THE DEL MAR COLLEGE DISTRICT
OPTIONAL RETIREMENT PROGRAM (ORP)
VENDOR SPECIFICATIONS

I. INTRODUCTION

The goal of the Del Mar College Optional Retirement Program (the "ORP") is to provide eligible employees of Del Mar College (the "College") with a high-quality, portable option to the Teacher Retirement System retirement program. Vendors and their representatives approved in advance by the College pursuant to the vendor specifications in this document may offer qualified retirement products ("ORP products") to eligible employees of the College.

This document provides current and prospective vendors and their representatives with the specifications and requirements governing participation in the ORP. The contents of this document may change without notice to vendors or their representatives.

The ORP is authorized under **Chapter 830, Title 8 of the Texas Government Code and Section 403(b) of the Internal Revenue Code**.

ORP is *not* covered by the Employee Retirement Income Security Act of 1974 (ERISA).

All approved vendors and their representatives and all of the vendor's ORP products must comply with College ORP policies and Vendor Specifications, Texas Higher Education Coordinating Board (THECB) rules, all applicable Opinions of the Texas Attorney General and all applicable state and federal regulations in order to participate in the ORP.

II. GENERAL INSTRUCTIONS

Each vendor must apply to be an active vendor. If an active vendor has representatives marketing ORP products on its behalf, the vendor must apply for the approval of each representative. Only active vendors may market their ORP products to eligible employees of the College.

Vendors may apply for the privilege of marketing or enabling their representatives to market ORP products to eligible employees of the College by submitting each of the following items:

The vendor's application must contain the following items, arranged in the following order:

1. **Vendor Certification Statement**, with appropriate signature and attachments (See Appendix A)
2. **Supporting Documents and Information Required for Vendor Application** (See Appendix B)
3. **ORP Representative Acknowledgement** (See Appendix C)
4. **Product/Investment Fee And Performance Disclosure** (See Appendix D)
5. **Vendor Rating** (See Appendix E)
6. **Hold Harmless Agreement** (See Appendix F)

The response should be mailed to:

Del Mar College
101 Baldwin
Corpus Christi, TX 78404
Attention: Human Resources - Benefits and Training Office

The overnight delivery address is the same as above.
Inquiries may be directed to the Human Resources Department at (361) 698-1132.

It is the vendor's responsibility to ensure that every person representing that vendor to employees of the College follows these Vendor Specifications. The submission of incorrect information and/or the failure to follow these Vendor Specifications may result in the loss of the vendor's and/or the representative's status as an active vendor and the privilege to market ORP products to College employees.

The College reserves the right to modify the requirements stated in these Vendor Specifications. Changes may be required due to College policy revisions, and/or federal or state legislative mandates or regulations. The College reserves the right to reject any ORP vendor, its representatives or its ORP products determined by the College not to be in the best interest of the College or its employees. The College reserves the right to limit the number of vendors of ORP products as well as the number of representatives and the number of ORP products of each vendor.

III. VENDOR APPLICATION

A. VENDOR CERTIFICATION STATEMENT

In order to qualify as an active vendor, an officer of the vendor with the authority to legally bind the vendor must certify to each of the following statements on behalf of the vendor by signing the Vendor Certification Statement **(**see Appendix A).

1. The vendor, its representatives, and every ORP product offered to eligible employees of the College by the vendor or its representatives will comply with:

   a. all requirements for income tax deferral under all applicable sections of the Internal Revenue Code and Treasury Regulations;

   b. all requirements of **Chapter 830, Title 8 of the Texas Government Code and Chapter 25 of the Texas Higher Education Coordinating Board**. To view or download Chapter 830 of the Government Code, go to. For Chapter 25 information, refer to:

   c. all federal and state requirements regarding security or privacy of client information;

   d. all applicable Texas Attorney General's Opinions pertaining to the ORP; and

   e. all requirements listed in the ORP Vendor Specifications published by the College.

2. A participant's benefits in the ORP become vested after completing one year of participation in the ORP and beginning a second consecutive year of participation. Participation means making regular ORP contributions through payroll deduction. If a participant does not begin a second consecutive year of participation in Texas ORP, all College contributions will be refunded by the vendor to the College.

3. The vendor waives any requirement it may otherwise apply for a minimum number of participants for each ORP product.

4. The vendor will make all amendments to its ORP products that are mandated by federal or state laws, regulations, revenue rulings or opinions of the Attorney General of Texas, to be effective in accordance with the law, regulation or ruling letters\opinions. Participants and the Human Resources Department will be notified of each amendment(s) in a timely manner.

5. The vendor will maintain accurate records with regard to each participant in its ORP products, reflecting contributions received on the participant's behalf on a tax-deferred basis, distinguishing contributions received from the participant from contributions received from the College, and identifying each account as a an ORP product authorized under either Section 403(b)(1) or Section 403(b)(7) of the Internal Revenue Code of 1986, as amended.

6. All ORP products offered to eligible employees by an active vendor on or after August 1, 2008 will comply with the following fee requirements:

   a. Investment advisory fees (fees charged by the fund’s investment adviser for managing the fund and selecting its portfolio of securities) paid from an ORP product will comply with *Title 8, Section 830.107* of The Texas Government Code, as approved by *IRS Private Letter Ruling dated August 30, 1990,* including, but not limited to, the annual two percent (**2%**) limit on such fees.

b. Fund management fees (fees that are deducted from fund assets before earnings are distributed to shareholders) will not exceed **2.75 %** per fund. Fund management fees include investment advisory fees, fund administrative fees, investment fees, mortality and expense fees, operating expenses, and other miscellaneous expenses.

c. Front-end sales load charges will not exceed **5.75%** of the amount contributed to an ORP product. A product with a front-end sales load charge may not charge a surrender fee. A surrender fee includes a back-end sales load, redemption charge, contingent deferred sales charge, or any other fee that is assessed when a participant accesses their funds through transfers, rollovers or withdrawals.

d. Non-rolling surrender fees will not exceed seven percent (7%) and will terminate within seven (7) years from the date of the initial contribution. Rolling surrender fees will not exceed five percent (5%) and will terminate within five (5) years from the date of each contribution. Surrender fees that are assessed as a fixed dollar amount will not exceed two hundred dollars ($200) in any calendar year. A product that is subject to a surrender fee will not be subject to a front-end sales load charge.

e. Custodial fees (fees that are assessed by a mutual fund for administrative costs) and asset management fees (fees that are assessed for investment assistance, advice and counseling and paid to the vendor, other than investment advisory fees paid directly to a registered investment advisor as defined in *Section 830.107 of the Government Code*):

   1. will not exceed $100 per year if assessed as a fixed dollar amount per account or ORP product; or
   2. will not exceed one percent (1%) per year if assessed as a percent of assets in the account or ORP product.

f. No front end sales load charge and no surrender fee will be charged with regard to an ORP product which is subject to custodial and\or asset management fees that are assessed as a percent of assets.

g. Fees for an ORP product (other than the fees specified in paragraphs a – e above) will not exceed **$35** per year in total.

h. All transfer fees charged on internal fund transfers (transfers between funds or within fund families with the same vendor) will be disclosed to ORP participant at the time of the transfer.

i. Effective August 1, 2008, ORP participants will not be charged transfer fees (other than previously disclosed surrender fees) on funds transferred from an active vendor's ORP product to an ORP product of another College vendor.

j. Any additional fees that are not identified above in paragraphs a - f will be disclosed to ORP participants at least annually.

7. The vendor will:

   a. provide a twenty–four hour per day, 7-day per week toll-free interactive telephone service to participants that will enable them to access their ORP account(s) with the vendor; and/or

   b. provide a secure interactive Internet web site which will enable participants to access individual ORP accumulations, review monthly contribution allocations, reallocate contributions and change investment products. In addition, the web site will provide

employee education and product performance information, and allows eligible employees to request literature and prospectuses.

In any event, customer service representatives will be available to speak with participants about their ORP products Monday thru Friday between the hours of 8:00 a.m. to 6:00 p.m. central time.

8. If the vendor provides participant educational services, the vendor will make available an authorized representative who is knowledgeable about Texas ORP to attend financial planning fairs held at the College at least once each year in order to acquaint participants with the investment options and services available under the vendor's ORP products.

9. Remittances will be accepted by the vendor only:

   a. on behalf of participants in the vendor's ORP products;

   b. from the College's Payroll Office;

   c. for amounts authorized or required by Texas law; and

   d. on or about the first business day of each month via electronic funds transfer (ACH format). A vendor that is unable to accept electronic funds transfer via ACH will be an inactive vendor (described in **Vendor Administrative Procedures, Section V)**. Paper checks will be remitted by the Payroll Office to inactive vendors that are unable to accept electronic funds transfer via ACH.

10. The vendor will credit each remittance to the participant's account(s) upon receipt of the electronic funds transfer. For this purpose, crediting to the account means processing the trade within one business day or depositing the contribution into an interest bearing account for the benefit of the participant if the trade can not be processed within one business day. Inactive vendors will credit each remittance to the participant's account(s) within one business day of the receipt of the paper check and remittance report. Remittance acknowledgments and account statements are to be sent directly to the participant no less than quarterly.

11. The vendor may contact the Payroll Office for additional information or clarifications regarding particular participants' accounts, but the vendor will not delay posting of remittances to other participants' accounts. If funds cannot be posted to participants' accounts upon receipt for any reason, posting will be made retroactive to the date of receipt, once the posting problem is resolved.

12. Transfers of a participant's funds will be accepted by the vendor from other ORP vendors and transfers of a participant's funds will be made to other active ORP vendors as requested by the participant. All transfers will be direct transfers in accordance with the **Vendor Administrative Procedures, Section IV, Item F.** After September 24, 2007, transfers may be made only to active or inactive vendors, but not to unassociated vendors in accordance with Treasury Regulations issued under §403(b) of the Internal Revenue Code. See **Vendor Administrative Procedures, Section V** to identify active or inactive vendors.

13. Each representative authorized by the vendor to represent it with regard to one or more of its ORP products will file a completed **Representative Acknowledgment** form with the College (see Appendix C). This form must be signed on behalf of the vendor by either the authorized Representative Designator or Primary Contact. The vendor will follow the College's procedures outlined in the **Vendor Administrative Procedures** when authorizing additional representatives or amending any information required by **Section IV**, **Item K** of the College's **Vendor Administrative Procedures**.

14. The vendor will furnish a copy of the College's **Vendor Specifications** and a copy of the Texas Higher Education Coordinating Board publication titled **"An Overview of TRS and ORP"** to each of its authorized representatives, officers, brokers, employees or any other persons involved in the sale and service of its ORP products to eligible employees of the College. Each individual will comply with the requirements listed in the **Vendor Specifications, An Overview of TRS and ORP,** and all applicable state and federal laws.

15. Each representative of a vendor who is authorized by the vendor after **July 31, 2008** to be involved in the marketing or sale of ORP products to eligible employees of the College will have a current Series 7 securities license. Authorized representatives whose names were furnished by the vendor to the College before **August 1, 2008** are not required to have a Series 7 securities license.

16. The vendor will submit an annual Product/Investment Fee and Performance Disclosure report and Vendor Rating Information in the format provided in Appendix D. After its initial certification, the vendor will submit such reports by March 31st of each calendar year with regard to the preceding twelve month period ending December 31st.

17. The failure by a vendor or its representatives to comply with these Vendor Specifications will result in the vendor's loss of the privilege to market its ORP products to eligible employees.

18. Each vendor, after initial approval to market ORP products, may be required to submit a complete recertification at any time or for any reason deemed appropriate by the College.

19. A vendor which elects to terminate its participation with the College ORP will provide written notice to each participant in its ORP products and to the Human Resources Department at least **30 days** in advance of the termination date.

ADDITIONAL ITEMS FOR SPECIFIC VENDORS

20. In addition to items 1-19 listed above, by signing the Vendor Certification Statement, a vendor which is an **insurance/annuity** company certifies that:

    a. The vendor is qualified and admitted to do business in Texas in accordance with the rules and regulations of the Texas Department of Insurance.

    b. Each ORP product offered by the vendor has been approved by the Texas Department of Insurance.

    c. No ORP product offered by the vendor contains a life insurance or other feature that could be considered a distribution of account funds reportable to the Internal Revenue service (IRS) for income tax purposes. However, an incidental life insurance feature, which is not considered a distribution of account funds reportable to the IRS, is permitted. (*Subject to alteration/deletion by new IRS 403(b) regulations.)*

    d. Participants will be allowed to change their annuity commencement date at any time before the annuity begins.

    e. Participants will retain all annuity and death benefits purchased by premiums already paid if any periodic premium is not paid prior to the end of the grace period, and they may resume payments at any time prior to retirement without penalty or repayment of any prior premiums.

21. In addition to items 1-19 listed above, by signing the Vendor Certification Statement, a vendor which is a **national bank** certifies that it is chartered by the Comptroller of the Currency.

22. In addition to items 1-19 listed above, by signing the Vendor Certification Statement, a vendor which is a **state bank** certifies that it is chartered to conduct business by the Texas Department of Banking.

23. In addition to items 1-19 listed above, by signing the Vendor Certification Statement, a vendor which is a **regulated investment company** certifies that:

    a. It is registered with the Securities and Exchange Commission (SEC) under the Investment Company Act of 1940.

    b. Each ORP product to be offered by the vendor has been approved by the Texas State Securities Board, pursuant to the Securities Act (Vernon's Texas Civil Statutes, Article 581-1 et seq.) and any other applicable law(s).

    c. Each ORP product to be offered by the vendor will be offered in compliance with Securities and Exchange Commission Releases.

IV. VENDOR ADMINISTRATIVE PROCEDURES

All ORP vendors and their representatives must adhere to the procedures set forth in the Vendor Specifications, including the Vendor Administrative Procedures in this Section IV. Failure to follow these procedures may result in the characterization of the vendor as an inactive vendor and the loss of the privilege to market ORP products to eligible employees of the College. The ORP is administered by the Human Resources Department of the College.

A. ELIGIBILITY FOR ORP PARTICIPATION

1. Human Resources Department personnel will determine which employees are eligible to participate in the ORP and the date the employee first becomes eligible to participate in the ORP based on ORP eligibility standards of state law and the Texas Higher Education Coordinating Board.

B. ENROLLMENT PROCEDURES*

The following forms must be completed and submitted to the Human Resources Department by either the eligible employee or the vendor's representative before the ninety-first (91st) day after the employee first becomes eligible to participate in the ORP:

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1. **ORP Information Acknowledgment** (See Appendix G-1)
2. **ORP Salary Reduction Agreement** (See Appendix G-2)
3. **Vendor enrollment/application form** (if one is provided by the vendor)
4. **Notice of Election to Participate in the Optional Retirement Program** form (TRS 28) (See Appendix G-3)
5. **Application for Refund** (TRS 29)**,** (See Appendix G-4) [*use only if the employee is/has been a member of TRS and wants to request a refund*]

*All forms can be obtained from the College website, www.delmar.edu.

C. EFFECTIVE DATE OF PARTICIPATION (PAYROLL DEADLINES)

1. An eligible employee may elect to participate in the ORP as of his eligibility date, provided all necessary forms have been correctly completed, signed and received by the Human Resources Department on or before the 15th day of that month. Forms received after the 15th day of a month may not be effective until the following month.

2. Any enrollment/application form or ORP salary reduction agreement that is submitted incorrectly or incompletely will be returned to the submitting party.

3. The eligible employee and the vendor's representative are responsible for resubmitting the corrected forms before the ninety-first (91st) day after the employee first becomes eligible to participate in the ORP. The final, complete and correct application submission will determine the employee's effective date of participation.

D. WITHDRAWAL OR TRANSFER OF TEACHER RETIREMENT SYSTEM (TRS) CONTRIBUTIONS

An employee who elects to participate in ORP may withdraw his or her contributions (plus interest) from the TRS. The employee must submit a properly completed **Application for Refund** form (TRS 29) (See Appendix G-4) to the Human Resources Department.

Rollovers or transfers from TRS must be made in compliance with federal and state law.

E. PROCEDURE FOR CHANGING THE ORP VENDOR FOR FUTURE ORP CONTRIBUTIONS

1. A participant may change from one active vendor to another active vendor after he initially elects to participate in ORP, but the election to participate in ORP is irrevocable while the participant is employed by the College.

2. A Participant can change the vendor which will receive subsequent contributions on behalf of the Participant by submitting to the Human Resources Department a new **ORP Salary Reduction Agreement** (see Appendix G-2) and a copy of the vendor enrollment/application form for the new active vendor. The change will be effective with regard to contributions made during the current month, provided all necessary forms are signed, received by the Human Resources Department, and processed before the 15th day of that month. Changes for forms received after the 15th day of a month will be effective for the following month.

F. TRANSFER OF EXISTING ORP FUNDS

Transfers of all or a portion of a participant's (including a terminated participant's) balance or benefit in an ORP product from one vendor to another vendor, and transfers between a 403(b)(7) account (mutual fund) and a 403(b)(1) account (annuity contract) may only be made to qualified ORP products of active ORP vendors, except as provided to the contrary in this Paragraph F. Transfers after September 24, 2007 must comply with Treasury Regulations under §403(b) of the Internal Revenue Code.

The following procedures apply to partial as well as total ORP fund transfers:

1. Receiving Vendor’s Responsibilities:

   a. The vendor receiving the transfer, or its representative, must complete and submit to the Human Resources Department the receiving vendor's rollover/transfer form, including the participant's signature, the receiving vendor's account number, the address where the transferred funds should be sent, and other information appropriate for each vendor. An ORP participant may not transfer funds to an inactive vendor unless the participant currently maintains an ORP product account or contract with that inactive vendor.

   b. ORP funds can be transferred only to a qualified ORP product with the receiving, active vendor or to a pre-existing qualified ORP account or contract with the receiving, inactive vendor. ORP funds cannot be transferred to unassociated vendors after September 24, 2007. The receiving vendor's rollover/transfer form must include the name of the vendor's representative who has been approved in advance pursuant to these Vendor Specifications. The name of the receiving vendor's representative is not required if the participant's ORP funds are being transferred to a vendor that does not have individual vendor representative(s).

   c. Copies of the receiving vendor's rollover/transfer form and other applicable information must be forwarded to the Human Resources Department.

   d. The vendor receiving the transfer must provide all information required by Treasury Regulations under §403(b) of the Internal Revenue Code with regard to funds received by means of transfers made after September 24, 2007.

2. Human Resources Department responsibilities:

   a. Upon receipt of a copy of the completed and signed rollover/transfer form from the receiving vendor or its approved representative, the Human Resources Department will verify the

active or inactive status of the vendor. Rollover/transfer forms will be returned to the participant without being processed if the form does not contain the information listed in paragraph 1 above, if the receiving vendor is not an active ORP vendor (except in the case of a qualifying inactive receiving vendor), or if the vendor's representative has not been approved by the College under applicable provisions of these Vendor Specifications.

b. The rollover/transfer form of the receiving vendor must be forwarded to the surrendering vendor by the participant or the receiving vendor after the Human Resources Department has determined that the transfer satisfies the requirements of this Section.

3. Surrendering vendor's responsibilities:

a. If unauthorized transfers are made, the surrendering vendor must recover the funds from the receiving vendor to make the participant's account whole.

b. Within seven business days of its receipt of the receiving vendor's completed rollover/transfer form which has been approved by the Human Resources Department, the surrendering vendor shall transfer the participant's funds directly to the receiving vendor at the address shown on such form, net of any applicable surrender fees. The surrendering vendor may not delay the transfer by requiring additional paperwork or signatures.

c. If a total transfer is completed by the surrendering vendor (i.e., the total account balance or benefit is transferred to the receiving vendor) and additional funds are subsequently received by the surrendering vendor, the surrendering vendor must transfer those funds directly to the receiving vendor without delay or any surrender penalty.

G. **ORP DISTRIBUTION RULES**

1. Funds may not be distributed from an ORP product in the form of a loan, hardship withdrawal, or any other type of disbursement, and no redeemable stock certificate or other item of value redeemable for cash may be issued to a participant, before the occurrence of a distributable event listed in **Title 8, Section 830.105 of the Texas Government Code** as follows:

   a. Death;
   b. Retirement;
   c. Termination of employment in all public institutions of higher education in Texas; or
   d. Attainment of age 70½ (for annuity contracts purchased under the ORP).

2. Funds may not be distributed from an ORP product to an ORP participant under the age of 70-1/2 before the vendor receives a properly completed **ORP Notification of Change in Employment Status** Form (see Appendix G-5) or a letter from the Human Resources Department confirming the participant's termination and/or vesting status. These documents must be signed by an authorized representative of the College. The vendor may not delay distribution by requiring additional paperwork or signatures or through some other means. The distribution check should be sent directly to the former College employee or designated beneficiary.

3. Distributions from an ORP product may be made pursuant to a **Qualified Domestic Relations Order** (QDRO) which complies with the procedures stated below in Paragraph H.

H. QUALIFIED DOMESTIC RELATIONS ORDER PROCEDURES

1. Under Title 8, Chapter 804 of the Texas Government Code, the vendor is responsible for qualifying a QDRO and administering benefits in accordance with the Code.

2. The Vendor must determine if the QDRO meets the criteria established in Chapter 804. The vendor will communicate the results of its determination to the employee and alternate payee in writing.

I. REPORTING PROCEDURES

1. Each active or inactive vendor must submit, at least quarterly, a report directly to each participant containing:

   a. For **all accounts:**

      1. Name and address of participant;
      2. Identifying number;
      3. Total payments received during the reporting period;
      4. Expense charges during the reporting period;
      5. Net payments during the reporting period;
      6. Total value of account at end of the reporting period; and
      7. Net cash surrender value of account at end of the reporting period reflecting all potential charges against the account if it were surrendered for cash as of the last day of this reporting period.

   b. For **fixed annuity accounts,** submit the following additional information:

      1. Interest rate or rates paid on the account from the previous reporting period to the end of the current reporting period; and
      2. Where multi-level rates of interest were paid on an account, a breakdown showing the amount in the participant's account at each interest level, the amount of interest earned at each interest level, and the rates of interest. An ORP vendor may exclude the information required in this paragraph concerning multi-level rates of interest from the annual report, but if this information is not provided on at least an annual basis, the company shall provide it at any time upon the participant’s request.

   c. For **variable annuity and custodial accounts,** submit the following additional information:

      1. Units of each fund or investment or account purchased during the reporting period;
      2. Total units of each fund or investment in the account at end of the reporting period; and
      3. The value of each unit of each fund or investment or account at the end of the reporting period.

2. Each vendor must provide a written confirmation of its receipt of funds (remittance acknowledgment) directly to each participant <u>at least quarterly</u>. <u>Do not submit confirmation to the College</u>. The confirmation report shall contain the date and amount of each payment received by the vendor during the reporting period. All transferred funds received as outlined in **Vendor Administrative Procedures, Section IV, Paragraph F**, must be acknowledged within seven days of receipt. Information concerning transferred funds shall be shared by receiving vendors to the extent required by Treasury Regulations issued under §403(b) of the Internal Revenue Code.

3. Each vendor must, immediately upon execution of a transfer from one fund or investment account to another fund or investment account, submit a confirmation directly to the participant. This confirmation shall include all transfer information, including a statement of the charges made for the transfer, if any. All transfers must be completed within seven days of receipt of a properly executed request for transfer.

4. Vendor literature such as Annual Reports and Proxy Statements must be mailed directly to the participant's home address.

J. MARKETING PROCEDURES

1. The College reserves the right to limit or revoke the privileges of any vendor or any representative to market ORP products at its discretion if it determines that any representative or vendor is not complying with these Vendor Specifications or not otherwise properly serving in the best interest of the participants or the College.

2. Approved representatives of active vendors are permitted to market ORP products to eligible employees at the College facilities only as invited guests of the College or the employee.

3. Approved representatives of active vendors are allowed to make sales presentations on College premises only at the request of an eligible employee and with the approval of the employee's supervisor.

4. No unsolicited visits, mailings (including bulk mailings), telephone, or e-mail solicitations may be made to College employees at College offices by active or inactive vendors.

5. Neither vendors nor their representatives are permitted to provide gifts or monetary rewards of any type or value to any person in exchange for information on newly hired employees of the College, and such practice shall be grounds for revoking the privilege of such vendor and/or representative to market ORP products.

6. College employees are not allowed to provide copying or typing assistance, notary services or other secretarial services to vendors or their representatives conducting business on College premises.

7. Brochures and other literature concerning ORP products of active vendors may be made available for eligible employees at a time and location designated by the Human Resources Department.

K. VENDOR ADMINISTRATIVE CHANGES

1. Changes to existing information:

    a. The Human Resources Department must be notified in writing of any changes to the information provided by a vendor as part of its Vendor Certification Statement. The notification should be provided by the individual with primary responsibility for overseeing compliance with these Vendor Specifications (the Primary Contact). If the notification involves a change in Primary Contact, it must be signed by the previous Primary Contact's immediate supervisor.

    b. Adding approved representatives:

        1. The Human Resources Department must receive a completed **Representative Acknowledgment** form (See Appendix C) that has been signed by the prospective representative and one of the individuals assigned as a Representative Designator or Primary Contact by the vendor. A new representative of an active vendor may not

contact or market ORP products to eligible employees until after the vendor has been notified that the representative has been approved by the College.

2. Notice of changes to information in a Vendor Certification Statement and/or requests to add or drop approved vendor representatives should be sent to:

Human Resources – Benefits and Training
101 Baldwin
Corpus Christi, TX 78404
Fax #: (361) 698-1134

L. RECERTIFICATION PROCEDURE

In order to maintain its status as an active vendor with the privilege to market ORP products to eligible employees, each active vendor will periodically be required to recertify that its ORP products and its representatives are in compliance with these Vendor Specifications.

1. The College is responsible for initiating the request for recertification. A written notice, including instructions and a response deadline, will be sent to the Primary Contact for the vendor.

2. Failure to respond completely to such request in a timely fashion will result in loss of status as an active vendor and/or approved representative, and a loss of the privilege to market ORP products to eligible employees.

M. PROCEDURE FOR TERMINATING VENDOR PARTICIPATION IN THE ORP

1. The College may terminate a vendor’s authority to participate in the ORP as an active vendor by sending a written notice to the Primary Contact for the vendor at least 10 days in advance of the termination date.

2. A vendor may terminate participation of one or more of its ORP products, or of its participation in the ORP, by sending a written notice of such termination to each participant in its ORP product impacted by such termination and to the Human Resources Department at least 30 days in advance of the termination date.

3. Termination of a vendor's status as an active vendor does not terminate or eliminate the vendor's responsibility to comply with all aspects of these Vendor's Specifications with regard to funds which continue to be held in the vendor's ORP products.

V. STATUS AS ACTIVE OR INACTIVE VENDOR

The College characterizes vendors of ORP products as either active or inactive, and maintains lists of active and inactive vendors. Active vendors are permitted by the College to enroll eligible employees as new participants in their ORP products. Inactive vendors are not permitted to enroll eligible employees as new participants in their ORP products, but they may continue to receive monthly contributions from existing participants.

Vendors will be reviewed annually to determine if they remain on the active or inactive list according to the following criteria:

1. **ACTIVE VENDORS:**

    a. Active vendors must accept remittances on behalf of participants in its ORP products submitted vial electronic funds transfer (ACH format).

    b. Active vendors must submit to the Human Resources Department a timely annual report listing the Product/Investment Fee and Performance Disclosure described in **Vendor Administrative Procedures, Section VI.**

    c. Vendors that fail to satisfy these requirements will be recharacterized by the Human Resources Department as inactive vendors effective as of the August 1st following the recharacterization. A vendor that is characterized as an inactive vendor may not reapply for certification as an active vendor for a period of one year from the date of the status change. An inactive vendor may apply to be characterized as an active vendor effective as of the following August 1st.

2. **INACTIVE VENDORS:**

    a. Inactive vendors must continue to abide by the Vendor Specifications. Inactive vendors may continue to receive monthly remittances from existing participants, but are prohibited from marketing to eligible employees or accepting remittances from new participants.

VI. PRODUCT/INVESTMENT FEE AND PERFORMANCE DISCLOSURE

Active vendors are required to provide the Product/Investment Fee and Performance Disclosure information described on Appendix D to the Human Resources Department by March 31st of each year for each separate ORP product offered to eligible employees. This information will be provided to College employees via the Human Resources Department web site. Fee information shall be effective as of January 1st of the current year. Failure to supply this information or the submission of incomplete or inaccurate information may result in recharacterization of the vendor as an inactive vendor or revocation of the vendor's privilege to market to eligible employees of the College.

This form or format with attachments in Appendix D must also be submitted when:

- An active vendor offers a new ORP product. In addition, a sample contract or custodial agreement must be submitted. Written authorization from the College must be obtained prior to marketing a new ORP product to College employees.

- A company requests approval to become an active vendor and offer ORP products to eligible College employees. Vendor application and appropriate documentation will be accepted only during an open application period.

A prospectus must be provided for each ORP product offered. An exception applies to a mutual fund vendor who offers more than 5 mutual fund products and elects to submit a sample set of 5 performance disclosures reflecting the mutual funds with the highest fees. In these situations, a prospectus is required only for each mutual fund included in the sample set.

In accordance with state law, loans and/or withdrawals are not available to active College employees participating under the ORP unless they are at least age 70-1/2.

***Paper copy must be submitted. Product/Investment Fee and Performance Disclosure information MAY NOT be emailed or submitted on CD or diskette.**

Appendix A

Vendor Certification Statement

By signing this certification statement, I agree and confirm on behalf of the vendor named below that the vendor currently complies, and will continue to comply, with the statements and conditions set forth in the Del Mar College Optional Retirement Program (ORP) Vendor Specifications, including but not limited to the provisions of **Section III, Paragraph A,** the provisions of which are incorporated here by reference.

This Vendor Certification Statement is submitted with the required additional documentation as part of a request that the vendor be designated as an "active vendor" and be granted the conditional privilege of marketing qualifying ORP products to eligible Del Mar College employees. I certify my awareness that ORP products are modified versions of products that otherwise qualify under Section 403(b)(1) and/or 403(b)(7) of the Internal Revenue Code of 1986, as amended.

I understand that my organization will not be considered an "active vendor" unless and until the Human Resources Department Benefits and Training Office notifies us of approval. I understand that this privilege may be terminated by the College at any time for failure to comply with the requirements stated herein.

It is also hereby certified that the exhibits, information and supporting documents included in the application are true, complete and correct as of the date of application.

This certification statement must be signed by an authorized officer of the company who has the authority to legally bind and commit the applicant organization.

_____
Company name

_____
Name

_____
Title

_____
Signature

Appendix B

SUPPORTING DOCUMENTS AND INFORMATION REQUIRED FOR VENDOR APPLICATION

The following information **must be attached** to the Certification Statement:

1 For each separate product offered, provide a sample contract or custodial agreement.

2 Include any endorsements or supplements necessary to conform to the requirements of this document, such as changes to the contract or custodial agreement to comply with ORP distribution restrictions, loan and hardship withdrawal restrictions, and the return of employer contributions for terminating non-vested participants.

3 For each separate contract or custodial agreement offered, provide the brochure or supplement that discloses participants' distribution options.

4 Attach sample quarterly and annual participant reports. Reports must meet the requirements described in **Vendor Administrative Procedures, Part IV, Section I, Reporting Procedures**.

5 Provide the name, title, address, telephone number (include both the toll-free and direct numbers), fax number and e-mail address of the following individuals:

a. **Primary Contact**: This individual must be an employee, preferably an officer, of the company identified on the Vendor Certification Statement (s/he may not be an independent representative or broker). This individual has primary responsibility for overseeing compliance with these Vendor Specifications and serves as a first point of contact with the Human Resources Department. This individual will be the recipient of regular correspondence and notices from the Human Resources Department, and must be able to disseminate important information in a timely manner to all authorized vendor representatives as requested by the College.

b. **Representative Designator(s)**: This individual must be an employee, preferably an officer, of the company identified on the **Vendor Certification Statement** (s/he may not be an independent representative or broker). This individual is responsible for adding or removing representatives who are assigned to work with College employees. This person must provide each newly authorized representative with a current copy of the ORP Vendor Specifications prior to signing and submitting the **ORP Representative Acknowledgment** form (Appendix C) to the Human Resources Department.

c. The vendor may designate up to **two** individuals to serve as Representative Designator, if necessary; however, the Primary Contact may be authorized to add or remove representatives.

d. **Remittance Contact**: This individual should be located at either the company headquarters or at a regional office. This individual serves as the contact for Human Resources Department or Payroll office for questions concerning the monthly electronic fund remittances, posting of remittances, fund transfers and distributions.

6 **Toll-Free Telephone Number.** Provide a customer service department toll-free number where customer service representatives will be available to speak with participants to provide general information about their ORP products Monday thru Friday between the hours of 8:00 a.m. to 5:00 p.m. central time.

7 **Internet Web Site.** Provide a secure interactive Internet web site which will enable participants to access individual ORP accumulations, review monthly contribution allocations, reallocate

contributions and change investment products. In addition, the web site will provide employee education and product performance information, and allows eligible employees to request literature and prospectuses.

8 List as representatives the names of all brokers and/or representatives with whom you have a third party agreement to provide investment advice for ORP participants. Furnish an **ORP/TDA Representative Acknowledgment** form (Appendix C) for each representative.

Appendix C

ORP REPRESENTATIVE ACKNOWLEDGEMENT

Del Mar College
ORP Representative Acknowledgment

INSTRUCTIONS:

1. Vendor should complete this and mail to **Human Resources Office, Benefits and Training, Del Mar College, 101 Baldwin Blvd., Corpus Christi, TX 78404** or Fax to (361) 698-1134.
2. Human Resources will provide written acknowledgment to the vendor. New representatives may not contact College employees until after the vendor has been notified that the representative is accepted by the College.

PRIMARY CONTACT:

Name: First, Last | *Company*

Telephone Number (include toll free) | *Fax Number* | *E-mail address*

REPRESENTATIVE DESIGNATOR(S):

Name: First, Last | *Company*

Telephone Number (include toll free) | *Fax Number* | *E-mail address*

REMITTANCE CONTACT:

Name: First, Last | *Company*

Telephone Number (include toll free) | *Fax Number* | *E-mail address*

REPRESENTATIVE(S)\BROKER(S):

Name: First, Last | *Company*

Telephone Number (include toll free) | *Fax Number* | *E-mail address*

I certify that the representative(s)\broker(s) listed on of this form have current Series 7 license issued by NASD.

I further certify that all prospective representatives\broker(s) will receive a copy of the College ORP Vendor Specifications and will abide by all College solicitation restrictions and procedures set forth in them. I will not nor will any other representatives of this company intentionally present any false or misleading information regarding any product(s) offered by my company or any other vendor.

I understand that failure to follow the Vendor Specifications will result in the loss of privilege(s) to market ORP and/or TDA products to College employees.

SIGNATURE *DATE*

SECTION II

I hereby request approval for the appointment of the above-named individual(s) to represent my company to eligible College employees in connection with the ORP Program. I certify that I forwarded to the representative(s) a copy of the College Vendor Specifications for the ORP Program. I understand that my company is responsible for ensuring this individual(s) complies with all College requirements stated in the Vendor Specifications.

SIGNATURE *PRINT NAME OF REPRESENTATIVE DESIGNATOR/PRIMARY CONTACT* *DATE*

Appendix D

PRODUCT/INVESTMENT FEE AND PERFORMANCE DISCLOSURE

Date of Report _____ (Due March 31st of each year)

A. GENERAL INFORMATION

1. Vendor name: _____

2. Name of ORP product/investment:

_____

Select one: Existing product - no change Existing product modified New product

3. Inception date of ORP product:

_____

4. Product type**:** Fixed Annuity Variable Annuity Mutual Fund/Custodial Account*

If the product offered is a Mutual Fund/Custodial Account, identify the share class:

Class A Class B Class C or Other: _____

*Vendors that offer more than 5 mutual fund ORP products may submit a sample set of the 5 mutual funds with the highest fees in lieu of submitting this form for each mutual fund offered. (Separate forms must be completed for each mutual fund in the sample set.)

Is this ORP product one of the 5 submitted as part of the mutual fund sample set? Yes No

5. Does this ORP product require a minimum initial investment? Yes No If yes, $_____

6. Is a Signature guarantee or medallion guarantee required for this ORP product: Yes No
If yes, required for transfers or distributions over $_____

B. **THE FOLLOWING FEE INFORMATION IS EFFECTIVE AS OF: JANUARY 1, 20___**

For the ORP product identified in item A.2, the following fees and/or charges apply (identify annual maximums and provide specific percentage or dollar amounts). If providing attachments, **the maximum fee in each fee category must be identified on this form** in addition to stating "see attachment."

1. **Investment Advisory Fees -** fees charged by the investment advisor for managing the investment fund and selecting its portfolio of securities (**Maximum 2%)**:

_____

2. **Fund Management Fees** – total fees deducted from fund assets before earnings are distributed to shareholders, including investment advisory fees, fund administrative fees, investment fees, mortality and expense fees operating expenses and other miscellaneous expenses **(Maximum 2.75%)**:

   Identify each fee or charge individually and list the total.

   Example:

   Advisory Fees: 1.00%, Other Expense: .59%, Mortality & Expense: 1.10%, Total: 2.69%

_____

_____

3. **Front-end sales load charges** - sales charges or fees deducted from money contributed to the fund when it is invested **(Maximum 5.75%)**:

_____

4. **Surrender charges**, - surrender charges, back-end sales load, redemption charge, contingent deferred sales charge or any other fee that is assessed when a participant accesses funds. State the type of fee, the percentage, and the duration:

   Fee Type: _____ Rolling Non-rolling

   Fees: Yr 1_____% Yr 2_____% Yr 3_____% Yr 4_____% Yr 5_____% Yr 6_____% Yr 7_____%

   Identify any surrender restrictions that limit a participant's ability to access all funds upon request:

_____

   Identify any surrender restrictions on fixed accounts that restrict distribution to a percentage per year
   (i.e., 10% of contract value per contract or calendar year):

_____

_____

PRODUCT/INVESTMENT FEE AND PERFORMANCE DISCLOSURE (continued)

5. **Custodial Fees** - fees assessed by a mutual fund for administrative costs other than investment advisory fees paid directly to a registered investment advisor, if applicable **(Max. $100/year or 1%/year)**:

_____

6. **Asset Management Fees** - fees assessed for investment assistance, advice and counseling other than investment advisory fees paid directly to a registered investment advisor, if applicable **(Max. $100/year or 1%/year)**:

_____

7. **Policy Fees:** Monthly: _____ Annually: _____

8. **Transfer Fees:**

Internal transfers (transfers between funds or within fund families with the same vendor):

_____

External transfers (transfers to other vendors)*:

_____

* Transfer restrictions: Identify any limitation regarding the amount that may be transferred or the frequency of transfers:

_____

_____

Identify any transfer restrictions on fixed accounts that restrict distribution to a percentage per year (i.e., 10% of contract value per contract or calendar year)

_____

_____

Vendors **may not charge any fees for transferring from one active vendor's ORP product to an ORP product of another College vendor, (other than previously disclosed surrender fees) effective January 1, 2008.*

9. Additional fees that are not identified in items B.1-8 above must be disclosed:

_____

_____

C. PERFORMANCE INFORMATION

Provide percentage returns on this product/investment for the previous 1, 5 and 10 years, ending the most recent quarter. If available, provide information both with and without sales charges considered. You may attach a preprinted table, investment report, or reference your web site page if it contains the required information.

_____

_____

D. REMITTANCE POSTING

Remittances are required to be credited to participant's accounts upon receipt of the electronic funds transfer (crediting to the account means processing the trade within one business day or depositing the contribution into an interest bearing account for the benefit of the participant if the trade can not be processed within one business day).

Are the ORP and TSA/TDA contributions credited to each participant's account within one business day of receipt of the ACH transaction? Yes No

If no, provide explanation:

_____

_____

_____

_____

_____

Appendix E

VENDOR RATING INFORMATION

Each insurance and annuity vendor must submit the following information to the Human Resources Department as part of its application for active vendor status. Also, active insurance and annuity vendors must submit this information with their **Product/Investment Fee and Performance Disclosure forms** for the annual recertification by **March 31st** of each year. Each section that is not applicable or information that is not available should be designated accordingly. Failure to supply this information may result in removal from the active vendor list.

Vendor:_____ Date of Report:_____

RATING INFORMATION REQUIRED FOR INSURANCE/ANNUITY VENDORS

The most **recent** ratings from the following rating services are:

Rating Companies	**Most Recent**	**Date of Rating**	**Previous**	**Change (+/-)**
1. A.M. Best				
2. Duff & Phelps				
3. Moody's				
4. Standard & Poor's				
5. Any other (list name)				

Appendix F

HOLD HARMLESS AGREEMENT

WHEREAS, Corpus Christi College District ("Del Mar College") wishes to make available to its employees the provisions of Section 403(b) of the Internal Revenue Code of 1986 ("Code"), Article 6228a-5, Vernon's Texas Civil Statutes, and Chapter 830, Government Code, Vernon's Texas Codes Annotated; and

WHEREAS, the company designated below ("Company") has offered to provide tax deferred annuities and/or regulated investment companies' custodial accounts (collectively referred to as "tax-deferred accounts") complying with federal and state law for eligible employees of Del Mar College wishing to have such accounts established and purchased for them by Del Mar College.

THE COMPANY AGREES TO THE FOLLOWING:

1. The Company shall provide for purchase by Del Mar College for its employees tax-deferred accounts complying with the provisions of Sections 403(b), 402(g) and 415 of the Code, and, as applicable, Article 6228a-5, Vernon's Texas Civil Statutes, as amended, Chapter 830, Government Code, Vernon's Texas Codes Annotated, as amended, and any other pertinent present or future federal or state law. Such tax-deferred accounts shall be available for purchase by Del Mar College for any legally-eligible employee electing to participate.

2. The Company, its agents and representatives shall comply with all pertinent policies, rules, vendor specifications, directives and reasonable requests regarding the solicitation of employees of Del Mar College and the purchase of tax-deferred accounts.

3. The Company, its agents and representatives shall advise each Del Mar College employee on whose behalf a tax-deferred account is purchased from the Company concerning the limit on the employee's contribution to a tax-deferred account under applicable provisions of the Code. The employee and Del Mar College shall be entitled to rely on the accuracy of the advice provided by the Company concerning such limitation.

4. The Company shall indemnify and hold harmless the Board of Regents of Del Mar College, Del Mar College itself, and its administrators and employees, from every claim and demand which may be based directly or indirectly on the action or failure to act by the Company or its agents and representatives in connection with the establishment or operation of a tax-deferred account established for an eligible employee, or on the design of the Company's tax-deferred accounts, or on the reliance by Del Mar College, or any of its administrators or employees, on the actions or advice of the Company concerning the purchase of one or more tax-deferred accounts from the Company and making contributions to the tax-deferred accounts on behalf of its employees.

5. The Company, at its own expense, shall defend any legal proceedings that may be brought against the Board of Regents of Del Mar College, Del Mar College, its administrators and its employees, involving claims or demands based directly or indirectly on the matters for which indemnification is provided hereunder. Del Mar College shall promptly notify the Company by registered or certified mail upon the receipt of any such claim or demand, and the Company shall satisfy any judgment that may be rendered against any of them based on such claim or demand.

6. The Company reserves the right, upon thirty (30) days written notice to Del Mar College, by registered or certified mail, to terminate this Agreement and the Company's future entitlement to provide tax-deferred accounts on behalf of employees of Del Mar College, but such termination shall in no manner affect any liability of the Company incurred prior to such termination.

_____ _____

Date Company Name

By: _____

Signature of Authorizing Officer, Title

Appendix G

College Employee Enrollment/Distribution Forms

ORP Information Acknowledgement (Appendix G-1)

ORP Salary Reduction Agreement (PER 025 03) (Appendix G-2)

Notice of Election to Participate in Optional Retirement (TRS 28) (Appendix G-3)

Application for Refund (TRS 29) (Appendix G-4)

ORP Notification of Change in Employment Status (Appendix G-5)