



**INTERAGENCY AGREEMENT
BETWEEN THE
CHABOT-LAS POSITAS COMMUNITY COLLEGE DISTRICT
AND THE
FOUNDATION FOR CALIFORNIA COMMUNITY COLLEGES
(CALIFORNIA COMMUNITY COLLEGES AUXILIARY ORGANIZATION)
SITE LICENSE**

SUMMARY

The Chabot-Las Positas Community College District (the District) grants a site license to the Foundation for California Community Colleges (the Foundation) for the use of Las Positas College (the College) facilities in support of the State of California's BAR Smog Referee and Student Technician training program.

BACKGROUND

The Foundation for the California Community Colleges has entered into an agreement with the State of California, Bureau of Automotive Repair (BAR) to provide referees to hear consumer complaints and negotiate reasonable results in those disputes, and to train student technicians to perform the necessary technical services in the State's Smog Check program. The goal of the Foundation and the California Community Colleges is to help improve the quality of the air in California while training College students in critical technical services and provide to the citizen, consumer, and taxpayer, economical alternatives associated with vehicle ownership and a safer and healthier living environment. Funds earned through the program may be used by the Foundation through grants to enhance the educational programs of the California Community College system.

BAR is the nation's foremost automobile regulatory system. Each year, BAR:

- Revokes approximately 300 registrations and licenses;
- Suspends operations in over 130 shops;
- Places over 100 repair facilities on probation; and
- Returns over \$5 million to California consumers in refunds, rework, and adjustments.

During the 2002/2003 Fiscal Year, BAR negotiated \$5.2 million worth of refunds, rework, or adjustments from auto repair shops on behalf of consumers. These activities rely on a well-trained cadre of Referees and Student Technicians to deliver these benefits to the consumer and the industry.

AGREEMENT

Accordingly, this Agreement grants a license to the Foundation for the use of College facilities and equipment (the Site) necessary to conduct a Referee and Student Technician Training Program (the Program). The Program combines the public services of a Smog Check Referee Program with a training program for students in California community colleges.

This Agreement is entered into by and between the Foundation and Chabot-Las Positas Community College District. The term of this Agreement will be from July 1, 2008 through June 30, 2009, after which Foundation will have three one-year options to renew.

The parties mutually agree to the following terms and conditions:

Article I Responsibilities of the College

A. Site

1. The College will provide a Site, as defined in Attachment I, Site Requirements, for a Smog Check Station (the Facility) at which the smog check referee functions described in Attachment III, Referee Site Functions & Referee Duties, will take place.
2. The Foundation and BAR will have ready access to the Site to install BAR automotive emissions testing equipment, office furniture, equipment and supplies, signage, and other appropriate items.
3. The Foundation and BAR will have ready access to the Site to make such modifications to the Site as are agreed by the College and the Foundation, as described in Attachment II, Site Modifications.
4. The Site will be available for Operations on the days and during the hours specified in Attachment I, Site Requirements. The College will provide open access to Facility staff to allow these daily operations, consisting of vehicle smog emissions testing, inspections, evaluation, and administration.
5. The College will maintain the Facility building and surrounding grounds.

6. The College will promptly supply campus and area maps, directions, and other Site information to the Foundation within ten (10) business days of execution of this Agreement, and within ten (10) business days after the date of each subsequent request.

B. Personnel

1. The College will have one (1) program representative (College Representative), who will be the key point of contact between the College and the Foundation. The College Representative will be readily available to communicate with the Foundation by phone, letter, and electronic mail.

C. Fiscal Responsibilities

1. The Foundation will pay on a monthly basis the license fee specified in this Agreement. The payment will be sent no later than the fifteenth (15th) day of the month for which the payment is due.

Article II Responsibilities of the Foundation

A. Site

1. The Foundation will manage the provisions, per the Funding Agreement, of all testing equipment, office furniture and supplies, signage, and other items it deems necessary to administer the Program at the College Site.
 - a) The Foundation will manage for BAR the provision to the College of the following testing equipment and supplies:
 - (1) If the College is in an Enhanced Area of the state, or if the College is in a Basic Area of the state and provides BAR 97 training to its students, the College will give the Foundation access to the College's Emissions Inspection System (EIS).
 - (2) All Sites will be equipped with diagnostic equipment, tools (e.g., wrenches, screwdrivers, etc.), books, manuals, copy machine, desks, chairs, telephone answering machine, cash management equipment (e.g., cash

register, receipts), and general office supplies for use by Foundation staff.

- (3) The Foundation will manage the provision to the College of brochures and other pamphlets for the general public.
- b) The Foundation will install appropriate computing and telecommunication lines and equipment at the Site, where necessary.
 - c) The Foundation will permit the College to use the Site for student training and courses when it is not in use for official Smog Check Referee and Student Technician Training Program Operations.
 - d) The Foundation will permit the College to have its students visit the Facility during Facility Operations, under the supervision of the College, for student field trips, with prior permission of the Foundation.
2. The Foundation may make such modifications as it deems necessary, after consultation with the College, to establish a safe, convenient, and comfortable waiting area for the consumer at the Site, which will be separated from the automotive testing and inspection area. The waiting area will be located as described in Attachment I, Site Requirements. The College will provide the Foundation with a map to the waiting area within ten (10) days of execution of this Agreement.
3. The Foundation will procure and maintain throughout the entire life of this Agreement, General Liability/Property Damage insurance, including Garagekeepers Liability insurance, at three million dollars (\$3,000,000) combined single limit. The Foundation will designate the District, the College, its Board of Trustees, and its officers, agents, representatives and employees as additional named insureds and will provide to the College appropriate Certificates of Insurance and endorsement.
4. The Foundation agrees to indemnify, defend and hold harmless the College, its officers, agents and employees from any and all third party claims and losses due to the injury or death of any individual, or the loss or damage to any real or tangible personal property, resulting from the

willful misconduct or negligent acts or omissions of the Foundation or any of its agents, subcontractors, employees, suppliers, laborers, or and other person, firm, or corporation furnishing or supplying work, services, materials, or supplies in connection with the performance of this Agreement. Such defense and payment will be conditional upon the following:

- a. The College will notify the Foundation of any such claim in writing and tender the defense thereof within a reasonable time; and
- b. The College will have sole control of the defense of any action on such claim and all negotiations for its settlement or compromise; provided that
 - (i) when substantial principles of government or public law are involved, when litigation might create precedent affecting future Foundation operations or liability, or when involvement of the Foundation is otherwise mandated by law, the Foundation may participate in such action at its own expense with respect to attorneys' fees and costs (but not liability);
 - (ii) the Foundation will have the right to approve or disapprove any settlement or compromise, which approval will not unreasonably be withheld or delayed; and
 - (iii) the Foundation will reasonably cooperate in the defense and in any related settlement negotiations.

B. Personnel

1. The Foundation will provide a Program Manager to oversee the Program. The Program Manager will be the primary contact of the College Representative. The Program Manager will be readily available to communicate with the College Representative by phone, letter, and electronic mail.
2. The Referee is an employee of the Foundation and will work with the designated College Representative in managing the Site.

C. Fiscal Responsibilities

1. The Foundation will pay to **Las Positas College** the sum of **one thousand dollars (\$1,000)** per month as a facilities and equipment use licensing fee for the use of the Facility and Equipment as permitted herein. The fee will be due on

The first day of each month during the term of this Agreement.

The check should be made payable to:

Las Positas College

and mailed to:

**Attn: Robert Kratochvil
3000 Campus Hill Drive
Livermore, CA 94551**

2. The Foundation reserves the right to withhold the facilities equipment and licensing fee payments to the College if its performance does not comply with the terms of this Agreement.

Article III General Provisions

This Agreement incorporates by reference the General Provisions, Specifications, and Definitions attached hereto as Attachments I, II, III, IV, and V.

In witness whereof, the Parties hereto have executed this Agreement per the dates and signatures below.

Foundation for the California Community Colleges

Signature
Name: _____
Title: _____

Date

**Las Positas
Chabot-Las Positas Community College District**

Lorenzo Legaspi
District Vice Chancellor, Business Services

Date

ATTACHMENT I

Site Requirements

1. Hours of Operation. The College will provide access for the days and hours specified below. The College will be responsible for opening any gates or exterior entrances to the Site in addition to opening automotive technology.
- 2.

**The Site will be open for Operations: Monday through Friday,
7:00AM – 5:00PM**

3. Automotive Lane. Access to an automotive bay/lane either in, or close to, Automotive Technology. If the Site is located in an Enhanced Area, access will be provided to a bay where the BAR 97 and dynamometer are located.
4. Office Space. Adequate space close to the automotive lane, where a desk, storage or file cabinet, bookshelf, and other equipment can be placed. The Foundation prefers that the furniture and equipment be located in separate area that can be locked at the end of each day.
5. Facility and Equipment Maintenance. The College will maintain the Facility building and surrounding grounds. The College and Foundation will keep the Facility clean at all times. If either party uses equipment owned by the other party, it will pay for the maintenance of the equipment proportionate to the use.
6. Parking. Two parking spaces for waiting vehicles, one suitable for handicapped access, will be provided close to the automotive bay. Parking for the Referee and student technicians will be arranged with the College, but need not be in immediate proximity to Automotive Technology.
7. Signage. The Foundation will provide sandwich board signs and one building sign to direct customers to the Site. The Foundation will work with the College to ensure the signs meet the specifications required by the College.
8. Customer Waiting Area. The College will provide space for a small motorist waiting area, or access to the campus lounge or cafeteria. The Foundation will ensure that customers are restricted to the designated area at all times.

The waiting area is currently designated as in the Auto Tech Building Foyer.

8. Restrooms. The College will provide reasonable access to restroom facilities for Foundation staff and customer use. The restroom facilities must meet ADA standards. The College will ensure regular maintenance and upkeep of the public restrooms, including keeping the restrooms stocked with adequate paper supplies.

9. Security. The College will specify what type of security is currently in place at the Site and what the basic security requirements are for the College. The Foundation will supplement the security as deemed necessary by both parties.
10. Safety. The College and the Foundation will ensure that the Site is free from hazards to the public.

ATTACHMENT II

Site Modifications

Chabot-Las Positas Community College District

The College and the Foundation agree that the following modifications will be made to the Site by the Foundation:

None.

Attachment III

Referee Site Functions & Referee Duties

The Smog Check Referee Program will provide a public service for motorists who need additional testing on their vehicles. Motorists must schedule their appointments in advance by calling an “800” number that connects to scheduling operators in the Central Call Center. Appointments are scheduled at 50-minute intervals. There will be no “walk-in” appointments, except as time permits

Referees assist motorists who are unable to obtain smog certificates for their vehicles from a Smog Check station. This task is to be accomplished with as little inconvenience to the motorists as possible. The Referee inspects and tests vehicles to determine whether the vehicle should be given a smog certificate, or whether it should be sent back to a Smog Check station for repairs. The Referee is responsible for providing information to motorists, Smog Check technicians, and others needing assistance.

The Referee actions will include testing vehicles on state-of-the-art diagnostic equipment. Each test takes twenty-five (25) minutes, with five (5) minutes of vehicle run-time on the equipment. The remainder of the time is set aside for customer service, stationary vehicle inspection, recordkeeping, and data entry.

Referee Duty Statement

The Referee is responsible for the daily operations of the Referee Site. In principle, these functions should be the same for all locations. The Referee’s responsibilities include, but are not limited to, the following:

1. Overseeing daily Site Operations including all monetary transactions and deposits.
2. Maintaining an orderly flow of scheduled appointments.
3. Ensuring, with assistance from the program manager that there is adequate Site availability for motorists.
4. Obtaining equipment and office supplies.
5. Ensuring sufficient staffing of assistants during normal operating hours.
6. Interviewing, hiring, and evaluating employee performance. Applicants enrolled as students at the College will be given full priority for positions if they meet the established qualifications.
7. Assuring that the Student Technicians receive appropriate training in safe equipment operation. The Foundation will assume all liability for Student Technicians, and hold harmless the College, the District, and its employees and representatives, in any legal actions regarding Student Technicians.

8. Supervising the Student Technicians in all daily tasks.
9. Maintaining Site records on all actions, and issuing all required reports.
10. Ensuring the cleanliness and maintenance of the Facility, and of the machines used by the Referee Student Technician Training Program.
11. Interacting with the customers and displaying a high level of service.
12. Performing all testing procedures and engaging in required referee actions.
13. Performing other functions as required.

ATTACHMENT IV

General Provisions

A. Disputes

In the event of a dispute between the College and the Foundation, each party agrees to file a "Notice of Dispute" with the other party within ten (10) business days of the discovery of the problem. Within ten (10) business days of the filing of the Notice, the parties will meet in a mutually agreeable manner for the purpose of resolving the dispute. If the dispute cannot be resolved to the satisfaction of both parties, then an impasse will be declared. Upon impasse, all agreements will be terminated, and the Foundation will remove all of its property from the College within fourteen (14) calendar days of the declaration of impasse. All College facilities and equipment will be left in fully operational condition, with full containers of calibration gases and "zero" air, and filters to continue operations. In the event of any default or breach by the College/District, the Foundation will pay the College/District only the reasonable value of its services theretofore rendered satisfactorily, as may be agreed by the parties, or determined by a court of law.

B. Prior and Supplemental Agreements

This Agreement supersedes and makes null and void any prior agreements between the parties that conflict with the terms of this Agreement. To the extent that any documents conflict with the terms of this Agreement, this Agreement will control, unless otherwise agreed in writing by the parties.

C. Changes to Terms

Any changes or modifications to said terms require advance written approval by the Program Manager if the College seeks the change, or by the College Representative if the Foundation seeks the change. All changes must be mutually agreeable to both parties. No oral understanding or agreement will be incorporated herein or binding on either party to this Agreement.

D. Confidentiality

All parties to this Agreement will maintain as confidential all information obtained as a result of participating in this Agreement. No party will disclose such information to any other person or entity without prior written authorization by the appropriate representative of the other party.

E. Assignment

This Agreement is not assignable by either the College or the Foundation, either in part or in whole, without prior written consent of the other party to

this Agreement. Any assignment without prior written consent of the other party is void.

F. Governing Law

It is agreed that the law of the State of California will govern this Agreement.

G. Time Is of the Essence

The timing for performance of tasks necessary for the operation of this Agreement will be stated prior to implementation of this Agreement. The timing for performance of tasks may be changed by written agreement, after consultation between the parties. The date of completion of this Agreement, and any payment amounts specified herein, may only be altered by formal amendment of this Agreement.

H. Ownership of Data

Data and reports developed for and under this Agreement will become the property of the Foundation. Such data or reports will not be disclosed without prior written permission by the Program Manager.

I. Termination

This Agreement may be terminated by either party upon providing written notice to the other party thirty (30) days before the termination date.

J. Notices

1. Notice to the Foundation may be given by certified mail, postage fully prepaid, to the following person and address:

**Foundation for California Community Colleges
Director of Air Quality Programs
1102 Q Street, Third Floor
Sacramento, CA 95811**

2. Notice to the College/District may be given by certified mail, postage full prepaid, to the following person and address:

**Chabot-Las Positas Community College District
Vice Chancellor, Business Services
5020 Franklin Drive, Pleasanton, CA 94588**

3. Such notice will be effective when received, as indicated by post office records. If deemed undeliverable by the post office, such notice will be effective nevertheless fifteen (15) days after mailing.

4. Alternatively, notice may be given by personal delivery such as Federal Express, United Parcel Service, or other licensed courier services, to the addresses provided above. Such notice will be deemed effective when delivered unless a legal holiday commences during said twenty-four (24) hour period, in which case the effective time of the notice will be postponed twenty-four (24) hours for each intervening day

K. Non-Discrimination

The College/District and the Foundation agree that there will be no discrimination against, or segregation of, any person or group of persons on account of sex, marital status, race, age, physical or mental disability, color, religion, creed, or national origin or ancestry in the use or enjoyment of the Facilities and the Program, nor will the College/District or Foundation or any person claiming under or through them, establish or permit any such practice or practices of discrimination or segregation concerning the use or occupancy of the Facilities by the Foundation. The Foundation will ensure that the evaluation and treatment of employees and applicants for employment are free of such discrimination.

ATTACHMENT V

Definitions

Smog Check Referee Program. The Foundation will design and manage the Program in accordance with BAR requirements. Foundation management will include development of a system of schedule motorists, who are unable to obtain a smog certificate for their vehicle from a Smog Check station, to the Referee Site. The Referee inspects and tests vehicles and determines if the vehicle should be given a smog certificate. The Referee is responsible for providing information to motorists, Smog Check technicians and other needing assistance.

Student Technician Program. One intention of the Program is to provide training to California students to obtain work-ready skills as Automotive Technicians. Consequently, the Foundation will ensure that Student Technicians obtain training and job experience as Automotive Technicians with the intent that the technicians can pursue related employment in the public or private sector.

Business Days are defined as weekdays and Saturdays.

In a Basic Area motorists can take their cars to any facility offering a smog test. Testing is every other year at registration time or when a car changes ownership.

Change-of-Ownership Areas are the least populated counties. Smog Checks are only required when a car changes owners.

An Enhanced Area is considered by the Air Resources Board and U.S. Environmental Protection Agency to have the most serious air quality problems. Smog Checks are done every two years in these areas. Testing on a dynamometer (see BAR 97 definition above) will be mandatory in Enhanced Areas. Enhanced Areas are typically urbanized areas.

A Referee is a Foundation employee at a College Facility who is responsible for inspecting and testing vehicles, determining if vehicles should be granted a smog certificate or sent back to a Smog Check station for repairs, and supervising, training and mentoring Student Technicians. The Referee is responsible for providing information to motorists, Program technicians, the College Representative, and others needing assistance. The types of vehicle problems the Referee will handle include those listed in Attachment III, Referee Site Functions & Referee Duties.

In A Sound Test Program, the Referee tests the exhaust noise level of vehicles. A decimeter is used in compliance with BAR direction and SAE standards. Only motorists receiving a citation for violation of Vehicle Code §27152 will be required to be tested.

A Student Technician assists the Referee, while being trained in the skills required of Student Technicians. The Referee will serve as mentor, trainer, and supervisor. All Student Technicians must be students enrolled in six units of classes per semester at a California community college.

The Call Center is located in Sacramento and serves the entire state. The primary purpose of the Call Center is to receive motorist calls and to schedule appointments at the Referee Sites. At the Call Center, motorists will be able to contact a technical director, who can handle disputes that could not be resolved at the Referee Site. An "800" number will be provided for motorists' convenience.