

MOU by and between the District Foundation of Chabot-Las Positas Community College District and the Friends of Chabot College Foundation and the Las Positas College Foundation

Draft for review at the 11/15/22 CLPCCD Board Meeting

THIS AGREEMENT, entered into as of this 14th day of December, 2022, by and between the Foundation of Chabot-Las Positas Community College District (aka the “District Foundation”) and the Friends of Chabot College Foundation and the Las Positas College Foundation.

The District Foundation was organized and incorporated in 1967 for the purpose of providing resources for students, faculty and staff for educational opportunities through community investment and partnership for the benefit of Chabot-Las Positas Community College District (CLPCCD). The District Foundation exists to provide support and resources to Chabot College and Las Positas College through district wide initiatives while providing funds for innovation, professional development, capital campaigns, pass through grants and scholarships along with unrestricted general support. The District Foundation may sponsor fundraising activities in partnership and collaboration with the Friends of Chabot College Foundation and the Las Positas College Foundation.

The District Foundation is dedicated to assisting the colleges in the building of their endowment and in addressing, through financial support, the long-term academic and other priorities of the colleges. As stated in its articles of incorporation, the District Foundation is a separately incorporated 501 (c) (3) organization and is responsible for identifying and nurturing relationships with potential donors and other friends of CLPCCD; soliciting cash, securities, real and intellectual property, and other private resources for the support of CLPCCD; and acknowledging and stewarding such gifts in accordance with donor intent and its fiduciary responsibilities.

Furthermore, in connection with its fund-raising and asset-management activities, the District Foundation can retain personnel experienced in planning for and managing private contributions and works with the CLPCCD Office to assist and advise in such activities. In consideration of the mutual commitments herein contained, and other good and valuable consideration, receipt of which is hereby acknowledged, the parties agree as follows:

Institution Governance

- The Board of Trustees of the CLPCCD is responsible for overseeing the mission, leadership, and operations of the colleges; for setting priorities and long-term plans and policies.
- The District Foundation Board for the CLPCCD is responsible for mission, vision, leadership, operations and activities of the District Foundation. The District Foundation is a 501(c)(3) nonprofit corporation.
- The Las Positas College Foundation (LPF) Board of Directors is responsible for the mission, vision, leadership, operation and activities of the LPF. The LPF is a 501(c)(3) nonprofit corporation.

- The Friends of Chabot College Board is responsible for the mission, vision, leadership and operation and activities of the Friends of Chabot College Foundation. The Friends of Chabot College Foundation is a 501(c)(3) nonprofit corporation.

The District Foundation’s Relationship to Friends of Chabot College Foundation and Las Positas College Foundation

- The District Foundation is a separately incorporated 501 (c)(3) nonprofit organization created to raise, manage, distribute, and steward private resources to support the colleges.
- The District Foundation board of directors is responsible for the control and management of all assets of the foundation, including the prudent management of all investments along with management of all gifts consistent with donor intent.
- The District Foundation is responsible for the performance and oversight of all aspects of its operations based on a comprehensive set of bylaws that clearly address the board’s fiduciary responsibilities, including expectations of individual board members based upon ethical guidelines and policies.
- The District Foundation is responsible for the employment, compensation, and evaluation of all its employees, including the foundation chief executive. The District Foundation Board may at its discretion, as agreed with the District Board of Trustees and Chancellor, utilize District personnel to perform the tasks necessary for the District Foundation to operate.
- The Board of Trustees for CLPCCD is responsible for communicating CLPCCD priorities and long-term plans, as approved by the board, to each of the Foundations.
- The District Foundation Board shall include the Friends of Chabot College Foundation and Las Positas College Foundation as active and prominent participant(s) in the strategic planning for the District Foundation.
- The District Chancellor shall serve as an ex-officio member of the District Foundation board and shall assume a prominent role in fund-raising activities.

Foundation Responsibilities

Fund-Raising

- The District Foundation shall create an environment conducive to increasing levels of private support for the mission and priorities of the colleges and their respective foundations.
- The District Foundation, in consultation and collaboration with the leadership of the Friends of Chabot College Foundation and the Las Positas College Foundation, is responsible for planning and executing

fund-raising and donor-acquisition programs in support of the colleges. These programs may include annual giving, major gifts, planned gifts, special projects, and campaigns as appropriate.

- The District Foundation will establish, adhere to, and periodically assess its gift-management and acceptance policies. It will promptly acknowledge and issue receipts for all gifts on behalf of the foundation and the CLCCPD and provide appropriate recognition and stewardship of such gifts.

- The District Foundation recognizes that the foundation bears responsibility for fund-raising for the colleges in tandem with the Friends of Chabot College Foundation and the Las Positas College Foundation. District Office representatives will coordinate fund-raising initiatives including major gifts solicitations with Friends of Chabot College Foundation and Las Positas College Foundation.

Gift inquiries directed to either college foundation shall be directed to the respective college foundation. Gifts intended to benefit both colleges shall be directed to the District Foundation, unless otherwise indicated by the donor.

- The Chancellor will work in conjunction with the leadership of the District Foundation board and the foundation staff to identify, cultivate, and solicit prospects for private gifts.

- The District Foundation shall not accept grants from state or federal agencies, except in special circumstances that are approved by the foundation board of directors and the governmental agency.

- The District Foundation shall establish and enforce policies to protect donor confidentiality and rights.

Asset Management

- The District Foundation will establish asset-allocation, disbursement, and spending policies and practices that adhere to applicable federal and state laws including the Uniform Prudent Investor Act (UPIA) and the Uniform Prudent Management of Institutional Funds Act (UPMIFA).

- The District Foundation will receive, hold, manage, invest, and disperse contributions of cash, securities, intellectual property, and other forms of property, including immediately vesting gifts and deferred gifts that are contributed in the form of planned and deferred-gift instruments.

- The District Foundation will engage an independent accounting firm annually to conduct an audit or review of the foundation's financial and operational records and will provide the Friends of Chabot College Foundation and the Las Positas Foundation as well as the District Foundation Board with a copy of the annual audited financial statements, including management letters.

Institutional Flexibility

- The District Foundation may explore current opportunities, including acquisition and management of real estate on behalf of the CLPCCD for future allocation, transfer, or use.

- The District Foundation with Board oversight may serve as an instrument for entrepreneurial activities for the colleges and engage in such activities as purchasing, developing, or managing real estate for

CLPCCD expansion, student housing, or retirement communities. It also may hold licensing agreements and other forms of intellectual property, borrow or guarantee debt issued by their parties, or engage in other activities to increase foundation revenue and resultant benefits to the colleges.

- When distributing gift funds or property to the colleges, District Foundation will disclose any terms, conditions, or limitations imposed by donor or legal determination on the gift. The respective Boards of the Friends of Chabot College Foundation and the Las Positas College Foundation will approve the acceptance of the gift, agree to abide by such restrictions and provide appropriate documentation to the donor as well as the District Foundation.

Transfer of Funds

- The District Foundation is the primary depository of private gifts raised by the District Foundation and will transfer funds to the designated entity within the colleges in compliance with applicable laws, policies, and gift agreements.

- The District Foundation's disbursements on behalf of the colleges must be reasonable business expenses that support the CLPCCD, are consistent with donor intent, and do not conflict with the law.

Foundation Funding and Administration

- The District Foundation Board, with the assistance of the Chancellor and District Office staff, is responsible for establishing a financial plan to underwrite the cost of foundation programs, operations, and services.

- The District Foundation has the right to use a reasonable percentage of the annual unrestricted funds, assess fees for services, or impose gift related fees, to support its operations. The use of fees will be disclosed to donors, the Board and the college foundations.

- The District Foundation, at this time will be housed in the CLPCC District Office which will provide office space, computer and telephone systems, utilities, adequate personnel, office supplies, and other such services that may be necessary or required to fulfill its responsibilities and obligations.

- The District Foundation shall maintain, at its own expense, copies of the plans, budgets, and donor and alumni records developed in connection with the performance of its obligations.

Terms of the Memorandum of Understanding (MOU)

This Memorandum of Understanding, made this 14 of December, 2022, by and between the board(s) of the District Foundation and the Friends of Chabot College Foundation, and Las Positas College Foundation (an Internal Revenue Code §501 (c) (3) nonprofit corporation), and the Chancellor of CLPCCD is intended to set forth policies and procedures that will contribute to the coordination of their mutual activities.

To ensure effective achievement of the items of the agreement, the CLPCC District and foundation officers and board representatives shall hold periodic meetings to foster and maintain productive relationships and to ensure open and continuing communications and alignment of priorities. Either party may, upon 90 days prior written notice to the other, terminate this agreement. Notwithstanding the foregoing, either party may terminate this MOU in the event the other party defaults in the performance of its obligations and fails to cure the default within a reasonable time after receiving written show cause notice.

IN WITNESS WHEREOF, the parties have caused this Memorandum of Understanding to be executed by their duly authorized officers as of the day and date first above written.

Chair
District Foundation Board
Date: _____

Chair
Friends of Chabot College Board
Date: _____

Chair
Las Positas College Foundation Board
Date: _____

Chancellor
CLPCCD
Date: _____