

Board of Trustees Agenda Item

Board Meeting Date: June 21, 2010

Title of Item:

Performing Arts Alliance Contract Renewal

Background and Analysis:

Board approval is requested for the 2010-2011 Agreements with the 20 groups that consist of the Performing Arts Alliance. These groups provide off campus arts education to Foothill students. The contracts are the same in wording as the 2009-2010 contracts. The budget for the Performing Arts Alliance for 2010-2011 is \$1,283,000.

Recommendation: (specify if information only)

Submitted by:	Paul Schrage, x7479
Additional contact names:	Mark Anderson, x7156
Is backup provided?	yes

FOOTHILL COLLEGE
Division of Fine Arts & Communications
Foothill College Arts Alliance

TO: Members of the Board of Trustees

FROM: Paul Schrage, Foothill College Arts Alliance, x7479

SUBJ: Foothill College Arts Alliance Budget Proposal for 2010-2011

DATE: June 3, 2010

Below is the 2010-2011 Performing Arts Alliance budget.

Group Name & ID

Ballet San Jose (BSJ)	50,000
Bay Area Music Foundation (BAMF)	22,000
Bay Choral Guild (BCG)	15,000
Bus Barn Stage Company (BBSC)	38,000
California Theatre Center (CTC)	55,000
California Youth Symphony (CYS)	175,000
Cantabile Youth Singers (SCY)	30,000
Children's Musical Theater of San Jose (SJCMT)	180,000
City Lights Theatre Company (CLTC)	40,000
Crystal Children's Choir (CCC)	200,000
El Camino Youth Symphony (ECYS)	175,000
Gamelan Sekar Jaya (GSJ)	25,000
Los Altos Youth Theatre (LAYT)	20,000
Music For Minors (MFM)	25,000
Nova Vista Symphony (NVS)	11,000
Palo Alto Chamber Orchestra (PACO)	50,000
Peninsula Youth Theatre (PYT)	50,000
San Jose Taiko (SJT)	60,000
Schola Cantorum (SC)	32,000
West Bay Opera (WBO)	30,000
TOTAL	\$1,283,000

Two sample contracts are enclosed: one in drama and one in music. All contracts are identical to last year's contracts.

Agreement between the Foothill-De Anza Community College District And Bus Barn Stage Company

This Agreement is entered into on July 1, 2010, between the Foothill - De Anza Community College District on behalf of Foothill College (hereinafter Foothill) and Bus Barn Stage Company (hereinafter BBSC) pursuant to 5 California Code of Regulations section 58058(b). In consideration of the mutual benefits to be derived therefrom, the parties agree as follows:

I. Off Campus Professional Repertory Theatre Program

- A. The Off-Campus Professional Repertory Theatre Program (hereinafter the Program) to be operated pursuant to this agreement is a joint educational undertaking of Foothill and BBSC designed to fit within the parameters of 5 California Code of Regulations section 58050-58060.
- B. The purpose of the Program is to train qualified students in specific areas of expertise apart from their general training to become accredited practitioners of Theatre and its related arts for employment.
- C. The Program shall consist of specific and appropriate lecture, performance and laboratory courses in Theatre. Together with general education courses and courses required for the major, the Program leads to an Associate in Arts Degree from Foothill College.
- D. No course of instruction or other element of the Program's curriculum shall become effective until approved by Foothill.
- E. The Program shall conform to the requirements of the Education Code, applicable regulations of the Board of Governors of the California Community Colleges, and the rules and regulations of other appropriate regulatory agencies.

- F. Classes are only authorized within the geographic boundaries of Alameda, Contra Costa, Santa Clara and San Mateo counties. No trip shall be taken, nor shall any performance be given, outside of these four counties as part of the Foothill College curriculum unless the trip and/or performance is approved in accordance with established Foothill College procedures for the authorization of field trips. Failure to conform to these procedures will render the trip and/or performance ineligible as a Foothill College class and will not be covered by District liability and student accident insurance.

Unless travel to and from off-campus classes or performances is specifically provided by the District or specially chartered vehicle, the instructor of the class is to inform all students that all off-campus classes convene at the off-campus sites for those classes, and that transportation to and from the off-campus sites is the sole responsibility of the student.

II. Students:

- A. Within enrollment limits determined by Foothill in consultation with BBSC, Foothill shall admit qualified students to the courses offered as a part of the Program. A student meets the minimum qualifications for admission if, in the judgment of Foothill, he or she has the requisite maturity and experience and has met the academic and technical requirements for participation as defined by Foothill.
- B. BBSC will pay for mandated fees for its students enrolling in the program. Mandated fees are subject to change pending action by both the state and Foothill-De Anza Community College District Board of Trustees. At the time of this contract the mandated fees are \$22.00 per student plus \$17.00 per unit per student.

- C. The parties shall be jointly responsible for the activities of the students participating in the Program and for assuring that they observe all applicable rules, regulations, and policies.
- D. Foothill shall be responsible for keeping all attendance and academic records of the students enrolled in the Program.
- E. BBSC is required to have the K-12 Form signed by both parent and principal and returned to Foothill College by the Friday of the second week of each quarter.

III. Personnel. Performance and Facilities:

- A. In the manner prescribed by Section 58058(b) of Title 5 of the California Code of Regulations, and subject to part B, below, BBSC shall provide all instruction for the Program. Each course that is a part of the program and offered for credit shall be supervised by a person who has the appropriate teaching qualifications required by the Foothill-De Anza Community College District and who is employed and assigned to the Program by BBSC after consultation with and approval of Foothill. Notwithstanding any other provision of this Agreement, Foothill shall have the primary right to control and direct the activities of each person assigned by BBSC to teach a credit course in the Program while he or she is engaged in such instruction or is otherwise serving Foothill.
- B. Notwithstanding the first two sentences of part III.A, instructors selected by BBSC shall not commence such work unless and until each has entered into a separate contract with the District, which contract shall meet the requirements of 5 California Code of Regulations section 58058. Upon execution of such contract, the instructor shall be an employee of BBSC for all purposes and shall be an employee of the District for the purposes of 5 California Code of Regulations sections 58051 and 58058.

- C. BBSC shall select and evaluate professionals who may act as preceptors or participate in other performance teaching for the Program.
- D. In case where an instructor utilizes an assistant or aide to provide instructional or other services to the students, such instructor's assistant or aide shall not solely supervise or instruct the course unless the following conditions are met: (1) the assistant or aide functions under the exclusive direction of the instructor assigned to the course, and not independently; (2) the assistant or aide performs only those duties authorized by law, including, but not limited to, sections 88240 to 88249 of the Education Code; and (3) the instructor is able in physical proximity and range of communication to provide necessary supervision as to be able to work in conjunction with the assistant or aide.
- E. The classroom facilities shall be designated by BBSC and shall not endanger the health, safety, or welfare of Foothill's students or employees.
- F. The parties agree that BBSC shall purchase workers' compensation, employer's liability and general liability insurance. BBSC shall also cause District to be listed as an "additional insured" on general liability insurance. BBSC's failure to meet this contractual obligation shall be a material breach justifying immediate cancellation by the District. Groups will provide Foothill-De Anza Community College District with a certificate of insurance annually.

IV. Consideration:

- A. In consideration of the instructional and other services provided by BBSC under the terms of this Agreement Foothill shall pay \$.88 per student contact hour as determined in the third week census enrollment data per full quarter (11.67 weeks), with a maximum limit of \$38,000 for term of contract. This payment per student

contact hour is for regular credit courses. Non-credit courses, if any, will be paid at \$0.30 per student contact hour, subject to all other terms and conditions as stated above. Payment shall be prorated for courses less than a full quarter. Payment shall include a reduction for any per unit fees waived.

- B. BBSC certifies that any direct education costs of the instructional and other services provided by BBSC are not being fully funded through any other source.
- C. Foothill shall pay BBSC in arrears on October 15, 2010, January 15, 2011, April 15, 2011 and July 15, 2011.
- D. All payments due to BBSC shall be addressed as follows:

Bus Barn Stage Company
P.O. Box 151
Los Altos, CA 94023

V. Term:

- A. This Agreement shall become effective on July 1, 2010, and continue in effect until June 30, 2011, unless sooner terminated by mutual agreement of the parties.
- B. Notwithstanding any other provision of this agreement, if good cause exists, either party may terminate this agreement and any remaining financial obligations under it at the end of any academic quarter by giving the other party written notice of termination at least 30 calendar days before the first day of the next succeeding academic quarter.

VI. General Provisions:

- A. Notwithstanding any other provision of this agreement, Foothill-De Anza Community College District shall have the right to

establish rules and regulations governing the operation of the Program if it determines they are necessary to meet the requirements of the Education Code or the regulations of the Board of Governors of the California Community Colleges.

- B. Neither party to this Agreement shall, on the basis of ethnic group identification, religion, age, sex, color, or physical or mental disability, unlawfully deny any person the benefits of nor unlawfully subject any person to discrimination under the program conducted pursuant to this Agreement.
- C. BBSC shall indemnify and hold harmless Foothill-De Anza Community College District, its officers, agents, and employees from any and all claims, demands, suits, judgments, or costs, including the cost of defense, arising in any manner from any act or omission of BBSC, its officers, agents, or employees while engaged in any activity related to this Agreement.

Foothill-De Anza Community College District shall indemnify and hold harmless BBSC, its officers, agents, and employees from any and all claims, demands, suits, judgments, or costs, including the cost of defense, arising in any manner from any act or omission of Foothill-De Anza Community College District, its officers, agents, or employees while engaged in any activity related to this Agreement. For the purposes of this part C, instructors and other staff involved in the Program shall be considered employees or agents of BBSC only, notwithstanding section III.B, above.

- D. The Artistic Director, or his or her designee, and the Vice President of Instruction at Foothill, or his or her designee, may formalize operational details of the Agreement by letter.
- E. This Agreement supersedes any and all other agreements, either oral or in writing, between the parties hereto with regard to the subject matter hereof, and no other statement or promise relating to

the subject matter of this Agreement which is not contained herein shall be valid and binding.

- F. This agreement, and any documents incorporated herein by express reference, constitute the entire agreement between the parties and supersede any inconsistent, conflicting or additional terms or promises previously discussed, verbally or in writing.
- G. This Agreement may be terminated or its provisions may be terminated, changed or amended by mutual agreement of the parties expressed in writing signed by both parties.

IN WITNESS WHEREOF, this Agreement has been executed by and on behalf of the parties hereto.

Foothill-De Anza Community
College District on behalf of Foothill College

Bus Barn Stage Company

By _____
W. Andrew Dunn

By _____

Print Name

Vice Chancellor of Business Services
Title

Title

Date _____

Date _____

Agreement between the Foothill-De Anza Community College District And Bay Choral Guild

This Agreement is entered into on July 1, 2010, between the Foothill - De Anza Community College District on behalf of Foothill College (hereinafter Foothill) and Bay Choral Guild (hereinafter BCG) pursuant to 5 California Code of Regulations section 58058(b). In consideration of the mutual benefits to be derived there from, the parties agree as follows:

I. Off Campus Music Performing Arts Program

- A. The Off-Campus Music Performing Arts Program (hereinafter the Program) to be operated pursuant to this agreement is a joint educational undertaking of Foothill and BCG designed to fit within the parameters of 5 California Code of Regulations section 58050-58060.
- B. The purpose of the Program is to train qualified students in specific areas of expertise apart from their general training to become accredited practitioners of Music and its related arts for employment.
- C. The Program shall consist of specific and appropriate lecture, performance and laboratory courses in Music. Together with general education courses and courses required for the major, the Program leads to an Associate in Arts Degree from Foothill College.
- D. No course of instruction or other element of the Program's curriculum shall become effective until approved by Foothill.
- E. The Program shall conform to the requirements of the Education Code, applicable regulations of the Board of Governors of the California Community Colleges, and the rules and regulations of other appropriate regulatory agencies.

- F. Classes are only authorized within the geographic boundaries of Alameda, Contra Costa, Santa Clara and San Mateo counties. No trip shall be taken, nor shall any performance be given, outside of these four counties as part of the Foothill College curriculum unless the trip and/or performance is approved in accordance with established Foothill College procedures for the authorization of field trips. Failure to conform to these procedures will render the trip and/or performance ineligible as a Foothill College class and will not be covered by District liability and student accident insurance.

Unless travel to and from off-campus classes or performances is specifically provided by the District or specially chartered vehicle, the instructor of the class is to inform all students that all off-campus classes convene at the off-campus sites for those classes, and that transportation to and from the off-campus sites is the sole responsibility of the student.

II. Students:

- A. Within enrollment limits determined by Foothill in consultation with BCG, Foothill shall admit qualified students to the courses offered as a part of the Program. A student meets the minimum qualifications for admission if, in the judgment of Foothill, he or she has the requisite maturity and experience and has met the academic and technical requirements for participation as defined by Foothill.
- B. BCG will pay for mandated fees for its students enrolling in the program. Mandated fees are subject to change pending action by both the state and Foothill-De Anza Community College District Board of Trustees. At the time of this contract the mandated fees are \$22.00 per student plus \$17.00 per unit per student.

- C. The parties shall be jointly responsible for the activities of the students participating in the Program and for assuring that they observe all applicable rules, regulations, and policies.
- D. Foothill shall be responsible for keeping all attendance and academic records of the students enrolled in the Program.
- E. BCG is required to have the K-12 Form signed by both parent and principal and returned to Foothill College by the Friday of the second week of each quarter.

III. Personnel. Performance and Facilities:

- A. In the manner prescribed by Section 58058(b) of Title 5 of the California Code of Regulations, and subject to part B, below, BCG shall provide all instruction for the Program. Each course that is a part of the program and offered for credit shall be supervised by a person who has the appropriate teaching qualifications required by the Foothill-De Anza Community College District and who is employed and assigned to the Program by BCG after consultation with and approval of Foothill. Notwithstanding any other provision of this Agreement, Foothill shall have the primary right to control and direct the activities of each person assigned by BCG to teach a credit course in the Program while he or she is engaged in such instruction or is otherwise serving Foothill.
- B. Notwithstanding the first two sentences of part III.A, instructors selected by BCG shall not commence such work unless and until each has entered into a separate contract with the District, which contract shall meet the requirements of 5 California Code of Regulations section 58058. Upon execution of such contract, the instructor shall be an employee of BCG for all purposes and shall be an employee of the District for the purposes of 5 California Code of Regulations sections 58051 and 58058.

- C. BCG shall select and evaluate professionals who may act as preceptors or participate in other performance teaching for the Program.
- D. In case where an instructor utilizes an assistant or aide to provide instructional or other services to the students, such instructor's assistant or aide shall not solely supervise or instruct the course unless the following conditions are met: (1) the assistant or aide functions under the exclusive direction of the instructor assigned to the course, and not independently; (2) the assistant or aide performs only those duties authorized by law, including, but not limited to, sections 88240 to 88249 of the Education Code; and (3) the instructor is able in physical proximity and range of communication to provide necessary supervision as to be able to work in conjunction with the assistant or aide.
- E. The classroom facilities shall be designated by BCG and shall not endanger the health, safety, or welfare of Foothill's students or employees.
- F. The parties agree that BCG shall purchase workers' compensation, employer's liability and general liability insurance. BCG shall also cause District to be listed as an "additional insured" by separate endorsement on general liability insurance. BCG's failure to meet this contractual obligation shall be a material breach justifying immediate cancellation by the District. Groups will provide Foothill-De Anza Community College District with a certificate of insurance annually.

IV. Consideration:

- A. In consideration of the instructional and other services provided by BCG under the terms of this Agreement Foothill shall pay \$1.50 per student contact hour with a maximum limit of \$15,000 for term of contract. This payment per student contact hour is for regular credit courses. Non-credit courses, if any, will be paid at \$0.30 per

student contact hour, subject to all other terms and conditions as stated above. Payment shall include a reduction for any per unit fees waived.

- B. BCG certifies that any direct education costs of the instructional and other services provided by BCG are not being fully funded through any other source.
- C. Foothill shall pay BCG 75% in advance of the estimated total payment based on the enrollment during the first quarter of instruction. The advance payments will be made in 25% increments on October 15, 2010, January 15, 2011, and April 15, 2011. The balance of the total payment will be made in arrears on July 15, 2011, based on the final enrollment.
- D. If the sum of the advance payments is more than the total payment, BCG will return the balance on July 15, 2011.
- E. All payments due to BCG shall be addressed as follows:

Bay Choral Guild
953 Industrial Ave. St.122
Palo Alto, CA 94303

V. Term:

- A. This Agreement shall become effective on July 1, 2010, and continue in effect until June 30, 2011, unless sooner terminated by mutual agreement of the parties.
- B. Notwithstanding any other provision of this agreement, if good cause exists, either party may terminate this agreement and any remaining financial obligations under it at the end of any academic quarter by giving the other party written notice of termination at least 30 calendar days before the first day of the next succeeding academic quarter.

VI. General Provisions:

- A. Notwithstanding any other provision of this agreement, Foothill-De Anza Community College District shall have the right to establish rules and regulations governing the operation of the Program if it determines they are necessary to meet the requirements of the Education Code or the regulations of the Board of Governors of the California Community Colleges.
- B. Neither party to this Agreement shall, on the basis of ethnic group identification, religion, age, sex, color, or physical or mental disability, unlawfully deny any person the benefits of nor unlawfully subject any person to discrimination under the program conducted pursuant to this Agreement.
- C. BCG shall indemnify and hold harmless Foothill-De Anza Community College District, its officers, agents, and employees from any and all claims, demands, suits, judgments, or costs, including the cost of defense, arising in any manner from any act or omission of BCG, its officers, agents, or employees while engaged in any activity related to this Agreement.

Foothill-De Anza Community College District shall indemnify and hold harmless BCG, its officers, agents, and employees from any and all claims, demands, suits, judgments, or costs, including the cost of defense, arising in any manner from any act or omission of Foothill-De Anza Community College District, its officers, agents, or employees while engaged in any activity related to this Agreement. For the purposes of this part C, instructors and other staff involved in the Program shall be considered employees or agents of BCG only, notwithstanding section III.B, above.

- D. The Artistic Director, or his or her designee, and the Vice President of Instruction at Foothill, or his or her designee, may formalize operational details of the Agreement by letter.

- E. This Agreement supersedes any and all other agreements, either oral or in writing, between the parties hereto with regard to the subject matter hereof, and no other statement or promise relating to the subject matter of this Agreement which is not contained herein shall be valid and binding.
- F. This agreement, and any documents incorporated herein by express reference, constitute the entire agreement between the parties and supersede any inconsistent, conflicting or additional terms or promises previously discussed, verbally or in writing.
- G. This Agreement may be terminated or its provisions may be terminated, changed or amended by mutual agreement of the parties expressed in writing signed by both parties.

IN WITNESS WHEREOF, this Agreement has been executed by and on behalf of the parties hereto.

Foothill-De Anza Community
College District on behalf of Foothill College

Bay Choral Guild

By _____
W. Andrew Dunn

Vice Chancellor of Business Services
Title

Date _____

By _____

Print Name

Title

Date _____