Palo Verde College

Response to April 1, 2013 Special Report to the Accrediting Commission for Community and Junior Colleges

May 6, 2013

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Palo Verde College has been diligent in its efforts to be responsive to the ACCJC's request for a Special Report covering a number of issues. The visiting team spent the entire day on campus, meeting in person with various administrators and members of the Board of Trustees, as well as conferencing by telephone with the District's external auditors and with two of the District's financial consultants. The visiting team found the report to be comprehensive and complete. The College could not have been more accommodating to the team in providing information and access to people and documentation. The visiting team was impressed that everyone with whom we spoke had deep knowledge and understanding of the fiscal issues facing the College, and were well-informed and articulate as to what the College is doing to resolve its issues. The interim superintendent-president, Denise Whittaker, has done an extraordinary job in leading the College in its accreditation and financial matters. Her command of the issues is impressive. She has charted a course to recovery and has educated the College and the Board of Trustees in how the College needs to continue to perform to maintain its accreditation status and find its way to fiscal health. It is exemplary to encounter this deep level of care and commitment from an interim leader, for which she is to be commended.

1. <u>Issue One</u>
   a. ***A comprehensive analysis of the long-range budget plan to resolve financial issues***
      Background:
      The College, due to expediency, has opted to use a three-year timeframe for its long range planning. Such an approach makes sense, considering that several key issues will be resolved within the next three years. The College has put into place a planning calendar that maintains the three-year forecast with each succeeding year, taking into account the various issue resolutions that will occur, thus allowing for a number of realistic and prudent budget scenarios. The College's financial situation is complicated by the fact that it is "in stability" in regard to its FTES apportionment for 2012-13. However, the deliberately acquired stability status has been vetted fully throughout the three-years' budget scenarios that have been developed. The College is optimistic but cautious in its budget projections that show it recovering its fully funded FTES cap in the 2012-13 year.
      The College is carefully watching the budget impact and status of the Needles Center. It projects the Center will reach the grandfathered 100 FTES cap in 2013-14, thus assuring some additional base funding available from the State for centers.
      Findings:
      The College fully meets this portion of the recommendation.

i. Deficit reduction

Background:

One of the most significant and beneficial actions the College has taken to reverse its financial status and become a healthier organization is to have placed on retainer an esteemed former CBO, now retired, Mr. C.M. Brahmbhatt. His expertise, advice and counsel have been invaluable for the College in seeing its way clear out of its financial mess. When queried, the administration assured the team that the financial consultant(s) remain on contract and assist the College every step of the way of its recovery. The team's conversation with Mr. Brahmbhatt confirmed this. The team highly recommends that the services of the consultant(s) be maintained for the foreseeable future. The College has eliminated deficit spending as a feature of its annual budget and is operating the District with a balanced budget that maintains the recommended 5% contingency reserve. The College leadership has been tenacious in working to control and reduce costs as well as developing a plan to maximize its FTES revenue. The College produced budget projections well into the next decade. It produced budget versions that took into consideration Proposition 30 passing and not passing. The College has even considered the impact of the sunset of the Proposition 30 funding safeguards after seven years. There is every expectation that the extensive planning and budget projecting the College has done will allow the College to continue to operate with balanced budgets into the future. With continued vigilance, deficit spending can be a thing of the past for Palo Verde College. The visiting wants to note that the current level of staffing in the Business Office at Palo Verde College is not sustainable. Currently, Ms. Russi Egan, the CBO, is doing a yeowoman's job, performing the work and responsibilities of 3.5 non-backfilled individuals, in addition to her own. The College cannot expect to regain financial health without directing the proper level of human resources to the effort. Even with the advice and counsel of several consultants, the current level of staffing in the Business Office is untenable.

Findings:

The College has complied with this portion of the recommendation, but needs to address the Business Office staffing situation.

ii. Revenue enhancement

Background:

Not surprisingly, the College's efforts and resources have been directed at stabilizing its funding from the State, to developing a strategy to minimize the negative impact of its ultimately bad decision regarding COPs, and to triage the cuts it has had to make to the budget in order to balance it. The focus of debt and expense reduction is evident in the College's planning and in its operation. It is somewhat unrealistic to expect the College at this time to devote any resources to enhancement of revenue other than the FTES recovery plans. However, the College has recently sold its surplus Spring Street property for $517,000 (includes interest over a 15 year period), and has acquired $25,000 in grant funding for the new Performing Arts Center and anticipates receipt of a local matching grant. The $50,000 will be used to purchase 1 or 2 baby grand pianos for the Performing Arts Center.

Findings:

The College has clarified and satisfied this portion of the recommendation.

iii. Other post retirement employee benefits

Background:

The College's most recent actuarial plan was dated March 1, 2010 with an effective date of January 1, 2010. That report indicated an actuarial accrued liability of $926,335. The College is currently under contract to update the actuarial report. The College has set aside funds for retiree benefits in the Self-Insurance Fund. A reserve of $333,945 has been accumulated in this fund as of June 30, 2012 per the CCFS 311. The College has maintained the common and acceptable, pay-as-you-go method with amounts budgeted in the General Fund for this payment.

Findings:

The College is meeting its obligations for OPEB. The College should consider creating an irrevocable trust to permanently set aside accumulated funds for future retiree benefits which will enhance its audit status. Additionally, the College should consider changes to retiree benefits levels through collective bargaining.

iv. Debt repayment (COPs)

Background:

The COP situation for Palo Verde College could not be more complicated. The College again has sought the services of a financial consultant who has a specialty in COPs, Mr. Tim Schaefer, of Magis Financial Advisors. He and Mr. Brahmbhatt consult with the College and with each other on all matters concerning the COPs (and other fiscal matters), and all parties have agreed upon a strategy that allows the College to meet its COP payment obligations through 2028. Currently, the College is using the initial COP proceeds to pay the debt, supplemented by General Fund unrestricted dollars. Unfortunately, in the final decade of the COP payoff, 2028-2037, it will be difficult for the College to meet its payment obligations. A plan to ameliorate this difficulty, that requires several things to happen, has been approved and adopted by the Board of Trustees. The College is eligible to "call" the COPs in 2016. If it does that, as the plan states, and then refinances the COP debt, the College has the potential to save $37,137,000, and fully meet its payment obligations to the conclusion of the debt schedule.

Findings:

The College has acted fully on the recommendation of the commission and is actively and effectively addressing the satisfaction of this recommendation.

v. ***Supplemental Executive Retirement Plan(SERP)***

Background:

Satisfaction of the Supplemental Executive Retirement Plan (SERP) expense requires an annual payment of $766,366 through spring 2016. This amount has been appropriately budgeted in the General Fund. Once the SERPS are fully discharged, $766,366 of general fund dollars will be shifted and allocated to COP payment, as part of the agreed upon COP repayment plan.

Findings:

The College has resolved all issues with the SERP.

b. ***Specifically, clarification is needed for choices the College has made to address the College plan for long-range stability with regard to addressing current debt service and restructuring of COPs***

Background:

The College continues to consider and analyze, with the help of external professionals, its options for addressing the repayment of its Certificates of Participation debt. Four options were evaluated and one option was selected as preferred, although the College will continue to evaluate the market with regards to interest rates which might make another option more attractive. The preferred option will involve a refinancing in 2016 of the COPs with the use of Local Agency Investment Fund (LAIF) funds to reduce the annual debt service. Until 2016, the current annual debt service of $2,353,000 (2012-2016) is covered with $855,000 in annual operating budget funds and $1.5 million drawn annually from the capital funds in the LAIF account. The option will require the College to identify additional resources over and above the approximately $1.6 million ($855,000 in operating budget and $760,000 in operating funds freed up by the completion of the Supplemental Employee Retirement Program (SERP) already identified within the College budget for debt service beginning in 2017.

The College has retained the services of external professionals to review and recommend options. Due to the extreme nature of this debt as it relates to the College's overall fiscal picture, the College should consider obtaining yet another recommendation from another professional firm to verify that the assumptions they are working under are correct. Such a triangulation of the plans will ensure the College is on the right track and the College can be confident in its movement toward fiscal stability. The refunding of the COPs is the primary driver in the College regaining fiscal security. The refinancing of the COPs will rely on market conditions completely out of the control of the College. No one can estimate what the conditions will be like when it is finally time to refund.

Findings:

The College has complied extensively with this portion of the commission's recommendation.

2. <u>Issue Two</u>

   a. ***A progress and evidence of action needed to verify that the College has addressed a long-range plan to resolve its 50% law deficiency….Although these changes will bring the College into compliance, its ability to continue to meet these requirements is dependent on current budget assumptions***

   Background:

   The College has struggled recently with the California Community College 50% law. The College reported 46.87% for the Current Expense of Education on the 2011-12 CCFS 311. The College permanently transferred two counselors to instruction for 2012-13. Additional temporary transfers for 2012-13 moved one classified employee and one manager to instruction. For 2013-14, the College plans on hiring 3 additional full-time faculty and plans to maintain the two counselors in instruction. Additional adjunct faculty has been hired as the College has increased its Full-Time Equivalent Students (FTES) to 1801 as of the Second Period Apportionment Attendance report for 2012-13. Based on these adjustments to staffing and expenses, the College should be fully compliant with the 50% Law in 2012-13 and in subsequent fiscal years, as well.

   Findings:

   The College has been prudent and responsive in its response to this recommendation. The College has set into place procedures to regularly monitor the ratio and to make satisfaction of the ratio a part of its annual budgeting process and goals.

   b. ***Clarification is needed from the College with regard to maintaining a 5% reserve***

      i. ***The College has made provisions within its budget to be able to maintain a 5% reserve short-term and should provide a plan for sustaining adequate reserves for cash flow.***

   Background:

   The College has made progress towards fiscal solvency and creating budget projections that are realistic and are attainable. The General Fund had an ending fund balance of $1,102,030 per the CCFS-311 and per the independent audit report for the 2011-12 fiscal year. This represented an 8.2% fund balance. The 2012-13 Adopted Budget presented a balanced budget with an estimated reserve of $1,196,108 which represents 9.72%.

   Certain on-going costs of the General Fund continue to be paid by the Capital Projects Fund which is sourced by the Certificates of Participation (COPs). The College's ability to eventually refinance the COPs will have an impact on whether the College can maintain satisfactory reserves. The passage of Proposition 30 and the expected positive budget scenarios for 2013-14 should allow the College to continue to build a budget that maintains proper reserves.

   Evaluation:

   The College is commended for its efforts in generating a balanced budget that maintains appropriate reserves. The College has met this portion of the recommendation.

ii. ***It is unclear that the College has the ability to participate in short-term borrowing through a Tax Revenue Anticipation Note (TRAN)***

Background:

While the College recently did issue TRANs in both 2011-12 and 2012-13, the College has determined since that internal borrowing from the Capital Projects Fund is more cost effective than the issuance of TRANs. The Board of Trustees has directed that TRANs not be used in subsequent years. As part of its contingency planning, the College plans to maintain its eligibility to participate in a TRAN in the event there is need to do so in the future. To that end, The College should continue to maintain balanced budgets and sufficient reserves to retain its ability to participate in future short-term borrowings.

Findings: The College has demonstrated that it is maintaining status to be able to be eligible to issue TRANs in the future, thus satisfying this recommendation.

3. **Issue Three**

a. ***A follow up report is needed that addresses the College's plan for utility cost control.***

Background:

The College has developed an extensive list of actions to reduce the costs of utilities across the campus. Many of these actions are the result of a self-imposed energy audit that was commissioned by the College and performed by Southern California Edison. The new buildings on campus incorporate the most modern energy conservation methods. The College's energy management system is being utilized to its fullest extent by heating, cooling, and lighting areas only as necessary throughout the campus. The report that the College has produced in response to this recommendation is well done. The visiting team has no reason to believe that the College is not going to continue to be diligent in its efforts in energy conservation on the campus. All employees appear to be "on board" in regard to these efforts and the importance they have on the budget of the College.

Findings:

The College meets the scope and intent of this recommendation.

b. ***The financial liability of additional paid time off should be clarified within the College's sustainability planning***

Background*:*

An agreement has been reached with both CTA (a one year Memorandum of Understanding) and CSEA to provide compensation concessions to insure a balanced budget for the current fiscal year. Essentially, employee groups preferred to avoid the term "furlough" and instead accepted a pay reduction and additional days off (floating holidays) in consideration of the groups' support for attaining fiscal improvement for the College. Management/Confidential employees signed a meet-and-confer agreement in regard to the same matter. In the Special Report, the College has clarified fully the details and impacts of its time-off agreements with the various employee groups. There is no ongoing financial liability because the floating holidays that were given were offset by concomitant salary reductions. Each employee group is to be commended for its willingness to see the College through these difficult times of financial recovery. Additional cooperation will likely be needed in subsequent budget years. The agreements reached with employee groups have created an immediate benefit to the financial condition of the College. Most of the revisions in the agreements were effective for the 2012-13 fiscal year only. The College plans to continue to pursue agreements with employee groups that allow fair compensation while maintaining a positive impact on the ongoing budgets. The situation in which Palo Verde College finds itself with only one year collective bargaining agreements is not unlike most of the community colleges in the state. The unions and the colleges are both displaying caution in the face of an ever-changing state financial picture. The College and the unions have been both creative and cooperative in forging these important agreements.

Findings:

The College has responded adequately to this recommendation, particularly considering the vagaries of the State budget which prevent a longer term approach to collective bargaining.

i. ***Were these additional holidays implemented and what is the long-term impact for financial sustainability?***

Background:

Many options were considered as the College pursued revisions to collective bargaining agreements. Floating holidays were agreed upon and were implemented as part of the 4% and 8.33% salary reductions for classified and management respectively. The possible two-week mandated closure in June 2013 as a budget reduction measure was not deemed necessary and was not agreed upon. There is no long-term impact to the College.

Findings:

The College has explained, clarified, and met this recommendation.

4. <u>Issue Four</u>

a. ***Additional information is needed to assess the financial liability associated with any pending litigation***

Background:

Of the cases of litigation noted, the College has finalized and cleared up all of them. The College remains as a claimant associated with the bankruptcy of the bonding company for the construction of the Performing Arts Center, but presently is not in litigation with the Performing Arts Center bonding company. This potential case may have additional fees to the College but the amounts are expected to be within the currently budgeted legal expenses line item. There are no other outstanding cases of litigation for the College. The College does not appear to have an unbudgeted financial liability associated with any pending litigation.

Findings:

The College has satisfied this concern and recommendation completely.

b. ***The Performing Arts Center has not yet been released by the Division of the State Architect and is not yet available for College use***

Background:

The Performing Arts Center for Palo Verde College has been signed off by the Division of the State Architect (DSA) and is being used by the College as an instructional space, as well as being a source of revenue for the College through rental agreements. The Performing Arts Center is the only venue of its kind in the region.

Findings:

The College has clarified this recommendation and concern completely.

5. **Issue Five**

a. ***Additional information is needed to assess the impact of any contract settlements with bargaining units. Some of the reductions would have major impacts on the budget and many are either pending or in process and the level of impact has not yet been assessed***

Background:

The College budget could not have been balanced without the concessions provided by the employee groups. Agreements have been reached with both CTA (a one year Memorandum of Understanding) and with CSEA to provide compensation concessions to insure an adequate budget for the current fiscal year. Management/Confidential employees signed a meet-and-confer agreement. The agreements reached with employee groups have created an immediate benefit to the financial condition of the College. Most of the revisions in the agreements were effective for the 2012-13 fiscal year only. The College is continuing to pursue an extension of the current MOUs with employee groups pending the Governor's final 2013-14 budget and FTES target acquisition that will allow fair compensation while maintaining a positive impact on the ongoing budget. The College has been transparent with each of the constituency groups in regard to the connection between the College's FTES restoration plans and the various employee group agreements for future years. The impact of bargaining unit agreements has been considered fully in the College's financial and budget planning.

Findings:

The College has provided all of the additional information needed for the requested assessment.

6. **Issue Six**

a. ***Additional information is needed to support that the College has a plan to sustain its efforts to improve the fiscal and fiduciary responsibility of leadership and governance of the institution***.

Background:

The failure to properly manage and evaluate the acquisition of the College's Certificates of Participation is at the heart of the College's current fiscal problems. In the past, the College and the Board did not provide adequate oversight of its long term debt financing as evidenced by its current fiscal crisis. The College believes it has taken and is continuing to take steps to correct this problem. The College maintains that all other financial resources are managed properly and that the College is in compliance with all governmental regulations. It has taken several steps to improve its oversight of finances including a comprehensive review of Board policies and Administrative regulations. The College continues to review policy and procedures and has prepared draft "Debt Acquisition and

Management" items that will be reviewed by the Board of Trustees for approval. These new Board of Trustees' policies should prevent a repeat of the current crisis. Board policies and new administrative regulations should insure a more comprehensive review of all major expenditures and contracts. The Board has included performance goals related to the fiscal health and integrity of the District in the board's Self-Evaluation. In addition, the Board has proposed and adopted a resolution entitled "Palo Verde Community College District Board of Trustees Accreditation Resolution on Fiscal Integrity and Board Responsibility." The resolution was passed at the October 23, 2012 board meeting.

The visiting team's meeting and conversation with five of the seven board members demonstrated clearly that the board has a renewed understanding of its fiscal responsibilities as elected officials of the District. They appear to be dedicated and focused on the short and long term fiscal health of the District and understand the active role they must assume in fiscal oversight of the District.

Findings:

The College has made great strides in governance and leadership oversight of the District's financial status. The tenets of this recommendation have been met.

7. **<u>Issue Seven</u>**

   a. ***There is a concern for the sustainability of the improvements to governance. The next review of the College should include verification that the commitment has been sustained***.

Background:

The College has made a concerted and successful effort to establish and sustain improvements to governance at the College, particularly as they relate to financial matters. The College provided the visiting team an exhaustive and comprehensive list of the ways in which this sustainability is being actualized throughout the College and the District. Shared decision-making and the collegial consultative process are evident and alive in the organization of the College. Page 36 of the Special Report summarizes these actions. The College has been involved recently in the search for a new Superintendent-President. It is of note that the Board of Trustees made special effort to have the position announcement include detailed requirements of the position regarding the fiscal knowledge and experience of the next Superintendent-President. At a small, single-college district, the skill set that was defined by the trustees is particularly necessary and required. If the District and the College continue in the direction of fiscal integrity, management, and responsibility that has been established in the past year, there is great promise for the continued success of the District in meeting the needs of students in its service area. The visiting team recommends that a prescriptive and adequate overlap of service occur for the interim and the permanent superintendent-presidents in order to provide adequate time for discussion of the extensive historical financial background of the District, as well as a thorough orientation as to the substantial momentum that has been generated through the efforts of the interim Superintendent-President. The College has far to go to regain permanently its fiscal health, and this will require the shepherding by some very dedicated and knowledgeable individuals. It would be tragic for the College to veer off course at this point of its rehabilitative journey.

Findings:

The College has demonstrated through words and through actions that it is dedicated to establishing an ongoing operational base of fiscal stability, and certainly meets the spirit of this recommendation.

Summary:
The visiting team was charged with evaluating and validating the College's April 1, 2013 Special Report that was to be responsive to the Commission's February 5, 2013 letter. The concerns detailed in the Commission's letter were in response to the November 6-7, 2012 recommendations and concerns of the Financial Reviewer Team. Specifically, the Special Report was to provide evidence that the College and the District are meeting Eligibility Requirement 17, Standard III.D, Standard IV.B, and Standard IV.B.1.c as commented on by the Financial Reviewer Team.

The visiting team was able to verify successfully each of the concerns raised in the Commission's February 5, 2013 request letter, as detailed above. The visiting team, during the course of the visit, did not become aware of any other issues that may bear significantly on the accreditation matters of the College. Of course, the College must continue to fulfill all of the requirements of the accreditation standards, and as a result, is cautioned to not let the extreme dominating nature of the fiscal condition of the District compromise in any way, the College's satisfactory compliance with all other Eligibility Requirements and Accreditation Standards.

Please feel free to contact either of the visiting team members should additional clarification be necessary.

Thank you for the opportunity to promote and advance the ACCJC Standards of Accreditation.