

Board Office Use: Legislative File Info.	
File ID Number	18-2383
Introduction Date	12/12/18
Enactment Number	18-1910
Enactment Date	12/12/18os



Memo

To Board of Education

From Kyla Johnson-Trammell, Superintendent
Wesley Jacques, Executive Director, Academics & Instructional Innovation
Brenda Tuohy, Director of Science, Technology, Engineering, and Mathematics (STEM)

Board Meeting Date December 12, 2018

Subject SubAward Agreement - Strategic Education Research Partnership Institute (contractors) - Academics and Instructional Innovation Department (site/department)

Action Requested and Recommendation Approval by the Board of Education of the SubAward Agreement between the District and Strategic Education Research Partnership Institute (SERP), Washington, DC, for the latter to support an assigned OUSD part-time science specialist for the implementation of the Chemistry Curriculum, data collection and communicate with the SERP team; plan a local teachers meeting to introduce participating teachers to the curricular materials; allow SERP designers to work with the District science specialist and participating teachers and through sites visits for classroom observations and meetings; identify 4-5 teachers who teach at least two sections of chemistry to implement chemistry curriculum and provide the SERP team with reactions and feedback to the materials; support classroom level data collection of student work and brief assessments; participating teachers will be asked to do two mini-experiments, choosing a lesson and teach separate sections utilizing differing materials and gather controlled feedback on particular features of the curriculum, and their impact on teaching and learning, in their classroom during the Spring semester, for the period of October 1, 2018 through July 31, 2019, supported by a grant awarded in an amount not to exceed \$80,000.00.

Background
A one paragraph explanation of why the consultant's services are needed. Strategic Education Research Partnership Institute (SERP) received a financial award from The Koshland Foundation to support the development and redesign of high school chemistry units, developing a year-long high school chemistry curriculum. This collaboration will create materials that can be shared with science educators across the country. As a partner in this work, the grant will fund a part time secondary science specialist position to support the involvement of the OUSD teachers and members of the STEM team in the project.

Competitively Bid Was this contract competitively bid? No
If no, exception: This is a grant funded program.

Fiscal Impact Funding resource: Koshland Foundation Grant in the amount of \$80,000.00.

Attachments

- SubAward Agreement
- Attachment 1 - Scope of Work
- Attachment 2 - Budget
- Attachment 3 - Representations, Certifications, and Other Sponsor Requirements



SUBAWARD AGREEMENT

between

STRATEGIC EDUCATION RESEARCH PARTNERSHIP INSTITUTE

and

OAKLAND UNIFIED SCHOOL DISTRICT

for the

**SUPPORT OF THE DEVELOPMENT OF A YEAR-LONG HIGH SCHOOL
CHEMISTRY CURRICULUM**

PREAMBLE

This Subaward Agreement (“Agreement”) is made and entered into as of the first day of October, 2018 (“Effective Date”), by and between:

- (A) **STRATEGIC EDUCATION RESEARCH PARTNERSHIP INSTITUTE (“SERP”)**, a non-profit organization, located at 1100 Connecticut Avenue, NW, Suite 1310, Washington, DC 20036; and
- (B) **OAKLAND UNIFIED SCHOOL DISTRICT (“Subawardee”)**, a U.S. K-12 public education school district, located at 1000 Broadway Suite 680, Oakland, CA 94607.

SERP and Subawardee each is a “Party”. Collectively, they are the “Parties”.

RECITALS

WHEREAS, SERP has received a financial award from The Koshland Foundation (“Sponsor” or “Koshland”), to support of the development of a year-long high school chemistry curriculum.

WHEREAS, Subawardee wishes to collaborate with SERP on the Project, and SERP wishes to make available to Subawardee funds to support such collaboration.

NOW, THEREFORE, in consideration of the mutual understandings, covenants, and undertakings set forth herein, and for good and valuable consideration the receipt and adequacy of which are hereby acknowledged, it is agreed as follows:

1. AGREEMENT TERM.

This Agreement is effective on the Effective Date and will remain in effect until July 31, 2019, unless sooner terminated as provided in Section 10 (Termination), or amended in accordance with Section 15.7 (Amendments).

2. STATEMENT OF WORK.

2.1. Subawardee agrees to undertake the statement of work set forth in Attachment 1 (“Statement of Work”) in accordance with the terms and conditions of this Agreement. Subawardee shall carry out the Statement of Work with due care and diligence, and in a professional manner, providing all personnel, equipment, supplies, and facilities necessary to performance of the Statement of Work.

2.2. Brenda Tuohy will oversee all obligations of Subawardee pursuant to this Agreement. Herberta Zuleta is designated as Subawardee’s party responsible for supervision and performance of the Statement of Work.

3. FUNDING MECHANISM AND PAYMENT.

3.1. Subject to Subawardee’s compliance with this Agreement, SERP will reimburse Subawardee for costs of performing the Statement of Work, in accordance with the approved budget attached hereto as Attachment 2 (“Budget”) and any modifications to such Budget as permitted in Section 4 (Project Administration). The total reimbursement to Subawardee under this Agreement shall not exceed **eighty thousand dollars (\$80,000)** (“Total Reimbursement”). Unless otherwise agreed in writing, the Total

Reimbursement shall constitute the full and complete amount payable by SERP to Subawardee for the obligations assumed by Subawardee under this Agreement, but in no event is Subawardee entitled to payment in excess of Subawardee's actual allowable costs of performance under this Agreement.

3.2. Subawardee shall keep systematic and complete records of the receipt and disbursement of all funds, consistent with the financial management standards set forth in Office of Management and Budget ("OMB") Circular A-110, *Administrative Requirements For Grants And Agreements With Institutions Of Higher Education, Hospitals, And Other Non-Profit Organizations*, as implemented by ED in 34 CFR Part 74. Subawardee will track all funds provided by SERP under this Agreement in a separately identifiable account within Subawardee's financial system, and Subawardee shall account for its costs of performance in accordance with its established cost accounting policies and procedures, consistent with OMB Circular A-21, *Cost Principles for Educational Institutions* ("Applicable Federal Costs Principles"). Subawardee agrees that all expenditures under this Agreement shall be subject to and consistent with the Applicable Federal Costs Principles.

3.3. Payment will be made on a cost reimbursement basis upon the submission to SERP of an invoice from Subawardee. Invoices may be submitted to SERP no more frequently than monthly and no less frequently than quarterly, and invoices must be submitted within thirty (30) days after the period covered by the invoice. The invoice must include cumulative and current period expenses delineated by line item category specified in the Budget, as well as total payments received from SERP to date, and a signed certification that all costs are consistent with the Applicable Federal Costs Principles and incurred in accordance with this Agreement. SERP will pay Subawardee, within thirty (30) days after receiving and reviewing Subawardee's invoice, for direct and indirect costs determined to be consistent with the Applicable Federal Cost Principles. Payments will be made to Subawardee by check mailed to the address set forth in Section 15.12 (Notices and Communications).

3.4. Subawardee will submit a final invoice (marked "Final") within forty-five (45) days after the expiration of this Agreement. The final invoice will be used by SERP as the final report of expenditures. In no event may the cumulative reimbursements to Subawardee exceed the Total Reimbursement.

3.5. Subawardee acknowledges that funding for this Agreement is pursuant to a prime contract award to SERP from the Sponsor. Accordingly, by executing this Agreement, Subawardee agrees to comply with all applicable Sponsor requirements, including but not limited to applicable Education Department General Administrative Regulations ("EDGAR") in 34 CFR Parts 74, 75, 77, 80, 81, 82, 84, 85, 86, 97, 98, and 99, and the requirements listed in Attachment 3 ("Representations, Certifications, and Other Sponsor Requirements"). SERP's obligation to make payments to Subawardee under this Agreement is contingent on continued Project funding to SERP from the Sponsor. Furthermore, SERP's obligation to fund this Agreement is contingent on Subawardee's satisfactory performance of the Statement of Work and compliance with all Subawardee obligations under this Agreement, as determined by SERP in its sole discretion.

4. PROVISION OF NON-FINANCIAL RESOURCES

4.1 SERP shall provide subawardee with the following resources:

- a. SERP will provide digital files of chemistry curriculum materials to OUSD science specialist and participating teachers;**
- b. SERP will provide OUSD science specialist with background and rationale for chemistry curriculum;**
- c. SERP staff will be available for consultation regarding the content and pedagogy of the chemistry curriculum;**
- d. SERP will adapt chemistry curriculum materials and other assets to support treatment of topics in OUSD as appropriate.**

5. PROJECT ADMINISTRATION.

5.1. Subawardee shall request written approval from SERP prior to any of the following expenditures or occurrences:

- e. Incurring costs prior to the Effective Date of this Agreement, or after termination or expiration of this Agreement;**
- f. Subawardee's material modification to the activity contemplated in the Statement of Work, or a change in scope or objectives set forth in the Statement of Work;**
- g. Direct funding of administrative, clerical, or other general business staff, or other general or administrative expenses;**
- h. The transfer of amounts budgeted for indirect costs to absorb increases in direct costs, or vice versa;**
- i. Transferring a portion of the Statement of Work to another entity or institution, or subawardee funds under this Agreement to another entity or institution, except where such activity is specifically identified and budgeted within the Budget;**
- j. The purchase of materials or equipment having a unit price over \$5,000.00, except where such items are specifically identified and budgeted within the Budget;**
- k. The purchase of real property, other than leasehold interests; and**
- l. Any change in, or long term absence of, Subawardee's Principal Investigator and/or Project Director, as defined in Section 2.2, or other key personnel (as named in the Budget) involved in the Project.**

5.2. Subawardee may not, without SERP's prior written approval, transfer funds within Subawardee's approved Budget categories, unless the cumulative amount of such transfers effect a change of 10% or less in each of the affected Budget categories.

5.3. If SERP has approved a Budget containing multiple Budget periods, any unspent funds in one Budget period may be carried forward to the next Budget period.

5.4. Any income received by Subawardee in connection with the Project or Statement of Work during the term of this Agreement ("Program Income") must be reported to SERP and applied to carrying out the Project, in accordance with instructions provided by SERP.

5.5. All unobligated funds under this Agreement in the possession of Subawardee upon expiration or termination of this Agreement must be promptly returned to SERP.

5.6. Funds under this Agreement may not be used for construction or alteration, including renovation, modernization, remodeling, or improvement of facilities and buildings, without prior written approval from SERP.

5.7. Funds under this Agreement may not be used to provide compensation in the form of profit or fee to Subawardee as consideration for Subawardee's performance under this Agreement.

5.8. Subawardee agrees to comply with all applicable requirements of 34 CFR Part 97, Protection of Human Subjects, with respect to all research involving human subjects conducted, supported, or otherwise subject to regulation pursuant to this Agreement. Upon request by SERP, Subawardee shall provide to SERP evidence of Subawardee's official Institutional Review Board approval of Project research involving human subjects that is not exempt under 34 CFR Part 97.

5.9. Subawardee commits to following best practices with respect to ethics and safety for the Project, as defined by its own established institutional policies and procedures, consistent with all applicable laws, policies, and procedures of the jurisdiction in which Project activities are being carried out or to which Subawardee is otherwise subject.

5.10. Subawardee shall notify SERP in writing immediately upon the following: (a) any significant findings, breakthroughs, or events of unusual interest, (b) any significant problems, delays, or adverse conditions (including physical, cultural, legal, regulatory, or social conditions) that will materially affect the Statement of Work, (c) any adverse publicity related to this Agreement, and (d) suspension or debarment (e.g., a declaration of ineligibility to contract with any government), arrest by law enforcement officials, or other such matters raised against Subawardee, or its employees, agents, or subcontractors engaged in activity under this Agreement.

6. INTELLECTUAL PROPERTY.

6.1. Title to intellectual property created, developed, conceived, or reduced to practice under this Agreement shall vest in accordance with applicable intellectual property law, consistent with the intellectual property rights and obligations set forth in Sponsor regulations at 34 CFR Part 74 and the regulations set forth in 37 CFR Part 401, *Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements*. Subawardee and Principal Investigator and/or Project Director shall promptly and fully disclose to SERP in writing any intellectual property created, developed, conceived, or reduced to practice under this Agreement, whether or not such intellectual property is a Deliverable as described in Section 6.5.

6.2. Subawardee shall promptly report to SERP any efforts by Subawardee to secure legal protection with respect to intellectual property created, developed, conceived, or reduced to practice under this Agreement, and Subawardee shall report to SERP any governmental filings made by Subawardee with respect to intellectual property under this Agreement. SERP agrees to maintain the confidentiality of such reports, on mutually agreed terms as may be reasonably necessary to allow Subawardee to preserve patent rights and other intellectual property rights that might otherwise be adversely affected by disclosure.

6.3. Subawardee acknowledges and agrees that all intellectual property of SERP that is provided to Subawardee under this Agreement, including but not limited to materials furnished to Subawardee for purposes of carrying out the Statement of Work and any SERP publications, curriculum, course materials, examinations and all items contained therein, are the sole and exclusive property of SERP. Subawardee may not use SERP's intellectual property in any manner (i) other than as expressly provided for and contemplated in this Agreement, (ii) likely to diminish the commercial value of such intellectual property, or (iii) likely to cause marketplace confusion about such intellectual property, including but not limited to confusion about intellectual property ownership.

6.4. With respect to any intellectual property that Subawardee creates, develops, conceives, or reduces to practice, independently under this Agreement and to which SERP does not have ownership rights under Section 6.1, Subawardee shall retain all right, title and interest in and to the Intellectual Property and any patents, copyrights, software and tangible research materials and other intellectual property related thereto. Any intellectual property that Subawardee creates, develops, conceives, or reduces to practice jointly shall be owned jointly by Subawardee and joint party. Subawardee hereby grants to SERP a worldwide, perpetual, paid-up, royalty-free, non-exclusive license for non-commercial, educational and research application of such intellectual property. This license shall take effect automatically without the necessity of any further negotiation or agreement between SERP and subawardee or other owner(s) of the intellectual property.

6.5. Subawardee shall have all right, title, and interest in Subawardees Deliverables under this agreement. SERP's rights to practice 'deliverables' as defined in the Statement of Work are as described in the preceding Section 6.4.

6.6. Subawardee shall ensure that the rights of SERP and the Federal government under this Section are specifically recognized, acknowledged, and agreed to in writing by any of its employees, agents, contractors, consultants, subrecipients, and by all others participating in work under this Agreement, and Subawardee shall be responsible for ensuring compliance with this Section in all of its agreements.

7. AUDIT RIGHTS AND RECORD RETENTION.

7.1. Subawardee shall maintain, and shall cause any of its approved subrecipients to maintain, according to applicable accounting principles and good financial practices, books, records, correspondence, instructions, plans, drawings, receipts, vouchers, memoranda, and other evidence, sufficient to accurately and properly reflect all costs and the disposition of any materials, tools, or equipment under this Agreement. SERP, Sponsor, the U.S. Comptroller General, or their authorized representatives shall have the right, with reasonable advance notice during normal business hours, to conduct site visits, meet with Subawardee personnel, and view any materials, equipment, tools, or supplies purchased under this Agreement, and any books, documents, records, correspondence, instructions, plans, drawings, receipts, vouchers, and memoranda relating to performance of this Agreement, for the purpose of auditing and verifying costs under this Agreement, and evaluating and testing Subawardee's systems of internal controls, practices, and procedures. SERP, Sponsor, or its authorized representatives shall have the right to reproduce any such records. Subawardee's failure to provide such access shall constitute a material breach of this Agreement. Subawardee shall ensure that SERP, Sponsor, or its authorized representatives are provided access to the facilities of any approved subrecipients on terms substantially identical to those set forth above.

7.2. Subawardee certifies that it meets and will continue to meet the annual audit requirements of OMB Circular A-133, *Audits of States, Local Governments, and Non-Profit Organizations*, and will furnish a full and complete copy of such audit report to SERP within 30 days of issuance of the audit report. Subawardee agrees that in the event of adverse A-133 audit findings, or any other adverse audit findings that affect or may affect this Agreement, Subawardee will take appropriate corrective action and notify SERP of same. Subawardee further agrees that all records and reports prepared in accordance with the requirements of OMB Circular A-133 and 34 CFR parts 74 shall be available for inspection by SERP and/or representatives of Sponsor during normal business hours.

7.3. Subawardee agrees to refund to SERP any sum of money relating to costs charged to this Agreement that SERP or an auditor determines to be an unallowable, unallocable or unreasonable cost under Applicable Federal Costs Principles. Notwithstanding any other provision of this Agreement,

SERP's payments to Subawardee shall not affect SERP's right to a refund on the basis of a later audit or other review, nor does it affect Subawardee's obligation to return funds that that SERP or an auditor determines to be inconsistent with Applicable Federal Cost Principles.

7.4. Subawardee shall retain all records relating to this Agreement for a period of at least six (6) years after the expiration or termination of this Agreement, with any extensions thereof, or for such longer period(s) as may otherwise be required by applicable law or by Sponsor regulations. If any such records are or may be required to resolve any then threatened or pending claim or arbitration pursuant to this Agreement, the period of retention shall continue until final disposition of such claims or arbitration.

8. TERMINATION.

8.1. SERP, in its sole discretion, may terminate this Agreement or any part of the Statement of Work by giving thirty (30) days advance written notice to Subawardee specifying the extent and the effective date of the termination ("Termination Date"). Should SERP terminate this Agreement or any part of the Statement of Work, Subawardee shall immediately stop performance of the activities that are the subject of the termination notice, unless otherwise directed by SERP to resume activity. SERP, in its sole discretion, will reimburse Subawardee for allowable, reasonable, and allocable costs properly incurred in accordance with this Agreement up to the Termination Date, and for non-cancelable commitments only to the extent such costs and commitments cannot be avoided, mitigated, or assigned; provided, however, that total payment to Subawardee under this Agreement shall not exceed Total Reimbursement. Payment under the foregoing sentence will be subject to receipt by SERP of an invoice that identifies Subawardee's costs, certifies such costs as reasonable, accurate, consistent with the Applicable Federal Cost Principles, and incurred prior to the Termination Date, and is accompanied by a report that describes the activities for which Subawardee seeks reimbursement.

9. CONFLICT OF INTEREST.

Subawardee shall, at all times, act in compliance with its established policies and procedures regarding conflicts of interest, consistent with the conflict of interest principles set forth at 34 CFR Part 75.524. Subawardee certifies that it is not aware of any related past, present, or planned interest, financial or otherwise, that may impair its objectivity in performing the Statement of Work. Subawardee shall identify and manage actual and potential conflicts of interest in accordance with its established policies and procedures. Any unresolved conflicts of interest that have or may have a significant effect on the conduct of the Statement of Work shall be promptly reported to SERP in writing, together with proposed actions to eliminate or mitigate the effect of the conflict. Nothing under this Agreement shall be construed as an inducement to Subawardee to recommend or purchase the services of SERP or any other third party.

10. CONFIDENTIAL INFORMATION.

10.1. This Agreement shall be carried out without the disclosure of one Party's confidential or proprietary information to the other Party. However, should it become necessary to disclose confidential or proprietary information, the providing Party will notify the receiving Party in advance and in writing, and the Parties shall agree on reasonable terms for the protection of such information. All confidential information will be clearly marked as such, or promptly disclosed as such, in writing.

11. SUBAWARDS.

Subawardee shall not outsource any part of the Statement of Work without SERP's prior written approval; provided, however, that a Budget that specifically designates a subrecipient shall constitute SERP's prior written approval for this purpose. Any agreement with a subrecipient must be subject to the terms and conditions applicable to Subawardee as consistent with this Agreement, and the agreement must flow down applicable provisions contained in this Agreement. A copy of all Subawardee's agreements with subrecipients must be provided to SERP.

12. ADDITIONAL PROVISIONS.

12.1. Compliance with Law and Policies: Subawardee shall comply with all applicable law and regulations in performance under this Agreement, and with its own policies and procedures as consistent with this Agreement. Subawardee agrees to comply with all applicable laws and requirements specified in the EDGAR, and the representations and certifications specified in Attachment 3 ("Representations, Certifications, and Other Sponsor Requirements").

12.2. Force Majeure: If either Party is rendered unable by force majeure, to perform some or all of its obligations under this Agreement, the performance of such obligations by such Party, so far as they are affected by force majeure, will be excused from the inception of any such inability until it is corrected, but not longer. The Party claiming inability to perform will immediately after the occurrence of the force majeure, notify the other Party of the nature, date of inception, and expected duration of the force majeure, and the extent to which it will prevent the Party giving such notice from performing its obligations under this Agreement. If such notice is not in writing, the Party giving it will confirm it in writing as soon as practicable. The Party claiming inability to perform will promptly correct such inability to the extent it may be corrected through the exercise of reasonable diligence. The term "force majeure" will mean any act, event, cause, or occurrence rendering a Party unable to perform its obligations that is not within the reasonable control of such Party, excluding any act, event, cause or occurrence caused by a Party's own financial condition or negligence.

12.3. Dispute Resolution: The Parties will use their best efforts to negotiate in good faith and settle any dispute that may arise out of or relate to this Agreement or any breach of this Agreement. If any such dispute cannot be settled amicably through ordinary negotiations by the representatives of the Parties, either Party may give the other Party notice that it wishes to refer such dispute to executive officers of the Parties, in which event, the authorized executive officers of each Party, or their designees, shall, during a thirty (30) day period following the date of such notice ("Thirty-day Period"), attempt to resolve such dispute. If such dispute is not resolved prior to the expiration of such Thirty-day Period, such dispute shall be finally settled under the Commercial Rules of Arbitration of the American Arbitration Association ("AAA Rules") before a single arbitrator, with such arbitration to be held in the District of Columbia. Within five days following the expiration of such Thirty-day Period, each Party shall give the other notice of three potential candidates to act as the arbitrator. Within five days following such notice, each Party shall select two of the candidates nominated by the other Party and the Parties shall jointly interview the four candidates so chosen (it being understood that neither Party shall have any ex parte communications with any proposed or selected arbitrator) and shall attempt to agree upon one of them to act as the arbitrator. If the Parties cannot agree upon an arbitrator within thirty (30) days of the expiration of the Thirty-day Period, each Party shall have the right to suggest one arbitrator on either Party's list to the AAA as part of a joint letter to the AAA (not disclosing which Party suggested which arbitrator) requesting the AAA to nominate a single arbitrator in accordance with the AAA Rules. The arbitrator shall be empowered to award specific performance, injunctive relief, and other equitable remedies as well as damages, but shall not be empowered to award punitive or exemplary damages. Each Party shall initially bear its own costs and legal fees associated with such arbitration and shall initially bear one-half of the costs of the arbitrator, but the arbitrator may determine that under the facts and circumstances it is equitable that one Party bear all or a portion of any of the foregoing costs and expenses of the other Party. The final arbitration award shall be binding on the Parties. The parties will try in good faith to settle the dispute by mediation before resorting to arbitration, litigation, or some other dispute resolution procedure.

12.4. Liability and Indemnification: Neither SERP nor any of SERP's affiliates, nor any officer, director, trustee, employee, or agent of the foregoing, shall have liability to Subawardee or any of Subawardee's affiliates, officers, directors, trustees, employees, agents, or subrecipients, for any claim, loss, damage, or injury incurred in the course of the performance of this Agreement or otherwise in connection therewith, other than for contract damages associated with a breach of obligations stated in this Agreement. Neither SERP nor any of SERP's affiliates, nor officers, directors, trustees, employees, or agents of the foregoing, will be liable to Subawardee with respect to any subject matter of this Agreement for any special, indirect, incidental, consequential, punitive damages, or lost profits, under any contract, negligence, strict liability or other legal or equitable theory. Subawardee shall indemnify, hold harmless, and defend SERP and any of SERP's affiliates, and each officer, director, trustee, employee, or agent of any of the foregoing, and their respective successors and assigns, from and against third party claims, demands, actions, liabilities, damages, and expenses (including reasonable attorneys' fees and litigation costs) resulting there from, arising out of, or related to, the negligence or willful misconduct of Subawardee in connection with this Agreement or the representations or certifications made by Subawardee herein.

Neither Subawardee nor any of Subawardee's affiliates, nor any officer, director, trustee, employee, or agent of the foregoing, shall have liability to SERP or any of SERP's affiliates, officers, directors, trustees, employees, agents, or subrecipients, for any claim, loss, damage, or injury incurred in the course of the performance of this Agreement or otherwise in connection therewith, other than for contract damages associated with a breach of obligations stated in this Agreement. Neither Subawardee nor any of Subawardee's affiliates, nor officers, directors, trustees, employees, or agents of the foregoing, will be liable to SERP with respect to any subject matter of this Agreement for any special, indirect, incidental, consequential, punitive damages, or lost profits, under any contract, negligence, strict liability or other legal or equitable theory. SERP shall indemnify, hold harmless, and defend Subawardee and any of

Subawardee's affiliates, and each officer, director, trustee, employee, or agent of any of the foregoing, and their respective successors and assigns, from and against third party claims, demands, actions, liabilities, damages, and expenses (including reasonable attorneys' fees and litigation costs) resulting there from, arising out of, or related to, the negligence or willful misconduct of SERP in connection with this Agreement or the representations or certifications made by SERP herein.

12.5. Language of Communication: The language of all communications in connection with this Agreement shall be English.

12.6. Amendments: This Agreement will not be modified, changed or altered in any manner whatsoever except by explicit written agreement designated by the Parties as an "amendment" and signed by the authorized representatives of both Parties.

12.7. No Third Party Beneficiary: Except as specifically set forth in this Agreement, this Agreement is not intended to create and does not create any rights in or benefits to any third party.

12.8. Nature of Relationship: Subawardee shall be considered an independent contractor for purposes of this Agreement. Nothing in this Agreement shall constitute a partnership or joint venture or establish a relationship of agency between SERP and Subawardee. No employee of SERP or any of its affiliates on the one hand, or Subawardee or any of its affiliates on the other hand, shall be considered to be an employee of the other, and neither SERP nor Subawardee shall enter into any contract or agreement with a third party that purports to obligate or bind the other.

12.9. Waiver of Default or Breach: Failure of either Party to exercise any of its rights under this Agreement will in no way constitute a waiver of those rights, nor will such failure excuse the other Party from any of its obligations under this Agreement. No benefit or right accruing to either Party under this Agreement will be waived unless the waiver is reduced to writing and signed by both Parties. The waiver, in one instance, of any act, condition, or requirement stipulated in this Agreement will not constitute a continuing waiver or a waiver of any other act, condition, or requirement, or a waiver of the same act, condition, or requirement in other instances, unless specifically so stated. Except as otherwise provided in this Agreement, the rights and remedies provided in this Agreement are cumulative and not exclusive of any rights or remedies provided by law.

12.10. Severability: Should any term or condition of this Agreement be determined to be unlawful by an adjudicative body with jurisdiction over the Parties, the remaining terms and conditions of this Agreement will continue to remain in force and effect and will be interpreted so as to best effect the original intention of the Parties.

12.11. Notices and Communications: Any notices, reports, authorizations, or approvals concerning this Agreement shall be in writing. Unless otherwise provided, all notices shall be sufficient when delivered in person, or sent by facsimile, electronic mail, or international courier, to the authorized representative of the Party, or to a person designated by the authorized representative. The authorized representative of each Party is:

For SERP:
Beverly Hoffmaster
1100 Connecticut Ave
Suite 1310
Washington, DC 20036
(202) 223-8555
Bhoffmaster@serpinstitute.org

For Subawardee:
~~Max Robinson~~ Brenda Tuohy
~~Technology Services Contracts Online~~ OUSD
1000 Broadway, Suite 440 600
Oakland, CA 94607
~~max.robinsoniii@ousd.org~~ Brenda.Tuohy@ousd.org


12.12. Survival: The Parties agree that certain obligations under this Agreement, which, by their nature would continue beyond the termination or expiration of this Agreement, will survive termination or expiration of this Agreement. Such obligations include, by way of illustration only and not limitation, those obligations pertaining to intellectual property, liability and indemnification, records, liability and indemnification, confidentiality, and dispute resolution.

12.13. Assignment: This Agreement may not be assigned or otherwise transferred by either Party in whole or in part without the express prior written consent of the other Party; provided, however, that SERP may assign or transfer any of its rights or obligations to an affiliate of SERP and nothing in this Section shall detract from SERP's ability to subcontract or delegate any of its rights or obligations to an affiliate of SERP or to a qualified third party.

12.14. Entire Agreement: This Agreement (and all attachments) contains the entire terms and conditions applicable to this Agreement and supersedes and replaces any prior written or oral agreements, representations, or understandings between SERP and Subawardee with respect to its subject matter.

IN WITNESS WHEREOF, the Parties have signed this Agreement as of the Effective Date.

**STRATEGIC EDUCATION RESEARCH
PARTNERSHIP INSTITUTE**

By: 

Name: M. Suzanne Donovan

Title: Executive Director

Date: November 2, 2018

OAKLAND UNIFIED SCHOOL DISTRICT

By: 

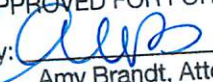
Aimee Eng, President

Name: Board of Education


Title: 

Date: Kyla Johnson-Trammell, Secretary
Board of Education

OAKLAND UNIFIED SCHOOL DISTRICT
Office of the General Counsel
APPROVED FOR FORM & SUBSTANCE

By:  11.20.18
Amy Brandt, Attorney at Law

Acknowledged by:


Principal Investigator

Date: November 2, 2018

Attachment 1
Scope of work: Oakland Unified School District

SUBAWARDEE shall undertake the following activities during the subaward term:

1. **IDENTIFY A DISTRICT SCIENCE SPECIALIST:** SUBAWARDEE will identify a part-time science specialist, with assistance from SERP as needed. District science specialist will be expected to support *Chemistry Curriculum* implementation, data collection and communicate with the SERP team during the 2018-19 school year.
2. **TEACHERS' MEETING:** SUBAWARDEE will work with SERP to plan a local teachers' meeting to introduce participating teachers to the curricular materials.
3. **SITE VISITS:** SUBAWARDEE will allow SERP designers to work with the district science specialist and participating teachers, both virtually, and through site visits (classroom observations, meetings, etc).
4. **IDENTIFY TEACHERS:** SUBAWARDEE will identify 4-5 teachers who teach at least two sections of chemistry to implement chemistry curriculum and provide the SERP team with reactions and feedback to the materials.
5. **DATA COLLECTION:** SUBAWARDEE will support classroom level data collection of student work and brief assessments. Participating teachers will be asked to do two mini-experiments in their classroom during the Spring semester of the 18-19 school year. For these mini-experiments teachers will choose a lesson and teach separate sections utilizing differing materials provided by SERP designers. The purpose of these mini-experiments is to gather controlled feedback on particular features of the curriculum, for example illustrations, video clips, etc., and their impact on teaching and learning.

**Attachment 2
Budget**

\$80,000 (eighty thousand dollars):

- **\$80,000 for the District Science Specialist, salary is inclusive of fringe and indirects**

**Attachment Three
Representations, Certifications, and Other Sponsor Requirements**

By executing this Agreement and accepting funds hereunder, Subawardee makes the following representations and certifications, as applicable:

1. Debarment and Suspension.

Subawardee certifies that it and its principals (as defined in 2 CFR Part 180):

- (a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded by any Federal department or agency;
- (b) Have not within a three-year period preceding this Agreement been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
- (c) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph (b) of this certification; and
- (d) Have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State or local) terminated for cause or default.

Subawardee certifies that it will comply with subpart C of the OMB guidance in 2 CFR Part 180, *OMB Guidelines To Agencies On Governmentwide Debarment And Suspension (Nonprocurement)*, and will include a similar term or condition in any covered transaction into which it enters at the next lower tier.

2. Lobbying.

Subawardee certifies, to the best of its knowledge and belief, that:

- (1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
- (2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
- (3) Subawardee shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this

transaction imposed by 31 USC 1352. Any person who fails to file the required certification may be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

3. Nondiscrimination.

Subawardee hereby certifies that it will comply with applicable provisions of the following national policy requirements (as applicable) with respect to the prohibition of discrimination:

- (1) Title VI of the Civil Rights Act of 1964 (Pub. L. 88-352, 42 U.S.C. § 2000-d), as implemented by Sponsor regulations at 34 CFR Part 100, which prohibit discrimination on the basis of race, color or national origin, in programs and activities receiving Federal financial assistance.
- (2) Executive Order 11246 "Equal Employment Opportunity" as implemented by Department of Labor regulations at 41 CFR Part 60 "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor".
- (3) Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. § 794), which prohibits discrimination on the basis of handicap in programs and activities receiving Federal financial assistance.
- (4) Age Discrimination Act of 1975, as amended (Pub. L. 95-478, 42 U.S.C. §§ 6101-6107), which prohibits discrimination based on age in the delivery of services and benefits supported with Federal funds.
- (5) Title IX of the Education Amendments of 1972 (20 U.S.C. § 1681, et seq.), which prohibits discrimination on the basis of sex in education programs and activities receiving Federal financial assistance (whether or not the programs or activities are offered or sponsored by an educational institution).
- (6) Drug Abuse Office and Treatment Act of 1972 (P.L. 92-255), as amended, relating to nondiscrimination on the basis of drug abuse;
- (7) Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (P.L. 91-616), as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism;
- (8) Sections 523 and 527 of the Public Health Service Act of 1912 (42 U.S.C. §§290 dd-3 and 290 ee-3), as amended, relating to confidentiality of alcohol and drug abuse patient records;
- (9) Title VIII of the Civil Rights Act of 1968 (42 U.S.C. §§3601 et seq.), as amended, relating to nondiscrimination in the sale, rental or financing of housing;
- (10) Any other nondiscrimination provisions in the specific statute(s) under which application for Federal assistance is being made; and
- (11) The requirements of any other nondiscrimination statute(s) which may apply to the Project.

4. Human Trafficking.

Subawardee certifies that it will comply with applicable provisions of 2 CFR Part 175, *Award Term for Trafficking in Persons*, which establishes a Government-wide award term for grants and cooperative agreements to implement the requirement in paragraph (g) of section 106 of the Trafficking Victims Protection Act of 2000 (TVPA), as amended (22 U.S.C. 7104(g)).

5. Anti-Terrorism.

Subawardee represents that it is familiar with U.S. Executive Orders and laws that prohibit the provision of resources and support to individuals and organizations associated with terrorism and terrorist related lists promulgated by the U.S. Government, the United Nations, and the European Union. Subawardee confirms that it will take reasonable steps to ensure that none of the funds under this Agreement will be used in support of or to promote violence, terrorist activity or related training, whether directly through its

own activities and programs, or indirectly through support of, or cooperation with, other persons or organizations known to support terrorism or that are involved in money laundering activity.

6. Other Certifications.

Subawardee certifies that it:

- (1) Has the legal authority to receive Federal assistance and the institutional, managerial and financial capability (including funds sufficient to pay the non-Federal share of project cost) to ensure proper planning, management and completion of the project described in the Statement of Work.
- (2) Will establish safeguards to prohibit employees from using their positions for a purpose that constitutes or presents the appearance of personal or organizational conflict of interest, or personal gain.
- (3) Will initiate and complete the work within the applicable time frame.
- (4) Will comply with the Intergovernmental Personnel Act of 1970 (42 U.S.C. §§4728-4763) relating to prescribed standards for merit systems for programs funded under one of the 19 statutes or regulations specified in Appendix A of OPM's Standards for a Merit System of Personnel Administration (5 C.F.R. 900, Subpart F).
- (5) Will comply, or has already complied, with the requirements of Titles II and III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (P.L. 91-646) which provide for fair and equitable treatment of persons displaced or whose property is acquired as a result of Federal or federally-assisted programs. These requirements apply to all interests in real property acquired for project purposes regardless of Federal participation in purchases.
- (6) Will comply, as applicable, with provisions of the Hatch Act (5 U.S.C. §§1501-1508 and 7324-7328) which limit the political activities of employees whose principal employment activities are funded in whole or in part with Federal funds.
- (7) Will comply, as applicable, with the provisions of the Davis Bacon Act (40 U.S.C. §§276a to 276a-7), the Copeland Act (40 U.S.C. §276c and 18 U.S.C. §874), and the Contract Work Hours and Safety Standards Act (40 U.S.C. §§327-333), regarding labor standards for federally-assisted construction subagreements.
- (8) Will comply, if applicable, with flood insurance purchase requirements of Section 102(a) of the Flood Disaster Protection Act of 1973 (P.L. 93-234) which requires recipients in a special flood hazard area to participate in the program and to purchase flood insurance if the total cost of insurable construction and acquisition is \$10,000 or more.
- (9) Will comply with applicable environmental standards which may be prescribed pursuant to the following: (a) institution of environmental quality control measures under the National Environmental Policy Act of 1969 (P.L. 91-190) and Executive Order (EO) 11514; (b) notification of violating facilities pursuant to EO 11738; (c) protection of wetlands pursuant to EO 11990; (d) evaluation of flood hazards in floodplains in accordance with EO 11988; (e) assurance of project consistency with the approved State management program developed under the Coastal Zone Management Act of 1972 (16 U.S.C. §§1451 et seq.); (f) conformity of Federal actions to State (Clean Air) Implementation Plans under Section 176(c) of the Clean Air Act of 1955, as amended (42 U.S.C. §§7401 et seq.); (g) protection of underground sources of drinking water under the Safe Drinking Water Act of 1974, as amended (P.L. 93-523); and, (h) protection of endangered species under the Endangered Species Act of 1973, as amended (P.L. 93-205).
- (10) Will comply with the Wild and Scenic Rivers Act of 1968 (16 U.S.C. §§1271 et seq.) related to protecting components or potential components of the national wild and scenic rivers system.
- (11) Will assist the awarding agency in assuring compliance with Section 106 of the National Historic Preservation Act of 1966, as amended (16 U.S.C. §470), EO 11593 (identification and

- protection of historic properties), and the Archaeological and Historic Preservation Act of 1974 (16 U.S.C. §§469a-1 et seq.).
- (12) Will comply with P.L. 93-348 regarding the protection of human subjects involved in research, development, and related activities supported by this award of assistance.
 - (13) Will comply with the Laboratory Animal Welfare Act of 1966 (P.L. 89-544, as amended, 7 U.S.C. §§2131 et seq.) pertaining to the care, handling, and treatment of warm blooded animals held for research, teaching, or other activities supported by this award of assistance.
 - (14) Will comply with the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. §§4801 et seq.) which prohibits the use of lead-based paint in construction or rehabilitation of residence structures.
 - (15) Will cause to be performed the required financial and compliance audits in accordance with the Single Audit Act Amendments of 1996 and OMB Circular No. A-133, "Audits of States, Local Governments, and Non-Profit Organizations."
 - (16) Will comply with all applicable requirements of all other Federal laws, executive orders, regulations, and policies governing this program.

7. ACORN.

Subawardee certifies that no funds under this Agreement will be provided to the Association of Community Organizations for Reform Now (ACORN) or its subsidiaries.

8. Executive Order 13513.

Subawardee certifies that it will comply with Executive Order 13513, which provides a policy prohibiting federal grant recipients, subrecipients, and their grant personnel from text messaging while driving a government-owned vehicle, or while driving a privately-owned vehicle during official grant business, or from using government-supplied electronic equipment to text message or e-mail when driving.

9. Public Law 111-8.

Subawardee certifies that it will comply with Public Law 111-8, the "Omnibus Appropriations Act, 2009", Division F—Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 2009, Title V—General Provisions, Sec. 506, March 11, 2009, which requires the following: When issuing statements, press releases, requests for proposals, bid solicitations and other documents describing projects or programs funded in whole or in part with Federal money, Subawardee shall clearly state— (1) the percentage of the total costs of the program or project which will be financed with Federal money; (2) the dollar amount of Federal funds for the project or program; and (3) percentage and dollar amount of the total costs of the project or program that will be financed by non-governmental sources.

August 9, 2018

Ms. Brenda Tuohy
Oakland Unified School District
1000 Broadway, Suite 600
Oakland, CA 94607

Dear Ms. Tuohy,

We are pleased to confirm the award of a grant from the Koshland Foundation to support the development and redesign of high school chemistry units. This collaboration between SERP, OUSD and SFUSD will create materials that can be shared with science educators across the country. As a partner in this work, the grant will fund a part time secondary science specialist position to support the involvement of the OUSD teachers and members of the STEM team in the project. The amount allotted for this position is \$80,000 for the 2018-2019 school year, \$80,000 for the 2019-2020 school year, and \$40,000 for part of the 2020-2021 school year during which the project will be wrapping up.

We value our ongoing partnership with Oakland Unified School District and look forward to this opportunity to continue our work together.

Sincerely,



M. Suzanne Donovan
Executive Director, SERP Institute