

MEMORANDUM OF UNDERSTANDING
BETWEEN
CHABOT-LAS POSITAS COMMUNITY COLLEGE DISTRICT
AND
YMCA OF THE EAST BAY AND KIDANGO

This Memorandum of Understanding (“Agreement”) is made and effective as of December 13, 2022 (the “Effective Date”), by and between YMCA of the East Bay (“YMCA”) and Kidango, Inc. (“Kidango”), and the Chabot-Las Positas Community College District (CLPCCD), Chabot College (“College”) in support of YMCA and Kidango employees participating in a College apprenticeship program.

RECITALS

WHEREAS, the YMCA and Kidango have employees needing certification in Early Childhood Development; and

WHEREAS, the College desires to offer or expand apprenticeship opportunities for Kidango and YMCA employees; and

WHEREAS, the College provides Early Childhood Development courses as part of the College’s accredited Early Childhood Development training program (collectively, the “Program”); and

WHEREAS, it is to the benefit of the College, YMCA and Kidango that employees enrolled in the Program have opportunities to complete their lab hours and practicum at Kidango and YMCA school sites with appropriate supervision and instruction; and

WHEREAS, these online and in-person courses will not be open to the public, but only available to enrolled apprentices who are employees of YMCA and Kidango; and

WHEREAS, the schedule, timing, location and instructional modality of the classes will be determined and agreed to between designees of Kidango, YMCA and Chabot; and

WHEREAS, instruction will comply with the student selection standards, curriculum guidelines and recommendations and procedures promulgated by applicable law, the California Community College Chancellor’s Office, CLPCCD and the College;

NOW, THEREFORE, the College, YMCA, and Kidango agree as follows:

I. RESPONSIBILITIES AND PRIVILEGES OF YMCA AND KIDANGO

A. YMCA and Kidango shall each appoint a person to be the Designee for the Program. The Designee shall have the authority to approve or disapprove any and all aspects of the Program as conducted at YMCA and Kidango. YMCA and Kidango reserve the right to appoint a different Designee at any time.

- B. The Designees shall work with center staff to schedule student rotations, coordinate the use of YMCA and Kidango facilities for the practicum experience of College's students, and participate in joint planning with representatives of all involved services and departments of YMCA and Kidango. Any Program activity may be limited or the use of any facility withdrawn when, in the opinion of the Designee, such activity or use could interfere with the effective operation of YMCA or Kidango. The Designee shall promptly give oral notice, followed by written notice, to College regarding any such limitation or withdrawal.
- C. If lab hours are required for a course, students will do the hours at their respective worksite. YMCA and Kidango supervising teachers will agree to communicate regularly with College lab course faculty, sign log sheets verifying lab hours at the work site, allow students to do curriculum projects and observations in completion of course assignments, allow faculty to observe students at work in person or by video and provide an evaluation of students work at the end of the semester.
- A. The YMCA and Kidango shall conduct a criminal background check of all Students participating in the Program, in accordance with California Education Code Section 45125.1, and by execution of this Agreement, College warrants that no Student will be assigned to perform services under the terms of the Agreement who has been convicted of a violent or serious felony as specified in Penal Code Sections 668.5(c) and/or 1192.7. YMCA and Kidango will forward criminal background check verification to the College to submit to Community Care Licensing for approval prior to any student coming into the Program.
- D. Ensure that all Students participating in the Program have annual tuberculin clearances of either a negative PPD reading or, if there has been positive PPD in the past, a chest x-ray within normal limits.
- E. Specifically identified members of the staff of YMCA and Kidango may provide lab courses and/or practicum instruction in the Program upon the request of the College and approval by the Designees. Such approval shall be recognized in writing.
- F. The YMCA and Kidango, in collaboration with the College, shall provide orientation for College faculty members to familiarize them with YMCA and Kidango policies, practices and facilities before assigning such faculty to teach courses on YMCA and Kidango sites.
- G. Service and educational facilities (i.e. classrooms and conference rooms) at YMCA and Kidango will be made available to College's students, staff and faculty at such times and to the extent such facilities are available and such use is approved in advance by the Designees.
- H. In his/her sole discretion, but subject to the authority of YMCA and Kidango to rescind any such action by the Designees and to take whatever action YMCA and Kidango deem appropriate, the Designees may:
 - (a) require that College immediately remove any student, staff or faculty member from

YMCA or Kidango facilities, whenever the Designee determines that a student, staff, or faculty member of College is not participating satisfactorily in the Program or that the student, staff or faculty member's continued participation in the Program could be a detriment to the students of the YMCA or Kidango and

(b) refuse access to any educational areas in YMCA or Kidango to any or all of College's students, staff or faculty, in the event such students, staff or faculty are deemed by the Designees to have violated any YMCA or Kidango policies, procedures or rules and regulations.

II. RESPONSIBILITIES AND PRIVILEGES OF COLLEGE

- A. CHABOT COLLEGE shall appoint an educational administrator who will serve as point of contact to facilitate coordination and cooperation between the College, YMCA and Kidango in conformity with CLPCCD policies and standards.
- B. College shall obtain and continuously maintain full accreditation for the program with the appropriate accrediting body.
- C. College shall provide a member of its faculty who is a qualified teacher in the applicable educational discipline to coordinate the Program between the Designees of YMCA, and Kidango. The College and the assigned faculty member shall be solely responsible for the curriculum, assessment and assignment of grades and units to participating students. College courses will be taught at the usual level of rigor.
- D. Apprenticeship courses offered will mirror the regular Early Childhood Development courses listed in the College catalog with the same department designations, course descriptions, and credits.
- E. College shall develop a proposed instructional agenda which identifies the staff, resources and facilities necessary to meet the Program's educational goals. The proposed instructional agenda shall be made available to the Designees at a time agreed upon by the Designees and College's Dean and faculty prior to the implementation of the proposed instructional agenda. The proposed instructional agenda shall be revised at the request of the Designees or as deemed necessary or appropriate by the Designees or YMCA or Kidango in order to avoid conflict with YMCA and Kidango's educational responsibilities, policies and procedures.
- F. College faculty teaching courses at YMCA and Kidango shall be permitted to use YMCA and Kidango supplies and equipment that are determined by YMCA and Kidango to be necessary (1) for the courses, lab, and/or practicum in which the students are involved and (2) to meet the student teaching experience requirements of the Program.
- G. The College shall cooperate with Kidango and the YMCA to provide students with academic supports and student services to aid in their academic success and program completion such

as college transcript review, registration and enrollment assistance, and tutoring.

- H. Designees and College shall cooperate in setting regularly scheduled meetings consisting of the Designees and appropriate College, YMCA and Kidango staff for the purpose of interpreting, discussing, coordinating and evaluating the Program and the experience of the students.
- I. While at Kidango and YMCA sites, College shall comply and shall cause its employees to comply, with any and all applicable YMCA and Kidango regulations, rules, policies and procedures, as well as any and all applicable state and federal law and regulations related to Program activities at YMCA and Kidango in connection with this Agreement.
- J. Permanent records of student enrollment, grades and achievement for students shall be maintained by the College.

III. STATUS OF STUDENTS

- A. Students enrolled in College courses at the YMCA or Kidango shall be held to the same standards of achievement, grading standards, and behavioral standards as students in courses taught on the College campus.
- B. Students enrolled in College courses at the YMCA or Kidango shall be assessed using the same methods (e.g., papers, portfolios, quizzes, labs, etc.) as students in courses taught on the College campus.
- C. During their lab and practicum experiences, students must conform to the same standards as are set for YMCA and Kidango employees in matters relating to the welfare of children and general YMCA and Kidango operations.
- D. A student's withdrawal prior to completion of a course shall be in accordance with CLPCCD and College guidelines, policies, pertinent statutes and regulations.
- E. Supervision and evaluation of students enrolled in courses shall be in accordance with CLPCCD guidelines, policies, pertinent statutes, and regulations.

IV. PERIOD OF AGREEMENT

This Agreement shall commence on the Effective date and continue in effect for a maximum of five (5) years, unless terminated by written notice of any party as provided in this Article IV.

- A. Notice of termination by College must be received by YMCA and Kidango no later than three (3) months prior to the last day of College's academic year, to become effective on the last day of that academic year.

- B. Any notice of termination by YMCA or Kidango intended to be effective upon completion of the last day of College's academic year must be received by College no later than three (3) months prior to the last day of College's academic year. YMCA and Kidango also have the right to terminate this Agreement immediately upon written notice in the event that College materially fails to perform any of its responsibilities described in this Agreement.

V. INSURANCE AND INDEMNITY

- A. YMCA and Kidango shall maintain a program of insurance or self-insurance to provide general liability coverage, with limits of at least one million dollars (\$1,000,000) for each occurrence and three million dollars (\$3,000,000) in the annual aggregate. If such coverage is written on a claims-made basis, coverage shall continue for a period of no less than three (3) years following termination of this Agreement. Upon request, YMCA and Kidango shall provide College with certificate(s) evidencing the foregoing coverage. YMCA and Kidango shall provide at least twenty-five (25) days prior written notice to College of any substantial change to or cancellation of said coverage.
- B. College shall procure and maintain in full force and effect insurance with an insurance company acceptable to YMCA and Kidango, or shall maintain a self-insurance program acceptable to YMCA and Kidango, which provides coverage for the negligent or otherwise wrongful acts or omissions of the College, its officers, directors, employees, agents, faculty and students. Such coverage shall have limits of at least one million dollars (\$1,000,000) per occurrence and three million dollars (\$3,000,000) in the annual aggregate. College shall, upon request, provide YMCA and Kidango with certificate(s) of the foregoing coverage. College shall provide at least twenty-five (25) days prior written notice to YMCA and Kidango of any substantial change to or cancellation of said insurance.
- C. YMCA and Kidango shall indemnify and hold College harmless from and indemnify it against any and all liability, loss, cost, expense (including reasonable attorney's fees), damage or claims which College incurs as a result of the negligent or otherwise intentional acts or omissions of YMCA or Kidango or their directors, employees, or agents, in the performance of activities or YMCA's or Kidango's responsibilities and privileges under this Agreement. The obligations of YMCA and Kidango pursuant to the paragraph shall not extend to the proportion of any liability, loss, cost, expense (including reasonable attorney's fees), damage or claims which College may incur as a result of the negligence or other intentional acts or omissions of College or its officers, directors, employees, agents, faculty, or students.
- D. Notwithstanding the provisions of paragraph V.C above, College shall indemnify and hold YMCA and Kidango and their directors, officers, employees, and agents harmless from and indemnify them against any and all liability, loss, cost, expense (including reasonable attorney's fees), damage or claims which they individually or collectively incur as a result of the negligent or otherwise intentional acts or omissions of College, its officers, directors, employees, agents, faculty or students in the performance of the activities or College's responsibilities and privileges under this Agreement. College shall also indemnify and hold YMCA and Kidango and their directors, officers, employees, and agents harmless from and

indemnify them against any and all liability, loss, cost, expense (including reasonable attorney's fees), damage or claims which they individually or collectively incur as a result of workers' compensation claims by students. The obligations of College pursuant to this paragraph shall not extend to any proportion of liability, loss, cost, expense (including reasonable attorney's fees), damage or claims which YMCA and Kidango and their directors, officers, employees, or agents may incur as a result of the negligence or other intentional acts or omissions of YMCA or Kidango or their officers, directors, employees or agents. For purposes of Section V of this Agreement, students, staff and faculty of the College assigned to YMCA and Kidango under this Agreement shall be deemed to be agents of the College.

VI. INDEPENDENT CONTRACTOR

The parties hereby acknowledge that they are independent contractors. Neither College nor any of its agents, representatives, students or employees shall be considered agents, representatives, or employees of YMCA or Kidango. Similarly, neither YMCA nor Kidango nor any of their agents, representatives, students or employees shall be considered agents, representatives, or employees of College. In no event shall this Agreement be construed as establishing the relationship of agent, servant, employee, partnership, joint venture, or association between the parties hereto. As independent contractors, all parties will be solely responsible for determining the means and methods for performing the services described herein. Each party understands and agrees that other parties are engaged in an independent business and the party shall have no right to direct or control in any way or to any degree the manner of other parties' 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 parties or create any obligation, express or implied, on the part of the other parties.

Each party shall be liable for its own debts, obligations, acts and omissions, 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 own employees. Nothing in this Agreement shall be interpreted as creating or establishing a relationship of employer and employee between the College and YMCA or Kidango or their respective employees or agents.

Each and every person providing services to the College under this Agreement shall, at all times, remain an employee of YMCA or Kidango. YMCA's and Kidango's employees shall not, at any time, or in any way, be entitled to sick leave, vacations, retirement, or other fringe benefits from College, nor shall they be entitled to overtime pay from College. YMCA and Kidango each are solely responsible for paying all necessary State or Federal tax for themselves and their employees. College will make no State or Federal unemployment insurance or disability insurance contributions on behalf of YMCA or Kidango and/or its agents or employees. Neither YMCA nor Kidango nor their employees shall be included in the classified or faculty service, have any property rights to any position, or have any of the rights an employee of College may otherwise have in the event of termination of this Agreement.

College's employees shall not, at any time, or in any way, be entitled to sick leave, vacations, retirement, or other fringe benefits from the YMCA or Kidango, nor shall they be entitled to overtime pay from YMCA or Kidango. College is solely responsible for paying all necessary

State or Federal tax for itself and its employees. YMCA and Kidango will make no State or Federal unemployment insurance or disability insurance contributions on behalf of College and/or its agents or employees. Neither College nor its employees shall have any property rights to any position, or have any of the rights an employee of YMCA or Kidango may otherwise have in the event of termination of this Agreement.

The provisions set forth herein shall survive expiration or other termination of this Agreement regardless of the cause of such termination.

VII. NON-DISCRIMINATION

There shall be no discrimination on the basis of race, national origin, religion, creed, sex, age, sexual orientation, veteran status, disability or other legally protected classification in either the selection of students, or as to any aspect of the practicum; provided, however, that with respect to disability, the disability must not be such as would, even with reasonable accommodation, in and of itself preclude the student's effective participation in the Program.

VIII. GENERAL

- A. **Non-Exclusive Agreement.** This Agreement is non-exclusive and all parties expressly reserve the right to contract with other entities for the same or similar services covered by this Agreement.
- B. **Waiver.** No delay or failure to require performance of any provision of this Agreement shall constitute a waiver of that provision as to that or any other instance. Any waiver of any term or condition hereof granted by a party must be in writing. No such waiver shall be construed as a waiver of any other term or condition of this Agreement.
- C. **Assignment.** No party shall assign its rights, duties, or obligations under this Agreement, either in whole or in part, without the prior written consent of the other parties. Any such attempted assignment shall be null and void.
- D. **Severability.** Should any provision of this Agreement for any reason be declared by a court of competent jurisdiction to be void, unenforceable or invalid, such decision shall not affect the validity of any remaining portion, which remaining portion shall remain in full force and effect as if this Agreement had been executed with the invalid portion eliminated, and it is hereby declared that each party would have executed the remaining portions of this Agreement without including any such part, parts, or portions which may, for any reason, be hereafter declared invalid.
- E. **Modifications and Amendments.** This Agreement may be amended or modified at any time by mutual written consent of the authorized representatives of all parties. College and YMCA and Kidango agree to amend this Agreement to the extent the amendment (1) is required by an applicable regularity authority and (2) does not materially affect the provisions of this Agreement.
- F. **Integration.** This Agreement supersedes any and all other agreements, either oral or in

writing, between parties hereto with respect to the subject matter hereof and contains all covenants and agreements between the parties with respect to said subject matter, and each party to this Agreement acknowledges, that any representations, inducements, promises or acknowledgement, oral or otherwise, which have been made by any party or anyone acting on behalf of any party but which are not embodied herein, or in a later amendment which complies with paragraph VI.E, above, are not binding.

G. Governing Law and Forum. This Agreement shall be governed in all respects by the laws of the State of California (except for the conflict of laws). Any dispute arising out of this Agreement shall be brought in a court located in the County of Alameda, in the State of California. College hereby consents to the jurisdiction of such a court solely for purposes of this Agreement.

H. Required Notices. Any notice required to be given pursuant to this Agreement shall be in writing and shall be served by personal service or first-class mail. When served by first class mail, service shall be conclusively deemed effective three (3) days after deposit thereof in the United States mail, postage prepaid, addressed to the party to whom such notice is to be given as herein provided:

Notice to College shall be addressed and mailed as follows:

Chabot College
Attn: Robert Nakamoto, Dean of Social Sciences
25555 Hesperian Blvd.
Hayward, CA 94545
rnakamoto@chabotcollege.edu

Notice to YMCA shall be addressed and mailed as follows:

YMCA of the East Bay
Attn: Pamm Shaw, Director of Funding & Partnerships
2009 Tenth St.
Berkeley, CA 94710
pshaw@ymcaeastbay.org

Notice to Kidango shall be addressed and mailed as follows:

Kidango
Attn: Franklin Felizardo, Director of Human Resources
44000 Old Warm Springs Blvd.
Fremont, CA 94538
ffelizardo@kidango.org

I. Ownership and Use of Health Information. The parties acknowledge that YMCA and Kidango each are a “covered entity,” as such term is defined in the Health Insurance

Portability and Accountability Act of 1996 (“HIPAA”) and the regulations regarding the privacy and security of individually identifiable health information promulgated thereunder at 45 C.F.R. Parts 160 and 164 (the “HIPAA Regulations”), and accordingly that YMCA and Kidango have certain obligations to protect the privacy and security of “protected health information” thereunder. To the extent the College students, staff and faculty have access to protected health information by virtue of their participation in the Program, the parties agree that such students, staff and faculty shall be subject to, and at all times shall abide by, all YMCA and Kidango policies and procedures governing the use and disclosure of such protected health information to the same extent that such policies and procedures apply to YMCA’s and Kidango’s employees and other staff members. Without limiting the generality of the foregoing, College hereby agrees, on behalf of itself and the students, staff and faculty assigned to YMCA and Kidango under this Agreement, that student, staff and faculty participating in the Program will access and use protected health information only as minimally necessary to provide practicum instruction to students pursuant to his or her participation in the Program. College shall obtain written agreement of each student, staff and faculty member to comply with the provisions of this paragraph VI.I. The provisions of this paragraph VI.I shall survive the termination of this Agreement.

J. Use of Names and Logos. College may not use the name, logo or corporate identity of YMCA or Kidango for any purpose without the prior written consent of the entity whose name, logo or corporate identity is proposed to be used; provided, however, that nothing herein shall prohibit College, during the term of this Agreement, from using the YMCA or Kidango name, solely to identify YMCA or Kidango as the location of the College’s Program under this Agreement to students. Further, College understands and agrees that:

(1) any use of the YMCA name requires the prior written approval of Pamm Shaw or her designee, and any use of the Kidango name requires the prior written approval of Franklin Felizardo or his designee;

(2) YMCA has the right to terminate, with or without cause, any right to use the YMCA name by College upon thirty (30) days prior written notice to College, and Kidango has the right to terminate, with or without cause, any right to use the Kidango name by College upon thirty (30) days prior written notice to College.

The same extent, YMCA and Kidango may not use the name, logo or identity of Chabot-Las Positas Community College District, Chabot College, or Las Positas College for any purpose without the prior written consent of College; provided, however, that nothing herein shall prohibit YMCA or Kidango, during the term of this Agreement, from identifying College’s Program at YMCA or Kidango under this Agreement to students. Further, YMCA and Kidango understand and agree that any use of College’s name requires the prior written approval of College’s Vice-Chancellor of Business Services or his designee.

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.

WHEREFORE, the parties have executed this Agreement as set forth below.

Chabot College

YMCA of the East Bay

By: _____

By: _____

Date: _____

Date: _____

Printed Name: Jonah Nicholas
Title: Vice Chancellor, Business Services
Chabot-Las Positas Community College District

Printed Name: Melanie Mueller
Title: Executive Director
YMCA of the East Bay

Kidango

By: _____

Date: _____

Printed Name: Scott Moore
Title: Chief Executive Officer
Kidango