

**MEMORANDUM OF UNDERSTANDING**  
between  
**CHABOT-LAS POSITAS COMMUNITY COLLEGE DISTRICT**  
and the  
**UNIVERSITY OF CALIFORNIA, DAVIS EXTENSION**

THIS MEMORANDUM OF UNDERSTANDING (MOU) is made and entered into as of this \_\_\_\_\_ day of \_\_\_\_\_, 2009, by and between Chabot-Las Positas Community College District, (hereinafter referred to as CLPCCD) having its principal place of business located at 5020 Franklin Drive, Pleasanton, CA 94588, and the University of California, Davis Extension, (hereinafter referred to as UC DAVIS), having its principal place of business located at 1333 Research Park Drive, Davis, CA 95618.

WHEREAS, CLPCCD has been authorized as a Region IX OSHA Training Institute Education Center (OTIEC) under contract to the Department of Labor Office of Training and Education (OTE), to provide high quality, standards-based OSHA Certified Training courses and other safety training. Toward that end, CLPCCD conducts its activities in cooperation with colleges and other entities throughout Region IX.

WHEREAS, UC DAVIS wishes to provide Occupational Safety and Health Administration (OSHA) Certified Training courses as a part of a UC DAVIS program, offering other occupational and environmental health and safety training courses.

NOW THEREFORE, it is hereby understood between the parties:

**I. SCOPE AND SERVICES**

CLPCCD and UC DAVIS shall work collaboratively to provide cost effective official Department of Labor/OSHA numbered course and regionally relevant courses through both open enrollment and contracts. These courses will primarily be the Department of Labor/OSHA numbered courses, which CLPCCD is currently authorized to offer in Region IX. UC DAVIS desires to make available these OSHA numbered courses throughout UC DAVIS' academic year to help improve knowledge and develop skills within the industry in Region IX. OSHA numbered courses may be listed by UC DAVIS in its catalog and schedule of courses, CLPCCD shall have the right to inspect and approve copy regarding programs in which it is involved.

**II. DIRECTORS**

CLPCCD and UC DAVIS agree to designate program directors to oversee and facilitate implementation of this agreement in cooperation with other appropriate administrators at the respective organizations.

The program directors shall have the following responsibilities:

- A. To act as principle contacts to plan and coordinate all activities within their organizations as well as with the partner organization.
- B. To ensure course offerings and appropriate contract arrangements are in place at least thirty (30) days prior to the course date and have been approved by both parties.
- C. To collaborate in establishing a course schedule by early February of each year that substantially covers the entire subsequent calendar year.
- D. To pursue and maintain excellence in course and instruction quality.

### **III. UC DAVIS RESPONSIBILITIES:**

#### A. Courses

1. Scheduling – work jointly with CLPCCD to build a schedule of course offerings for the area served by UC DAVIS.

#### B. Classroom

1. Venue – Provide a classroom at a UC DAVIS location, on or off campus, with appropriate space, seating, lighting, and other environmental elements conducive for learning.
2. Site Management – Provided on-site course management, working to receive any issues that may arise while a course is being conducted at a UC DAVIS location.

#### C. Final CLPCCD and Department of Labor paperwork

- a) Ensure governmental paperwork for OSHA numbered courses and UC DAVIS course evaluations are completed and sent back to CLPCCD within 24 hours after the completion of the course.
- b) Collect any OSHA Training Institute (OTI)-required reports, and forward to CLPCCD within one week of course conclusion.
- c) Administer evaluations, demographic surveys, and other documentation as required by CLPCCD for each class.

D. Faculty –Identify instructional staff and refer them to CLPCCD to undergo the CLPCCD faculty approval process.

E. Marketing

1. In cooperation with CLPCCD, develop and implement a comprehensive marketing plan. This plan may include, but is not limited to:

- a) Creation and distribution of CLPCCD and UC DAVIS catalogs
- b) Creation and distribution of CLPCCD and UC DAVIS individual course flyers
- c) Electronic/internet marketing
- d) Identification of potential students and employers

2. Provide CLPCCD with the UC DAVIS logo and appropriate use instructions for purposes of advertising the affiliation.

#### **IV. CLPCCD RESPONSIBILITIES**

A. Courses

1. Course Scheduling – Work jointly with UC DAVIS to build a schedule of course offerings for the area served by UC DAVIS.

2. Programming – Ensure that courses are properly programmed for future course marketing and registration.

3. Course Preparation

a) Work independently and with UC DAVIS to ensure that all appropriate details regarding course delivery have been attended to, including, but not limited to:

(1) Instructors

(2) Classrooms

(3) Course Materials – Print and ship training and collateral materials for each course

#### 4. Final CLPCCD and DOL paperwork

- a) Oversee, in cooperation with UC DAVIS, program quality and instructor course evaluation procedures to ensure all courses and instructors are evaluated at each course offering using the appropriate evaluation forms.
- b) Provide certificates and other course documentation including evaluations, summaries and demographic surveys as required by OTI and as modified from time to time.

#### B. Students

##### 1. Registration – Provide enrollment and registration services for all students enrolled in any courses.

- a) Maintain student records
- b) Provide students with a joint CLPCCD / UC DAVIS Certificate of Completion upon successful completion of any course.
- c) Implement, maintain and provide appropriate student records to students and to others, such as potential employers, as requested by students.
- d) Collect tuition

##### 2. Respond to student inquiries

#### C. Faculty

##### 1. Contracting

- a) Approve all instructors to teach UC DAVIS courses using the standard faculty approval process.
- b) Provide training to approved instructors who are selected to teach UC DAVIS/CLPCCD courses.
- c) Work with UC DAVIS to provide CLPCCD-approved OSHA instructors to teach courses.

##### 2. Payments

- a) Prepare and process all instructor payments for courses taught.

## D. Marketing

1. In cooperation with UC DAVIS, develop and implement a comprehensive marketing plan. This plan may include but is not limited to:

- a) Creation and distribution of CLPCCD and UC DAVIS catalogs
- b) Creation and distribution of CLPCCD and UC DAVIS individual course flyers
- c) Electronic / internet marketing
- d) Identification of potential students and employers
- e) Provide CLPCCD logo and appropriate use instructions for purposes of advertising the affiliation.

2. Other

- a) Maintain quality control over the provision of official Department of Labor / OSHA courses and materials used in these courses.
- b) Cooperate with UC DAVIS in the delivery of all training offered through this agreement.

E. Reconciliation and distribution of revenue – CLPCCD

## V. COURSE CANCELLATION

A. CLPCCD and UC DAVIS mutually agree to make all reasonable efforts to conduct every scheduled class.

B. In the event of low enrollment (fewer than 10 enrollments) two weeks prior to a scheduled class, CLPCCD and UC DAVIS will collaboratively decide whether to conduct a specific class.

C. CLPCCD and UC DAVIS agree to make good faith efforts to make mutually agreeable decisions.

1. If a joint decision is made to go forward with a class, any negative revenue accrual will be shared equally.
2. If a joint decision to cancel the class is made, no funds will be due to either party.

## **VI. COMPENSATION AND REIMBURSEMENT**

CLPCCD will annually set a schedule of course fees to be charged for all open enrollment courses agreed upon at the signing of this MOU. Contract courses will be individually priced by CLPCCD.

The fundamental procedure for revenue sharing between CLPCCD and UC DAVIS will be to subtract direct program costs from gross collected revenues, per course, and divide the remaining net balance. The net balance will be shared on the basis of fifty percent (50%) to UC DAVIS and fifty percent (50%) to CLPCCD.

Direct Program Costs may include:

- Instructor salary
- Instructor travel costs
- Course material printing and shipping
- Student enrollment processing fees
- Training materials
- Room/venue rentals

CLPCCD will provide a final course summary of fees and expenses following receipt of all invoices and will make payment according to the schedule detailed above within 30 days of receipt of all final invoices.

## **VII. TERM**

This MOU shall be deemed to be effective as of the \_\_\_\_\_ day of \_\_\_\_\_, 2009. The MOU shall remain in effect and renew annually unless otherwise terminated by either party.

## **VIII. TERMINATION**

Termination shall be at will by either party with 60 days written notice. Should the contract be terminated, both parties agree to fulfill their obligations arising prior to the termination of the contract. This includes, but is not limited to, the obligation to allow the enrolled student to complete courses scheduled. Termination may also result from any of the following conditions:

- A. UC DAVIS breaches any of the provisions of this MOU and, if subject to cure, fails to cure such breach within ten (10) days of receipt and notice of such breach.
- B. CLPCCD breaches any of the provisions of this MOU and, if subject to cure, fails to cure such breach within ten (10) days of receipt and notice of such breach.

## **IX. INDEMNIFICATION AND INSURANCE**

UC DAVIS shall defend, indemnify and hold CLPCCD harmless from and against any and all liability, loss expense, attorneys' fees, or claims for injury or damages arising out of the performance of this Agreement but only in proportion to and to the extent such liability, loss expense, attorney's fees, or claims for injury or damages are caused by or result from the negligent or intentional acts or omission of the UC DAVIS, its officers, employees or agents.

CLPCCD shall defend, indemnify and hold UC DAVIS harmless from and against any and all liability, loss expense, attorneys' fees, or claims for injury or damages arising out of the performance of this Agreement but only in proportion to and to the extent such liability, loss expense, attorney's fees, or claims for injury or damages are caused by or result from the negligent or intentional acts or omission of the CLPCCD, its officers, employees or agents.

Both parties agree to carry and keep in full force and effect a policy of insurance (either self-insurance or with an insurance company licenses to do business in the State of California) against the peril of bodily injury, personal injury and property damage during the term of the agreement with a limit of at least One Million Dollars (\$1,000,000) per occurrence and Three Million Dollars (\$3,000,000) in aggregate.

## **X. APPROVAL AND REPRESENTATIVES**

Any changes to this agreement after this date will be considered amendments to the original agreement and must be agreed upon by both parties in writing, unless otherwise stated.

## **XI. INDEPENDENT CONTRACTOR STATUS**

The Parties hereby acknowledge that they are independent contractors. As such, each Party shall be liable for any debts, obligations, acts and omissions relating to its own agents, representatives, students or employees, including the deduction of all federal, state and local income taxes, social security, FICA and other charges, if any, to be deducted from the compensation of its employees. Furthermore, in no event shall this Agreement be construed as establishing the relationship of agent, servant, employee, partnership, joint venture, association or any similar relationship between the parties hereto. As independent contractors, each party will be solely responsible for determining the means and methods for performing the services described herein.

Each party understands and agrees that other party is engaged in an independent business or enterprise and the party shall have no right to direct or control in any way or to any degree the manner of other party's performance hereunder. Each party further understands that it is not authorized and shall not make any agreement, contract or representation on behalf of the other party or create any obligation, express or implied, on the part of the other party.

Neither CLPCCD nor any of its agents, representatives, students or employees shall be considered agents, representatives, or employees of UC DAVIS as a result of this Agreement. Furthermore, each and every person employed by CLPCCD who is providing services to UC DAVIS under this Agreement shall, at all times, remain an employee of CLPCCD. CLPCCD employees shall not, at any time, or in any way, be entitled to sick leave, vacations, retirement, or other fringe benefits from the UC DAVIS, nor shall they be entitled to overtime pay from the UC DAVIS. UC DAVIS will make no State or Federal unemployment insurance or disability insurance contributions on behalf of CLPCCD and/or its agents or employees. Neither CLPCCD nor its employees shall be included in the classified or faculty service, have any property rights to any position, or have any of the rights that an employee of the UC DAVIS may otherwise have in the event of termination of this Agreement.

Neither UC DAVIS nor any of its agents, representatives, students or employees shall be considered agents, representatives, or employees of CLPCCD as a result of this Agreement. Furthermore, each and every person employed by UC DAVIS who is providing services to CLPCCD under this Agreement shall, at all times, remain an employee of UC DAVIS. UC DAVIS employees shall not, at any time, or in any way, be entitled to sick leave, vacations, retirement, or other fringe benefits from the CLPCCD, nor shall they be entitled to overtime pay from the CLPCCD. CLPCCD will make no State or Federal unemployment insurance or disability insurance contributions on behalf of UC DAVIS and/or its agents or employees. Neither UC DAVIS nor its employees shall be included in the classified or faculty service, have any property rights to any position, or have any of the rights that an employee of the CLPCCD may otherwise have in the event of termination of this Agreement.

## **XII. JURISDICTION AND VENUE**

This Agreement and all disputes hereunder, and the rights and obligations of the parties hereto, shall be governed by and construed in accordance with the laws of the State of California without reference to its conflicts or choice of law provisions. All claims, disputes and/or lawsuits in connection with this Agreement shall be brought solely within the state and federal courts sitting in the state of California, and each party to this Agreement hereby irrevocably submits to the jurisdiction and venue of such courts.

## **XIII. GENERAL PROVISIONS**

A. Notices – All notices required to be given to CLPCCD or UC DAVIS shall be given in writing either by personal delivery, first class postage prepaid, or by certified mail, return receipt requested, or by facsimile transmission, at the following addresses or at such other address as may be designated in writing by either party.

All notices to CLPCCD will be sent to:

Julia A. Dozier  
District Executive Director of Economic Development & Contract Education  
Chabot-Las Positas Community College District  
5020 Franklin Drive  
Pleasanton, CA 94588  
Phone: (925) 485-5234  
Fax: (925) 485-5211  
E-mail: [jdozier@clpccd.org](mailto:jdozier@clpccd.org)

All notices to UC DAVIS will be sent to:

Janis Heple  
Director of Occupational & Environmental Management Programs  
University of California, Davis Extension  
1333 Research Park Drive  
Davis, CA 95618  
Phone: (530) 757-8602  
Fax: (530) 757-8634  
E-mail: [jheple@ucde.ucdavis.edu](mailto:jheple@ucde.ucdavis.edu)

B. Modification – No provision of this MOU may be changed, modified or waived in whole or in part except by an instrument duly signed by CLPCCD and UC DAVIS.

C. Severability – In the event that any portion of this MOU is determined to be invalid or illegal, such invalidity or illegality shall be severed and not impair the operation or effect of any remaining portions of this MOU.

D. Entire MOU – This MOU constitutes the entire understanding between CLPCCD and UC DAVIS with respect to the subject matter hereof and shall supersede all prior written or oral agreements, if any, between CLPCCD and UC DAVIS with respect to the subject matter herein.

E. Attorneys' Fees. In the Event of a dispute under this Agreement, each Party shall bear its own attorneys' fees and costs.

F. Non-Assignment. No Party shall assign this Agreement or any right or privilege any Party might have under this Agreement without the prior mutual written consent of all Parties hereto, which consent shall not be unreasonably withheld, provided that the assignee agrees in a written notice to all Parties to carry out and observe each applicable Party's agreements hereunder.

G. Non-Liability of Officials. No officer, member, employee, agent, or representative of either Party shall be personally liable for any amounts due hereunder, and no judgment or execution thereon entered in any action hereon, shall be personally enforced against any such officer, official, member, employee, agent, or representative.

H. Third Party Beneficiaries. Nothing in this Agreement shall be construed to confer any rights upon any party not signatory to this Agreement.

I. Captions. The captions contained herein are used solely for convenience and shall not be deemed to define or limit the provisions of this Agreement.

J. No Waiver. Any failure of a party to enforce that party's right under any provision of this Agreement shall not be construed or act as a waiver of said party's subsequent right to enforce any of the provisions contained herein.

K. Counterparts. This Agreement may be executed in any number of counterpart copies, all of which shall constitute one and the same Agreement and each of which shall constitute an original.

IN WITNESS WHEREOF, the parties hereto enter into this MOU duly executed on this, the \_\_\_\_\_ day of \_\_\_\_\_, 2009.

FOR:

Chabot-Las Positas Community College District

University of California, Davis

\_\_\_\_\_  
Lorenzo Legaspi  
Vice Chancellor, Business Services

\_\_\_\_\_  
Dennis Pendleton  
Dean, UC Davis Extension

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

Chabot-Las Positas Community College District

\_\_\_\_\_  
Julia A. Dozier  
District Executive Director of Economic  
Development & Contract Education

\_\_\_\_\_  
Date