



Board Office Use: <b>Legislative File Info.</b>	
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Enactment Date	11-30-2022 CJH

## Board Cover Memorandum

**To** Board of Education

**From** Sondra Aguilera, Acting Superintendent  
Vanessa Sifuentes, High School Superintendent  
[Kim Jones, Director, Oakland Adult & Career Education]

**Meeting Date** November 30, 2022

**Subject** Amendment to No-Cost Services Agreement with East Bay Innovations (EBI) and the County of Alameda and OUSD/Oakland Adult & Career Education

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**Ask of the Board**  Approve Amendment to No-Cost Services Agreement - Agreement with [East Bay Innovations (EBI) and the County of Alameda and OUSD/Oakland Adult & Career Education]  Ratify Amendment to [Type] Agreement with [Vendor]

**Background and Recommendation** *The Services Agreement is entered into by and between the Oakland Unified School District/Adult and Career Education department, East Bay Innovations (EBI) and the County of Alameda collectively as the "Parties". To continue to build and replicate on the success of the Project Search Program at Children's Hospital Medical Center in Cincinnati, Ohio.*

**Term** *Term of Services to extend the Services Agreement - No Cost. An additional three (3) years.*

Start Date: July 1, 2022 \$0      End Date: June 30, 2025

**Not-To-Exceed Amount** \$0

**Competitively Bid** *No. This no-cost agreement is under the bidding threshold.*

**In-Kind  
Contributions**

*OUSD/ACE will provide the services of instructors for the agreed upon scheduled hours to meet the educational and training needs of the students. Be responsible for providing appropriate instruction in accordance with the standards set by the California Department of Education, the Oakland.*

**Funding  
Source(s)**

*N/A. No-cost agreement.*

**Attachment(s)**

- Amendment
- Original Agreement, Enactment No. 19-1509

**AMENDMENT NO. 1**

to

**(Title of Original Contract/Agreement) (MEMORANDUM OF UNDERSTANDING  
BETWEEN THE OAKLAND UNIFIED SCHOOL DISTRICT/ADULT AND  
CAREER EDUCATION AND COUNTY OF ALAMEDA AND EAST BAY  
INNOVATIONS (Project SEARCH))**

This Amendment amends the attached legal agreement ("Original Agreement") and any prior amendments ("Prior Amendments," together with Original Agreement, "(Amended) Agreement"), incorporated herein by reference, which includes the following information:

- The (Amended) Agreement is between the Oakland Unified School District ("OUSD") and the below named entity or individual ("VENDOR," together with OUSD, "PARTIES"):

**(Full Name of Vendor) (East Bay Innovations (EBI) and the County of Alameda)**

- The Parties entered into the Original Agreement on the below date:

**(Enactment Date) (July 1, 2019 )**

- The Enactment Number of the Original Agreement is below:

**(Enactment No.) (19-1509)**

The PARTIES hereby agree to amend the (Amended) Agreement as stated herein.

**1. Services:**

The scope of work of the (Amended) Agreement is unchanged.

The scope of work of the (Amended) Agreement has changed. If the scope of work has changed: Provide brief description of revised scope of work including measurable description of expected final results, such as services, materials, products, and/or reports; select the appropriate option below:

Revised scope of work attached

VENDOR agrees to provide the following amended services:

**(Description of revision(s) to: scope) (To extend terms of Services Agreement an additional three (3) years)**

2. **Term (duration):**  The term of the (Amended) Agreement is unchanged  
 The term of the (Amended) Agreement has changed.  
If the term has changed: The parties agree to amend the below original End Date of the (Amended) Agreement to the below new End Date:

Original End Date:

New End Date:

3. **Compensation:**  The not-to-exceed amount in the (Amended) Agreement is unchanged  
 The not-to-exceed amount in the (Amended) Agreement has changed. If the not-to-exceed amount has changed: The not-to-exceed amount in the (Amended) Agreement is amended as follows:

Increase not-to-exceed amount by:

Decrease not-to-exceed amount by:

The new not-to-exceed amount under the (Amended) Agreement, as herein amended, is

4. **COVID-19:** To the extent that the Agreement did not contain the following guarantees, by signing this Amendment, **VENDOR** agrees that:
- Through its execution of this Amendment, **VENDOR** declares that it is able to meet its obligations and perform the Services required pursuant to this Amendment in accordance with any shelter-in-place (or similar) order or curfew (or similar) order ("Orders") issued by local or state authorities and with any social distancing/hygiene (or similar) requirements.
  - VENDOR** agrees to notify OUSD within twelve (12) hours if **VENDOR** or any employee, subcontractor, agent, or representative of **VENDOR** tests positive for COVID-19, shows or reports symptoms consistent with COVID-19, or reports to **VENDOR** possible COVID-19 exposure.
  - VENDOR** agrees to immediately adhere to and follow any OUSD directives regards health and safety protocols including, but not limited

to, providing OUSD with information regarding possible exposure of OUSD employees to VENDOR or any employee, subcontractor, agent, or representative of VENDOR and information necessary to perform contact tracing, as well as complying with any OUSD testing and vaccination requirements.

d. VENDOR shall bear all costs of compliance with this Paragraph.

5. **Remaining Provisions:** All other provisions of the (Amended) Agreement remain unchanged and in full force and effect as originally stated.

6. **Amendment Publicly Posted.** This Amendment, its contents, and all incorporated documents are public documents and will be made available by OUSD to the public online via the Internet.

7. **Signature Authority.**

a. Each PARTY has the full power and authority to enter into and perform this Amendment, and the person(s) signing this Amendment on behalf of each PARTY has been given the proper authority and empowered to enter into this Amendment.

b. Notwithstanding subparagraph (a), only the Superintendent, Chiefs, Deputy Chiefs, and the General Counsel has authority to sign contracts for OUSD and only under limited circumstances, which required ratification by the OUSD Governing Board. VENDOR agrees not to accept the signature of another other OUSD employee as having the proper authority and empowered to enter into this Amendment or as legally binding in any way.

8. **Amendment Contingent on Governing Board Approval.** OUSD shall not be bound by the terms of this Amendment unless and until it has been (i) formally approved by OUSD's Governing Board or (ii) validly and properly executed by the OUSD Superintendent, the General Counsel, or a Chief or Deputy Chief authorized by the Education Code or Board Policy, and no payment shall be owed or made to VENDOR absent such formal approval or valid and proper execution.

REST OF PAGE IS INTENTIONALLY LEFT BLANK

IN WITNESS WHEREOF, the PARTIES hereto agree and execute this Agreement and to be bound by its terms and conditions:

**VENDORS**

Name: Tom Heinz Signature: [Signature]

Position: Executive Director Date: Enter date of signature

Name: Susan S. Muranishi Signature: [Signature]

Position: County Administrator Date: Enter date of signature

Approved as to Form:  
DocuSigned by:  
Scott Dickey, Assistant County Counsel  
41667820270046  
Assistant County Counsel

*One of the terms and conditions to which VENDOR agrees by its signature is subparagraph (e) of Paragraph 8 (Compensation), which states that VENDOR acknowledges and agrees not to expect or demand payment for any Services performed prior to the PARTIES, particularly OUSD, validly and properly executing this Agreement until this Agreement is validly and properly executed and shall not rely on verbal or written communication from any individual, other than the President of the OUSD Governing Board, the OUSD Superintendent, or the OUSD General Counsel, stating that OUSD has validly and properly executed this Agreement. VENDOR specifically acknowledges and agrees to this term/condition on the above date.*

**OUSD**

Name: Sondra Aguilera Signature: [Signature]

Position: Chief Academic Officer Date: 11/1/2022

- Board President
- Superintendent
- Chief/Deputy Chief/Executive Director

Name: Kyla Johnson Trammell Signature: [Signature]

Position: Secretary, Board of Education Date: 12-1-2022

**MEMORANDUM OF UNDERSTANDING BETWEEN THE OAKLAND UNIFIED SCHOOL  
DISTRICT/ADULT AND CAREER EDUCATION  
AND  
COUNTY OF ALAMEDA  
AND  
EAST BAY INNOVATIONS  
(Project SEARCH)**

The Memorandum of Administrative Understanding ("MOU") is entered into by and between the Oakland Unified School District, a California public school district under its Adult and Career Education department ("OUSD/ACE" and "District"), and the County of Alameda, and East Bay Innovations ("EBI"). OUSD/ACE, County of Alameda and EBI may be referred to herein individually as a "Party" or collectively as the "Parties."

**RECITALS:**

Whereas, County of Alameda is a local government entity with its principal place of business in the County of Alameda, State of California, located at 1221 Oak Street Suite 555, Oakland, California 94612; and

Whereas, County of Alameda is committed to providing adults with disabilities the opportunity for career exploration and preparation via unpaid government internships; and

Whereas OUSD/ACE, as part of its Career Technical Education program, is committed to providing educational instruction in subject areas consistent with emerging and enduring labor market trends such as government services; and

Whereas OUSD/ACE is committed to maximizing learning potential with students with intellectual, physical, emotional and learning differences by implementing curriculum within the context of work experiences, thereby maximizing the generalization of academic material to "real world" applications; and

Whereas EBI is committed to providing career exposure, skill assessment, training and on-going support to adults with disabilities in work settings; and

Whereas all parties are interested in collaborating to replicate and build on the success of the Project SEARCH program at Children's Hospital Medical Center in Cincinnati, Ohio.

**NOW, THEREFORE, IT IS HEREBY AGREED** as follows:

**TERM**

1. The term of this MOU shall be for three (3) years. The commencement date shall be July 1, 2019, ("Commencement Date") and unless sooner terminated under any provision hereof, this Agreement shall end on June 30, 2022 ("Term"). If the Parties intend to further renew this MOU after the Term, this can only be done by a separate writing executed by the Parties that is approved by each Party's governing body prior to the end of the Term.

### County of Alameda SERVICES

2. County of Alameda shall:

- a. Accept twelve (12) students with disabilities annually to participate in the Project SEARCH Program.
- b. Identify a liaison to OUSD/ACE and EBI to assist in communication and coordination of department managers.
- c. Provide a suitable area at no charge (preferably a separate room) for small group instruction and training.
- d. Provide adequate storage space for supplies, equipment and teacher needs.
- e. Provide training sites in order for a functional curriculum to be implemented through "hands on" instruction in the context of training.
- f. Provide each student with County identification badges and other programmatic materials for training.
- g. Assist in coordinating interviews with department staff at identified training sites.
- h. For each Project SEARCH student assigned to a training site, the County of Alameda provides a written list of training competencies that ensures that said student may realize maximum training benefits.
- i. Provide written and/or oral feedback to OUSD/ACE teacher regarding student performance in all training activities.
- j. Consult the OUSD/ACE adult education teacher supporting Project SEARCH students regarding problems that may arise pertaining to student's training performance.
- k. Terminate the training of any student when it determines that the student is no longer eligible, appropriate or performing up to the standards as determined herein.
- l. Shall not utilize the services of any student pursuant to this agreement to displace or replace any County of Alameda employee, to impair contracts or services or to fill any vacant position.
- m. Direct any concerns regarding OUSD/ACE adult education teacher to the OUSD/ACE Director.

### OUSD/ACE SERVICES

3. OUSD/ACE shall:



- a. Provide the services of instructors for the agreed upon scheduled hours to meet the educational and training needs of the students.
- b. Be responsible for providing appropriate instruction in accordance with the standards set by the California Department of Education, the Oakland Unified School District, and County of Alameda.
- c. Implement a functional curriculum which is specifically designed to meet the competencies generated by County of Alameda department heads for targeted training sites. Instruction will take place both in small groups and in individual training stations throughout County of Alameda.
- d. Document student attendance and outcomes for the California Department of Education for the operation of the class.
- e. Select, place, supervise and evaluate adult education teachers assigned to Project SEARCH at the County of Alameda through the OUSD/ACE Program Director.
- f. Provide the appropriate rate of pay to the adult education teacher assigned to the Project SEARCH program at the County of Alameda as bargained for by their "employee representatives".
- g. Govern matters of discipline, grievances, and other terms of employment for the adult education teacher assigned to Project SEARCH at the County of Alameda in accordance with Oakland Unified School District personnel policies.
- h. Provide substitute personnel in accordance with OUSD/ACE standard procedures in the event substitute teachers are required to temporarily fill any particular instructional vacancy.
- i. Support the student eligibility process to participate in the Project SEARCH program and work with EBI and the County of Alameda.
- j. Work in collaboration with EBI to provide education, outreach, marketing and recruitment to ensure that all eligible students receive equal access to the opportunity to participate in the Project SEARCH program.
- k. Work in collaboration with EBI and County of Alameda to analyze potential training sites and training tasks throughout departments and analyze potential adaptations that may be used for students with disabilities to ensure accuracy and maximum productivity of training tasks.
- l. In coordination with EBI, ensure that all students are kept informed of current program expectations, activities and standards and ensure that students successfully meet those expectations and standards.
- m. Instruct Project SEARCH students as to the County of Alameda rules and regulations to be adhered to while performing training activities.
- n. Make suggestions regarding training site safety to ensure that requirements are met and that the health, safety and welfare of students are maximized.
- o. Advise Project SEARCH students regarding appropriate professional apparel.

- p. In coordination with EBI and the County of Alameda departments, maintain accurate records of student performance.
- q. Award certificates of competency to students who have successfully completed the program.
- r. Provide instruction at the agreed upon schedule. Any change must be negotiated between the OUSD/ACE Program Director and the County of Alameda.
- s. Operate classes by mutual agreement. Classes shall be maintained so long as they remain productive, students manifest interest in them, and attendance of each session totals a minimum of ten persons or more. The absence of any of the aforementioned requirements is sufficient grounds to terminate this Agreement.

### EBI SERVICES

#### 4. EBI shall:

- a. With support from OUSD/ACE ensure that each student or their conservator has consented in writing to participation in the Project SEARCH program and the release of the student record information necessary to support the Project SEARCH program including appropriate waivers under FERPA and California law.
- b. With support from OUSD/ACE ensure that all Project SEARCH students meet applicable health screenings and immunizations as required by County of Alameda.
- c. Provide the services of a job coach to act as an instructional assistant to the OUSD/ACE teacher for the agreed upon scheduled hours to meet the educational and training needs of the students.
- d. Be responsible for providing appropriate instructional assistance in accordance with the standards set by the California Department of Education, the Oakland Unified School District, County of Alameda and the Department of Developmental Services.
- e. Assist in implementing a functional curriculum which is specifically designed to meet the competencies generated by County of Alameda department heads for targeted training sites.
- f. Select, place, and evaluate a job coach instructional assistant assigned to Project SEARCH at County of Alameda through the EBI Program Administrator.
- g. Provide the appropriate rate of pay to the job coach instructional assistant assigned to the Project SEARCH program at County of Alameda as bargained for by their "employee representatives".
- h. Govern matters of discipline, grievances, and other terms of employment for the job coach instructional assistant assigned to Project SEARCH at County of Alameda in accordance with EBI personnel policies.
- i. Provide substitute personnel in accordance with EBI standard procedures in the event they are required to temporarily fill any particular vacancy.

- j. Work with OUSD/ACE and COUNTY OF ALAMEDA to determine which students are qualified and accepted into the Project SEARCH program.
- k. Work in collaboration with OUSD/ACE and County of Alameda to analyze potential training sites and training tasks throughout departments and analyze potential adaptations that may be used for students with disabilities to ensure accuracy and maximum productivity of training tasks.
- l. In coordination with OUSD/ACE, assist in ensuring that all students are kept informed of current program expectations, activities and standards and ensure that students successfully meet those expectations and standards.
- m. Assist in instructing Project SEARCH students as to the County of Alameda rules and regulations to be adhered to while performing training activities.
- n. Make suggestions regarding training site safety to ensure that requirements are met and that the health, safety and welfare of students are maximized.
- o. Advise Project SEARCH students regarding appropriate professional apparel.
- p. In coordination with OUSD/ACE and County of Alameda departments, maintain accurate records of student performance.
- q. Provide self-insurance coverage and provide copy of its certificate of Self Insurance for Liability and Worker's Compensation Liability.
- r. Assume sole responsibility for training students to utilize transportation options to and from County of Alameda training sites.
- s. Ensure that each student or their conservator has consented in writing to participation in the Project SEARCH transportation training program.
- t. Ensure that each student or their conservator has consented in writing to participation in the Project SEARCH program and the release of the student record information necessary to support the Project SEARCH program including appropriate waivers under FERPA and California law; and
- u. Ensure that all Project SEARCH students meet applicable health screenings and immunizations as required by the County.

#### TERMINATION

- 5. Any party may terminate this MOU with or without cause upon thirty (30) days written notice to the other Party(ies).

#### WAIVER

- 6. No waiver of a breach, failure of any condition, or any right or remedy contained in or granted by the provisions of this Agreement shall be effective unless it is in writing and signed by the party waiving the breach, failure, right or remedy. No waiver of any breach, failure, right or remedy shall be deemed a waiver of any other breach failure, right or

remedy, whether or not similar, nor shall any waiver constitute a continuing waiver unless the writing so specifies.

### INDEMNITY

7. County of Alameda shall hold harmless, indemnify, and defend OUSD and, its officers, agents, and employees from any and all claims or losses accruing or resulting from injury, damage, or death of any person, firm, or corporation in connection with the performance of this MOU, but only in proportion to the extent such liability, loss, expense, attorneys' fees or claims for injury or damages are caused by or result from the negligent or intentional acts or omissions of County of Alameda, its officers, employees or agents. County of Alameda also agrees to hold harmless, indemnify, and defend OUSD and EBI and its officers, agents, and employees from any and all claims or losses incurred by any supplier, contractor, or subcontractor furnishing work, services, or materials to County of Alameda in connection with the performance of the Agreement, but only in proportion to the extent such liability, loss, expense attorneys' fees or claims for injury or damages are caused by or result from the negligent or intentional acts or omissions of County of Alameda, its officers, employees, or agents. This provision survives termination of this Agreement.
  
8. OUSD/ACE shall defend, indemnify and hold harmless County of Alameda and EBI, its officers, agents, and employees from any and all liabilities, loss expense or claims from injury, damage, or death of any person, firm, or corporation in connection with the performance of this Agreement but only in proportion to the extent such liability, loss, expense, attorneys' fees or claims for injury or damages are caused by or result from the negligent or intentional acts or omissions of the Oakland Unified School District, its officers, employees, instructors or agents or students.
  
9. EBI shall defend, indemnify and hold harmless County of Alameda and OUSD, its officers, agents, and employees from any and all liabilities, loss expense or claims from injury, damage, or death of any person, firm, or corporation in connection with the performance of this Agreement but only in proportion to the extent such liability, loss, expense, attorneys' fees or claims for injury or damages are caused by or result from the negligent or intentional acts or omissions of EBI, its officers, employees, instructors or agents. This provision survives termination of this Agreement.

### INSURANCE

10. County of Alameda shall provide self-insurance coverage and provide copy of its certificate of Self Insurance for Liability and Worker's Compensation Liability.
  
11. OUSD/ACE shall provide self-insurance coverage and provide copy of its certificate of Self Insurance for Liability and Worker's Compensation Liability.

12. EBI shall maintain appropriate insurance as follows:
- a. If EBI employs any person to perform work in connection with this Agreement, EBI shall procure and maintain at all times during performance of such work, Worker's Compensation Insurance in conformance to the laws that the State of California and Federal laws when applicable. Employer's liability insurance shall not be less than one million dollars (\$1,000,000) per accident or disease.
  - b. EBI shall maintain general liability insurance of One Million Dollars (\$1,000,000) per occurrence for bodily injury and property damage. The coverage shall be primary as to EBI and shall name both OUSD and County of Alameda as an additional insured. Evidence of insurance is attached. Inclusion of OUSD and County of Alameda as an additional insured shall not affect the rights of either OUSD or County of Alameda to any claim, demand, suit or judgment made, brought or recovered against EBI. The policy shall protect County of Alameda, OUSD and EBI in the same manner as though each were separately issued. Nothing in said policy shall operate to increase the Insurer's liability as set forth in the policy beyond the amount or amounts shown or to which the Insurer would have been liable if only one interest were named as an insured.

#### GENERAL PROVISIONS

13. Each Party to this MOU agrees to meet all Federal, State, County local laws and regulations for the services so far as applicable to that Party's obligations under this MOU..
14. This MOU is by and among three (3) independent contractors and is not intended to and shall not be construed to create the relationship between the Parties of agent, servant, employee, partnership, joint venture, or association. This MOU represents the entire agreement of the Parties with the respect to the subject matter of this MOU. This MOU may be amended only by a writing signed by all Parties.
15. This MOU: is entered into under, and subject to the laws of, the State of California. Any dispute, claim or controversy arising out of or relating to this Agreement or the breach, termination, enforcement, interpretation or validity thereof, including the determination of the scope or applicability of this agreement to arbitrate, shall be determined by arbitration in San Francisco, CA before one arbitrator. The arbitration shall be administered by JAMS pursuant to its Comprehensive Arbitration Rules and Procedures. Judgment on the Award may be entered in any court having jurisdiction.
16. The Parties agree that the relationship of the students and the County is that of a student internship and not as employer-employee. The County shall provide the interns with the learning opportunities offered by the experience through the Project SEARCH Program. The Parties agree that
- i. The primary benefit of the training/internship is for the student.
  - ii. The students will not displace regular employees. The County derives no immediate advantage from the activities of the students, and on occasion, its operations may actually be impeded.
  - iii. The students are not guaranteed a permanent job at the end of the program and not entitled to any preference for any job.

iv. The students are not entitled to wages for the time spent in the internship and Project SEARCH Program.

2. **MODIFICATIONS OF AGREEMENT:** This Agreement may be supplemented, amended or modified only by the mutual agreement of the Parties. No supplement, amendment or modification of this Agreement shall be binding unless it is in writing and signed by authorized representatives of both Parties.
3. **SEVERABILITY:** If a court of competent jurisdiction holds any provision of this Agreement to be illegal, unenforceable or invalid in whole or in part for any reason, the validity and enforceability of the remaining provisions, or portions of them, will not be affected, unless an essential purpose of the Agreement would be defeated by the loss of the illegal, unenforceable, or invalid provision.
4. Any notices required to be given under this MOU shall be in writing and shall be deemed effective when (a) personally delivered, (b) mailed by certified or registered mail, return receipt requested, or (c) deposited with a comparably reliable postal delivery service (such as Federal Express), addressed as follows:

5.

Oakland Unified School District  
1000 Broadway, Suite 680 300  
Oakland, CA 94607  
Attention: Superintendent,  
Kyla Johnson-Trammell  
Telephone: 510.879-8200

County of Alameda  
1221 Oak Street, Suite 555  
Oakland, CA 94612  
Attention: County Administrator,  
Susan S. Muranishi  
Telephone: 510.272.6984

East Bay Innovations  
2450 Washington Ave, Suite 240  
San Leandro, CA 94577  
Attention: Executive Director,  
Tom Heinz  
Telephone: 510.618-1580 ext. 11

**IN WITNESS THEREOF**, the Parties hereto have executed this MOU as of the day and year appearing below written.

**COUNTY OF ALAMEDA**

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

**APPROVED AS TO FORM:**

Memorandum of Understanding – OUSD/ACE, County of Alameda, and EBI



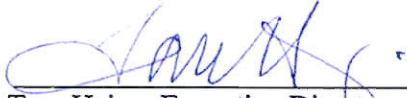
Donna Ziegler, County Counsel

By: *ANDREA WEBB*

*4/13/19*

Date

**EAST BAY INNOVATIONS**

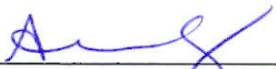


Tom Heinz, Executive Director

*5/22/19*

Date

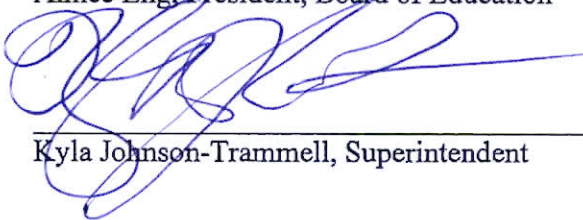
**OAKLAND UNIFIED SCHOOL DISTRICT**



Aimee Eng, President, Board of Education

*10/10/19*

Date



Kyla Johnson-Trammell, Superintendent

*10/10/19*

Date

**APPROVED AS TO FORM:**

General Counsel

*9/24/19*

Date

**OAKLAND UNIFIED SCHOOL DISTRICT**

Office of the General Counsel

APPROVED FOR FORM & SUBSTANCE

By: 

Joshua R. Daniels, General Counsel