



FOUNDATION *for* CALIFORNIA  
COMMUNITY COLLEGES

## SERVICES AGREEMENT

between

THE FOUNDATION FOR CALIFORNIA COMMUNITY COLLEGES

and

CHABOT-LAS POSITAS COMMUNITY COLLEGE DISTRICT, LAS POSITAS COLLEGE

*Agreement No. [Completed by FCCC Contracts Department]*

### 1. Background

The Foundation for California Community Colleges is the official foundation to the California Community College Board of Governors and Chancellor's Office. The Foundation's mission is to benefit, support, and enhance the missions of the California Community College system. The Foundation is a statewide nonprofit with over 15 years of experience in developing, implementing, and administering large-scale programs, campaigns, and award-winning websites.

### 2. Parties to Agreement

For the purposes of this agreement the Foundation for California Community Colleges, a California non-profit 501(c)(3) corporation, in partnership with NCH, a corporation, collectively referred to as "FOUNDATION" and Las Positas College, is referred to as "PARTICIPANT".

### 3. Services

FOUNDATION shall provide to PARTICIPANT services to engage colleges in California Guided Pathways 2.0 efforts that complement the Vision for Success as set forth in the Scope of Work and Deliverables attached hereto as Exhibit "A" and herein incorporated by reference (the "Services"). PARTICIPANT agrees to work closely with FOUNDATION staff and its partners in the performance of Services and shall be available to FOUNDATION's staff and its partners at all reasonable times.

### 4. Term, Termination

4.1 Term. The period of this Agreement is from October 1, 2021 to October 1, 2024 ("Term"), or until all funds due to FOUNDATION under this agreement have been paid and all terms and conditions have been satisfied.

4.2 **Termination for Convenience.** Either party shall have the right to terminate this agreement for any reason or no reason, without penalty, at any time by providing the other party with written notice of termination at least thirty (30) calendar days in advance.

4.3 **Termination for Cause.** Either party shall have the right to terminate this agreement, without penalty, within a reasonable time period should the other party be found to be in material breach of this agreement and fails to cure such breach within thirty (30) days after written notice of the same is sent to the other party or within any other time period agreed upon in writing by the parties.

4.4 **Procedures at Termination.** Either party must cease or reduce work immediately upon receiving the notice of termination or as required by the written notice and take all steps possible to mitigate losses.

## 5. Compensation

The total fee to be paid to FOUNDATION by PARTICIPANT for the Services shall not exceed \$30,000.00, including all applicable taxes. Budget detail is set forth in the Proposal attached hereto as Exhibit "A". PARTICIPANT shall provide invoicing instructions to FOUNDATION immediately upon execution of this Agreement. FOUNDATION shall invoice PARTICIPANT based upon the payment schedule. If additional work is requested, it will be approved by the Parties in advance.

### **PARTICIPANT PAYMENT SCHEDULE**

- \$10,000.00 no later than December 1, 2021
- \$10,000.00 no later than October 1, 2022
- \$10,000.00 no later than October 1, 2023

Alternatively, PARTICIPANT can pay the entire amount not to exceed upon execution of Agreement or in advance of the Participant Payment Schedule

## 6. Indemnification

FOUNDATION shall be liable for and shall indemnify and hold PARTICIPANT harmless against any costs, expenses, claims, suits, judgments, loss or damage (including reasonable attorneys' fees) arising from the fault or negligence of FOUNDATION, its officers, employees, agents, subcontractors and representatives or violation of this Agreement by FOUNDATION.

PARTICIPANT shall be liable for and shall indemnify and hold FOUNDATION harmless against any costs, expenses, claims, suits, judgments, loss or damage (including reasonable attorneys' fees) arising from the fault or negligence of PARTICIPANT, its officers, employees, agents, and representatives or violation of this Agreement by the PARTICIPANT.

## 7. Notices

All notices and other communications required or permitted to be given under this agreement, including but not limited to any notice of change of address, must be directed to the following individuals:

**FOUNDATION:**

**REPRESENTATIVE/PROGRAM MANAGER (All Programmatic Issues):**

Name Stacy Fisher  
Title Senior Director, Strategic Projects and Initiatives  
Foundation for California Community Colleges  
1102 Q Street, Suite 4800  
Sacramento, CA 95811  
Phone Number (916) 799-5750  
Email Address [sfisher@foundationccc.org](mailto:sfisher@foundationccc.org)

CONTRACTS (Contracts Issues Only, including but not limited to Contract Notices):

Contracts Department  
Foundation for California Community Colleges  
1102 Q Street, Suite 4800  
Sacramento, CA 95811  
[contracts@foundationccc.org](mailto:contracts@foundationccc.org)

**PARTICIPANT:**

REPRESENTATIVE/PROGRAM MANAGER (All Programmatic Issues):

Dr. Dyrell Foster  
President, Las Positas College  
3000 Campus Hill Drive  
Livermore, CA 94551  
925-424-1001  
925-443-0742  
[dfoster@laspositascollege.edu](mailto:dfoster@laspositascollege.edu)

CONTRACTS (Contracts Issues Only, including but not limited to Contract Notices):

Jonah Nicholas  
Vice Chancellor, Business Services  
7600 Dublin Boulevard, 3<sup>rd</sup> Floor  
Dublin, CA 94568  
925-485-5253  
925-485-5255  
[jnicholas@clpccd.org](mailto:jnicholas@clpccd.org)

**8. General Provisions**

8.1 Captions and Interpretation. Paragraph headings in this agreement are used solely for convenience, and shall be wholly disregarded in the construction of this agreement. Paragraph headings shall not be deemed to define, limit or extend the scope or intent of the paragraphs to which they appertain.

8.2 Assignment and Delegation. This agreement may not be assigned or otherwise transferred by either party without the prior written consent of the other party; however, either party will have the right to assign its rights and obligations under this agreement in connection with a merger, acquisition, or sale transfer of substantially all of its assets. Any assignment not in accordance with this paragraph is void.

8.3 Anti-lobbying. FOUNDATION shall not use any part of the funds rendered for Services to directly or indirectly pay for any personal service, advertisement, telegram, telephone, letter, printed or written matter, or other device, intended or designed to influence in any manner a political candidate for public office or a Member of

Congress, a jurisdiction, or an official of any government, or to favor, adopt, or oppose, by vote or otherwise, any legislation.

8.4 Non-Discrimination. FOUNDATION shall not discriminate in the provision of services, benefits, employment, facilities or otherwise because of race, color, ancestry, religion, creed, national origin, sex, age, sexual orientation, physical or mental disability, medical condition, marital status, denial of family care leave or on the basis of any other protected category as provided by federal, state and/or local laws. PARTICIPANT shall comply with the provisions of the Fair Employment and Housing Act (California Government Code §12990(a)-(f) et seq.) and the applicable regulations promulgated there under (California Code of Regulations, Title 2, §7285 et. seq.)

8.5 Debarment and/or Suspension. PARTICIPANT shall comply with Executive Order 12549, Debarment and Suspension. PARTICIPANT represents and warrants that PARTICIPANT is not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency or any California state department or agency.

8.6 Entire Agreement. This agreement constitutes the entire, complete, final and exclusive agreement between the parties with respect to the subject matter hereof and supersedes and replaces any and all prior and contemporaneous communications between the parties regarding such subject matter. Any terms and conditions which are additional to or different from the terms and conditions of this agreement are hereby deemed rejected by FOUNDATION and shall not be of any effect or in any way binding upon FOUNDATION. To the extent that the terms and conditions of this agreement conflict with, or are in any way inconsistent with, the terms and conditions of any exhibit hereto, the terms and conditions of this agreement will prevail.

8.7 Modification of Agreement. This agreement may be modified only by a written agreement dated subsequent to this agreement and signed by authorized representatives of each party. The parties agree that this requirement for written modifications cannot be waived and that any attempted waiver shall be void.

8.8 Law to Govern; Venue. This agreement is made under and will be governed by and construed in accordance with the laws of the State of California. Any litigation resulting from a dispute or claim arising under or relating to this agreement shall be resolved in a state or federal court in Sacramento, California. The parties specifically submit to the personal jurisdiction and subject matter jurisdiction of the state and federal courts located in Sacramento, California.

8.9 Time is of the Essence. Time is of the essence with respect to all provisions of this agreement that specify a time for performance; provided, however, that the foregoing shall not be construed to limit or deprive a party of the benefits of any grace or use period allowed in this agreement.

8.10 Construction of Agreement. Both parties have participated in the negotiation and drafting of this agreement. Therefore, the terms and conditions of this agreement shall not be construed against either party as the drafting party.

8.11 Confidentiality. PARTICIPANT shall not, directly or indirectly, use, make available, sell, disclose or otherwise communicate to any third party, other than in PARTICIPANT's assigned duties and for the benefit of FOUNDATION, any of FOUNDATION's Confidential Information, either during or after PARTICIPANT's relationship with FOUNDATION. Subject to applicable federal, state and local law, including but not limited to the Richard McKee Transparency Act of 2011, Confidential Information is to be broadly defined, and includes but may not be limited to all information that has or could have commercial value or other utility in the business in which FOUNDATION is engaged or contemplates engaging, and all information of which the unauthorized disclosure could be detrimental to the interests of FOUNDATION, whether or not such information is identified as

Confidential Information by FOUNDATION. This paragraph shall survive the expiration or early termination of this agreement.

8.12 Execution of this Agreement. The Parties agree that this agreement may be executed in counterparts, each of which shall be deemed to be an original, but both of which together shall constitute one and the same instrument, and that a photocopy or facsimile may serve as an original. If this agreement is executed in counterparts, no signatory hereto shall be bound until both the parties have fully executed a counterpart of this agreement.

8.13 Authority to Bind. The parties each represent and warrant that the signatories below are authorized to sign this agreement on behalf of themselves or the party on whose behalf they execute this agreement.

8.14 Severability. If any part of this agreement is found invalid or unenforceable, that part will be amended to achieve, as nearly as possible, the same economic effect as the original provision and the remainder of this agreement will remain in full force and effect.

8.15 Non-waiver. The failure of either FOUNDATION or PARTICIPANT, whether purposeful or otherwise, to exercise in any instance any right, power or privilege (including but not limited to waiver) under this agreement or under law of this agreement shall not constitute a waiver of any other right, power or privilege, nor of the same right, power or privilege in any other instance. Any waiver by FOUNDATION must be in writing.

8.16 Relationship of the Parties. Both parties are independent parties and this agreement will not establish any relationship of partnership, joint venture, employment, agency or otherwise. Neither party will have the power to bind the other or incur obligations on the other’s behalf without the other’s prior written consent, except as otherwise expressly provided in this agreement.

8.17 Force Majeure. FOUNDATION shall not be liable or deemed to be in default for any delay or failure in performance under this agreement or interruption of Services resulting, directly or indirectly, from acts of God, civil or military authority, acts of public enemy, terrorism, war, strikes, labor disputes, shortages of suitable parts, materials, labor or transportation, or any similar cause beyond the reasonable control of FOUNDATION.

THE PARTIES HEREBY EXECUTE THIS AGREEMENT with their signature below.

**PARTICIPANT**

**FOUNDATION FOR CALIFORNIA  
COMMUNITY COLLEGES**

By:

By: \_\_\_\_\_

Print Name: Jonah Nicholas

Print Name: \_\_\_\_\_

Title: Vice Chancellor, Business Services

Title: \_\_\_\_\_

Date:

Date: \_\_\_\_\_

**PARTICIPANT – second signature, if required**

**FOUNDATION FOR CALIFORNIA  
COMMUNITY COLLEGES**

By: \_\_\_\_\_

By: \_\_\_\_\_

Print Name: \_\_\_\_\_

Print Name: \_\_\_\_\_

Title: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_



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## EXHIBIT A

### SCOPE OF WORK AND DELIVERABLES

#### Support Model Components

While features of the support model from NCII are in ongoing development in response to the effects of the COVID-19 pandemic as well as availability of funding, the working assumptions for the support model for CAGP Phase Two most notably include:

1. Virtual Support Structures starting in a light touch fashion in Fall 2021 and at full speed in Spring 2022, including:
  - a. Cadre-wide anchor virtual topical events - two per semester starting in Fall 2021
  - b. Up to three office hours per semester with a designated senior NCII coach starting in Fall 2021
  - c. One or two CEO-only virtual support sessions per semester starting in Fall 2021 – will be transitioned at least partially to CEO sessions at the institutes in Fall 2022
  - d. Virtual Consultancy Problem-Solving Sessions – colleges will participate in three problem-solving sessions in 6-college groups per semester starting in Spring 2022, facilitated by a senior NCII Coach
  - e. Virtual climate scan conducted by Sova in Spring 2022
2. Six multi-day institutes covering specific topics related to Guided Pathways starting in Fall 2021