media; and
- (vi) build a long-term endowment.
- (b) plan and execute comprehensive fundraising and donor-acquisition programs, for each of the following: corporate and foundation gifts; alumni support; annual giving; major gifts; planned gifts; and special projects and campaigns, as appropriate. For each of these categories, the Foundation and the College will:
 - (i) identify, cultivate, and solicit prospective gifts;
 - (ii) establish and enforce policies to protect donor confidentiality and rights;
 - (iii) establish, adhere to, and periodically assess its gift-management and acceptance policies; and
 - (iv) acknowledge and issue receipts promptly for all gifts, on behalf of both the Foundation and the College, and provide appropriate recognition for all gifts.
- 2. <u>Limitations on the Foundation's Fundraising Activities</u>. The Foundation shall not engage in the following fundraising activities, unless it has the written consent of the College:
 - (a) raise funds for or support the activities of any institution other than the College;
 - (b) accept grants from state or federal agencies;
 - (c) accept any gift that obligates the College to dispose of or encumber any of the College's assets; or
 - (d) negotiate and accept real property in any form that obligates the College.
- 3. <u>Foundation's Management of Assets</u>. In connection with its stewardship over the funds it raises, the Foundation shall:
 - (a) 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);
 - (b) receive, hold, manage, invest, and disperse contributions of cash, securities, patents, copyrights, intellectual property, and other forms of property, including immediately vesting gifts and deferred gifts that are contributed in the form of planned and deferred-gift instruments. In this regard, the Foundation shall treat, invest and disburse all funds which are restricted or limited, by the donor or otherwise, in accordance with the applicable restrictions and/or limitations, and shall provide the College with all documents pertaining to any restrictions and/or limitations;

- (c) transfer or disburse funds to the College in accordance with donor requirements contained in gift agreements and the Foundation's and College's policies for receiving gifts, and that comply with the Donor Bill of Rights; and
- (d) engage an independent accounting firm annually to conduct an audit of the Foundation's financial and operational records. Promptly after issuance of the audit, the Foundation will provide the College with a copy of the annual audited financial statements, including any management letters or any other materials which are part of the audit report.
- 4. Name and Logo. To assist the Foundation to achieve its objectives under this Agreement, the College hereby grants to the Foundation, at no cost, the non-exclusive, limited, non-assignable license to use the College's name, logo and other identifying and distinguishing marks (the "College Materials") for use in the Foundation's solicitation and related materials; provided that the Foundation shall not alter the College Materials in any way. The Foundation may, if it so elects, use its own logo or other identifying information or material on its letterhead and other materials. The College may change the College Materials at any time and in any way, at its discretion, but shall notify the Foundation of any changes.
- 5. <u>Relationship Between College and Foundation</u>. The College and Foundation recognize that the Foundation's success at meeting fundraising and other goals on behalf of the College depends on the parties' collaborative efforts. In this regard, the parties agree to the following:
 - (a) The College and the Foundation will establish a process for setting long-term and short-term fundraising goals, holding regularly scheduled meetings and jointly selecting ad hoc committees to undertake special projects.
 - (b) The College's Board of Trustees is responsible for setting and administering the College's strategic priorities, long-term plans, capital spending goals and projects and programmatic initiatives, and the College will communicate all such matters to the Foundation on a timely basis. The College will involve the Foundation, as appropriate, in the strategic planning process and any initiative that requires raising a source of revenue for which the Foundation is responsible.
 - (c) The Foundation will become self-sufficient for its operations and programs, and will develop a plan, with the College's input, for doing so. Until such time as the Foundation is able to be self-sufficient in its operations, the College will make available to the Foundation such resources and services that the Foundation may require to fulfill its obligations under this Agreement, including, but not limited to: office space; computer, telephone and other office equipment; supplies; and personnel. To the extent practical, the College and Foundation will keep track of these resources and their value, so that they can report the value of such resources and services if required.
 - (d) If either the College or the Foundation amends its articles of incorporation or by-laws, it shall immediately give notice to the other party, together with a copy of the document, as amended.

- (e) The College and the Foundation shall require the members of its Board of Trustees and Board of Directors, respectively, (the "Governing Body Members"), to execute and submit an annual conflicts of interest disclosure statement, and each party shall provide copies of the statements to the other party. Each of the boards of the College and Foundation shall periodically assess its conflicts of interest policy, and, given the relationship of the parties, shall require its Governing Body Members to disclose conflicts with both the College and the Foundation.
- (f) The Foundation will provide access to data and records to the College on a need-to-know basis in accordance with applicable laws, foundation policies and guidelines, including the Donor Bill of Rights. For its part, the College will treat all information as confidential and shall not use any such information without the consent of the Foundation. Upon the Foundation's request, the College shall furnish the names and addresses of students, alumni, faculty and employees for the purpose of communicating with and soliciting such individuals.
- (g) The Foundation shall comply with applicable laws regarding solicitation, record keeping and filing of reports and returns, and shall provide to the College, promptly after it is filed, a copy of its Form 990 Federal tax return.
- (h) Unless a Governing Body Member holds a position as both a Trustee with the College and a Director with the Foundation, each Governing Body Member shall owe his or her duty, whether imposed by statute, by-law or otherwise, solely to the entity for which he or she serves as a Governing Body Member.
 - (i) If either party believes that the other party has breached any term of this Agreement through the conduct of one or more of the other party's Governing Body Members, its claim shall be solely against the other party and not individually against any Governing Body Member.
 - (ii) The College and the Foundation each shall maintain commercially reasonable insurance coverage, including coverage for directors' and officers' liability insurance with customary limits.
- (i) Recognizing that the ownership, management and disposition of real property may be handled more efficiently by a private entity, the College may look to the Foundation to make recommendations for the manner in which the Foundation (or a separately formed entity) can, for the College's use and benefit, acquire, improve, occupy, lease and sublease, and dispose of real property, and to enter into financings in connection with such functions. Any transaction involving the acquisition, financing, development, leasing, subleasing or disposition of real property by the Foundation for the benefit of the College shall require the separate approvals of both the Board of Trustees of the College and the Board of Directors of the Foundation.
- (j) Notwithstanding anything contained in this MOU, the College and the Foundation each acknowledges and agrees that the College and the Foundation are separate entities, responsible for each of its own affairs, governance and finances, and that neither shall be deemed to have assumed the debts, liabilities, obligations of any kind whatsoever of the other by reason of entering into this MOU or dealing with one another in any manner, and neither party shall be subject to any lien, levy or similar encumbrance imposed on the property of the other.

6. Miscellaneous.

(a) This MOU may be terminated:

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Executive Director

- (i) By either party, upon 180 days' prior written notice to the other party, regardless of cause.
- (ii) Upon the giving of ten days' prior written notice, by the non-breaching party in the event the other party breaches the performance of its obligations under this MOU and fails to cure the breach within 90 days after receiving written notice of such failure.
- (b) If the College terminates this agreement pursuant to (a)(ii) above, the Foundation may require that within 180 days after the termination, the College to pay, or assume liability for (to the reasonable satisfaction of the Foundation) all debt incurred by the Foundation on the College's behalf, including, but not limited to, lease payments, advanced funds, and funds borrowed for specific initiatives.
- (c) If the Foundation terminates this MOU pursuant to (a)(ii) above, the College may require the Foundation to pay to the College an amount equal to debt which the College has incurred on behalf of the Foundation.
- (d) Upon the dissolution of the Foundation, the Foundation will follow the dissolution process as outlined in paragraph 10 of its Articles of Incorporation.

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

Ву:	
Chair, Board of Trustees	
By:	
President	
COMMUNITY COLLEGE OF PHILADELPHIA	A COLLEGE FOUNDATION
Ву:	
President, Board of Directors	
By:	

ATTACHMENT B SHORT TERM CAPITAL BUDGET PLAN

SOURCES and USES FOR CAPITAL PLAN

Committed Remaining	Funds Funds Notes on Committed Funds	1,400,000	360,000	6,900,000 800,000 Committed - \$5.9M for Bio Labs; \$1M for Stairs	1,213,289 1,286,711	1,500,000 900,000 Amount needed to fully fund all projects including Landscaping	436,125 - per Perkins grant	516,295 -	2,098,089 - SPSBA Loan, Plant Fund, Grant	14,423,798 2,986,711			Chrundea	Total Cost Amount	10,616,211 -	1,871,462 -	436,125 -	1,500,000	
ŭ	Total Funds	1,400,000	360,000	7,700,000	2,500,000	2,400,000	436,125	516,295	2,098,089	17,410,509		1	Funded	Amount	10,616,211 10	1,871,462	436,125	1,500,000	
	SOURCES OF FUNDS	City Funds - FY16	Capital Fees - FY16	2015 Bond Issue for Bio Lab & Escalator Replacement	Bond Refinancing	Burt Hill Litigation	Perkins Grant FY 16	Operating Budget - FY 16	Other Misc. Sources	TOTALS				USES OF FUNDS	FACILITY PROJECTS - Short Term	DEPARTMENTAL PRIORITIES	PERKINS FUNDED - FY 16	NERC/Pavilion/BMW Balance	

10,616,211

10,616,211

FACILITY PROJECTS SUBTOTAL

<u>Description</u> <u>DEPARTMENTAL PRIORITIES</u> Replacement Seating Computer Classrooms - Phase I & II 141,584 CBI Fire Safety System (Honeywell)
stems-MG Manifold Room
ations
Classrooms with Smart Technology 320,000 Classrooms with Smart Technology 321,000
m Replacement CBI (CBORD)
Carriel as and Recorders SLIB and Gym heating system pumps 9,000
Lighting Control Pavilion 5,000
1,200
Carpeting for Front Desk/Administrative Areas 3,000
1,200
2,000
Microscopes 47,600
Portable water purification unit
1,600
X-ray unit machine
JL, CONF/TASK, ADA HI, ARIVILESS, LAB HI.
1
Explosion-proof Refrigerator 3,277
Mobile VidCaster 8000 System 58,000
Equipment installation 20,000
25,000
West Regiolnal Center Unit Ventilators 50,000
Dan Jaramant Mahiylar (2) for Bodilitias
C Venicles (2) for radinties
DEPARTMENTAL PRIORITIES SUBTOTAL

PERKINS FUNDED SMART classrooms (boards/install)
New Vehicle Lift
Biodiesel Reactor w/Testing Equipment
Vehicle Jack Kît
Hydraulic Power Press
Heavy Duty Stackable Storage Kit
Vehicle charging Station
Human musde figure
EKG Machine
Hematology analyzer
Chemistry Analyzer
Hill-Rom CenturyPlusP1400 refurbished bed
Buttockmate
M Injection simulator
Computers for Digital Radiology
X-ray unit machine
Radiology manikin
Metro Non-insulated Proofing Cabinet-Clear Door
Dough Divider
Pitco High Production Natural Gas Fryers
Wells Dual Countertop Fryer
767-SK/III Smoker Oven w/Glass Door
Sony PXW-FS7 4K XDCAM Super35 Camcorder Kit with 28 to 135mm
Fiilex K302 3-Light P360EX LED Lighting Kit 8&H # FIFLXK302 MFR # F
Video Devices PIX-E7 7" 4K Recording Video Monitor B&H # VIPIXE7
Jinten Vision blue5 Pozi-Loc Tripod With Head and Mid-Level Sprear
Profoto D1 Air 3 Head Studio Kit - 2- 1000W/s / 1- 500W/s B&H # PR
Canon EF 11-24mm f/4 L USM lens B&H # CA11244LUSM MFR # 952
Oynaudio BM145 II sub woofer speaker
Sonnet xMac Pro Server Expansion System - Thunderbolt 2 4U PCle
2.0 expansion system/4u rackmount enclosure for new Mac Pro
with Thunderbolt 2 ports
OneButtonStudio
OneButtonStudio
OneButtonStudio

436,125

436,125

PERKINS FUNDED SUBTOTAL