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Board Cover Memorandum

To	Board of Education	
From	Kyla Johnson-Trammell, Superintendent Tara Gard, Chief of Talent Sarah Glasband, Director, Talent Development	
Meeting Date	January 24, 2023	
Subject	Agreement between OUSD - UCB	
Ask of the Board	X Approve Agreement	
Services	A UC Berkeley Professor will conduct a qualitative research study on the Oakland Teacher Residency as part of OUSD's goals with Teacher Residency funding.	
Term	Start Date: 2/22/2023	End Date: 06/30/2023
Not-To-Exceed Amount	\$55,000	
Competitively Bid	No. This is a continuation of the research that was started during the 2021 - 2022 school year between Oakland Unified School District and the Regents of the University of California on behalf of its Berkeley Campus (UCB).	
In-Kind Contributions	N/A	
Funding Source(s)	Talent Development, Site 944, Teacher Residency Grant Funding	

Background	The UC Berkeley Professor will develop a qualitative research proposal. Following this, the Professor will conduct qualitative research with OTR residents, graduates, and those who have left OUSD. The study will be used to foster continuous improvements in the Oakland Teacher Residency Program.
Attachment(s)	<ul style="list-style-type: none">• Agreement with UCB• Data Sharing Agreement

AGREEMENT

ORGANIZATIONAL

Fund: OUSD Talent Division **Funder:** Crankstart Foundation

THIS AGREEMENT is made effective on **February 22, 2023** by and between: Oakland Unified School District ("OUSD"), with its principal place of business located at 1011 Union Street Site 946 Oakland CA 94607, and; The Regents of the University of California ("Grantee"), an independent contractor located at 1608 Fourth Street, Suite 220 Berkeley, CA 94710-5940.

The Grantee's work will be evaluated by Sarah Glasband.

Total payment for the research described in this Agreement and the attached scope of work **shall not exceed** \$55,000.00 without prior written approval from OUSD.

The Scope of Work and deliverables described in this Agreement shall be completed no later than June 30, 2023.

This agreement is contingent upon the availability of funding in the amount indicated above. In the event that funding does not materialize, OUSD may terminate this Agreement in the process described herein. OUSD will not release payment for any work not specifically authorized to begin before confirmation that funding is available.

WHEREAS OUSD desires to hire Grantee to perform the work described in Attachment C and Grantee desires to perform the work, in each case on the terms set forth herein. THEREFORE, it is agreed as follows:

1. **Definitions:**

The following terms as used herein shall have the following meanings:

- 1.1. "Agreement" means this agreement. All substantive terms are included here in writing.
- 1.2. "Scope of work" means the work to be performed as described under Section 3.
- 1.3. "Starting Date" means the date at which the Scope of work shall commence and the periods set forth in the time schedule hereunder shall begin to run.
- 1.4. "Term of Agreement" means the period beginning at the Starting Date and until Grantee's Scope of Work is completed and delivered to OUSD or, if sooner, the termination of this Agreement as provided herein.

2. **Hiring Requirements:** You agree to complete the requirements described in Attachment A & B before you begin work.

- 2.1. **No assumption of cost:** The expenses associated with meeting the requirements described in this Agreement shall not be assumed by the Oakland Unified School District.
- 2.2. **Right of removal:** In accordance with California Education Code, OUSD will immediately remove from Oakland Unified School District Property any Grantee who has been arrested or convicted of any serious or violent felony, as defined by California Penal Code Sections 667.5 and 1192.7.

3. **Scope of Work:**

- 3.1. Grantee will provide the following for OUSD, as described in attached Scope of Work.
- 3.2. Grantee will schedule and attend periodic meetings as requested from time to time by OUSD and will provide monthly invoices, status and budget reports indicating fees and expenses incurred for each phase of the project and the budget remaining.

GENERAL:

With the written approval of OUSD, the scope of work and deliverables described above may be re-prioritized from the above list as a result of further discussion between OUSD and Grantee based on all previous work completed.

4. **Grantee's Obligations:**

- 4.1. Grantee shall carry out the Scope of Work with due diligence, care and efficiency in a workmanlike manner so as to promote the purpose of this Agreement, including performance of joint activities required to be performed under this Agreement. Grantee shall, in all professional matters, act as a faithful advisor to OUSD.
- 4.2. **Conformity to Local Laws:** Grantee shall conform in all respects with provisions of any regulation, law or ordinance of any local or duly constituted authority, and shall act in accordance with its contractual obligations to third parties. Likewise, Grantee shall refrain during the term of this Agreement from engaging in any activity whether political or of any other nature that may adversely affect, impede or impair in any way the progress of the Scope of Work and its completion.
- 4.3. **Insurance:** Grantee shall maintain any required insurance specified on Attachment A attached hereto and comply with the conditions set forth therein. Grantee understands that they are not insured by insurance policies of OUSD.
- 4.4. **Confidentiality:** It is expected that the work of this Agreement can be carried out without any of the parties disclosing confidential information. However, should it become necessary to disclose confidential information, OUSD will notify Grantee in advance and in writing. Grantee, her/his employees, subcontractors and agents, shall hold in strict confidence all information obtained in connection with this Agreement and shall convey only so much of such information to his individual employees, subcontractors and agents as such persons must know to fulfill the purposes of this Agreement.

5. **Payment Rate:**

Upon receipt of a written invoice as described below, OUSD shall remunerate Grantee for the Scope of Work described in this Agreement as follows:

- 5.1. Grantee to invoice on **a monthly basis**, with description of work completed and associated payment due. Cumulative payments shall not exceed the amount described in this agreement.
 - 5.2. Invoice: Grantee shall submit a written invoice to OUSD within five business days after the end of each calendar month. Such invoice shall include a description of work performed and itemized costs incurred for such month, and shall state the amount payable by OUSD to the Grantee in U.S. dollars for the work described in Attachment C. **OUSD shall make full payment to Grantee within thirty (30) business days after receipt of such written invoice.** Upon termination of this Agreement, OUSD shall make payment on the final invoice following receipt of all items described in section 12.
6. **Law Governing:** This Agreement is governed by the laws of the State of California.
 7. **Disputes:** Any dispute arising under this Agreement which is not settled by agreement of the parties may be settled by mediation, non-binding arbitration or other appropriate legal proceedings.
 8. **No Assignment:** No part of this Agreement shall be assigned by Grantee without the prior written consent of OUSD, and any attempted assignment without such consent shall be null and void.
 9. **Intellectual Property:** During the term of this Agreement, any works created by or inventions of Grantee, his agents or employees, within the scope of work shall belong to the Grantee. Grantee shall own the entire right, title and interest, including all copyrights and other intellectual property rights, in and to all materials, inventions, works of authorship, software, information and data conceived or developed by Grantee in the performance of this project.
 10. In consideration of OUSD's support of this work, and to the extent that Grantee has the right to grant such a license, when publications or similar materials are developed from work supported in whole or in part by OUSD under this Agreement, Grantee shall grant to OUSD a non-transferable, non-exclusive, irrevocable, worldwide, royalty-free license to use, reproduce, publish, or re-publish, or otherwise disseminate such copyrighted or copyrightable materials for non-commercial purposes.
 11. **Independent Contractor:** Grantee is an independent contractor and not an employee of OUSD. As an independent contractor, Grantee shall not receive any fringe benefits from OUSD and shall be solely

responsible for all Social Security, tax, disability, and other state and federal assessments.

12. **Amendment:** This Agreement shall not be amended or modified except by through a written agreement signed by OUSD and Grantee
13. **Termination:** This Agreement may be terminated by either party (i) by mutual written agreement of OUSD and Grantee, or (ii) by OUSD for its sole convenience, in whole or in part, at any time by giving thirty (30) days advance written notice to Grantee of its intention to do so. Termination shall be effective (i) on the date mutually agreed upon, or (ii) if termination is by OUSD, on the date specified in the notice, except that if no termination date is specified in the notice, termination shall be effective on the earlier of the date the notice is received by Grantee or three days after mailing by OUSD. In the event of termination by OUSD for its convenience, Grantee shall be entitled to recover payment in accordance with the provisions of this Agreement only for work performed and charges and non-cancellable obligations reasonably incurred up to the effective date of termination. Upon termination of this Agreement, Grantee shall deliver to OUSD all work in progress and all completed works intangible form.
14. **Indemnification:** Grantee shall defend, indemnify and hold harmless OUSD and its officers, directors, employees and agents (collectively, the "indemnified parties") against and from any and all claims, actions, damages, expenses or liabilities, including attorneys' fees, arising out of the performance of this Agreement but only in proportion to and to the extent to which such claims, actions, damages, expenses or liabilities, including attorneys' fees are caused by or result from the negligent or intentional acts or omissions of Grantee its officers, directors, employees and agents .
15. **Integrated Agreement:** This Agreement constitutes the sole, full, and complete Agreement between the parties with respect to the subject matter hereof and supersedes any prior or contemporaneous promise, representation, agreement, or understanding between the parties with respect to the subject matter, whether written or oral, all of which shall be deemed to have been merged herein. The parties have not made any Agreement not expressly set forth herein. Any prior or contemporaneous negotiations, promises, representations, agreements, and understandings with respect to the subject matter hereof not expressly set forth in the Agreement are of no force or effect.
16. **Notice:** Any notice or communication required or permitted under this Agreement shall be sufficiently given if delivered in person or by certified mail, return receipt requested, to the address set forth in the opening paragraph or to such other address as one party may have furnished to the other in writing.
17. **Waiver of contractual right:** The failure of either party to enforce any provision of this Agreement shall not be construed as a waiver or limitation of that party's right to subsequently enforce and compel strict compliance with every provision of this Agreement.

ATTACHMENT A: INSURANCE

Unless specifically waived by OUSD, the insurances indicated below are required:

WORKERS COMPENSATION

If Grantee employs any person to perform work in connection with this Agreement, Grantee shall procure and maintain at all times during the performance of such work, Workers' Compensation Insurance in conformance with the laws of the State of California and Federal laws when applicable. Employers' Liability Insurance shall not be less than One Million Dollars (\$1,000,000) per accident or disease.

Required	Attach Proof	Description
		Grantee is aware of the provisions of Section 3700 of the Labor Code which require every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of that code, and will comply with such provisions before commencing the performance of the Work of this Agreement.
		Grantee does not employ anyone in the manner subject to the worker's compensation laws of California.

INSURANCE REQUIREMENTS

Required	Attach Proof	Description
		Grantee shall maintain Commercial General Liability insurance, including automobile coverage with limits of One Million Dollars (\$1,000,000) per occurrence for bodily injury and property damage. The coverage shall be primary as to OUSD and shall name OUSD as an additional insured. Evidence of insurance must be attached. Endorsement of OUSD as an additional insured shall not affect OUSD's rights to any claim, demand, suit or judgment made, brought or recovered against Grantee. The policy shall protect Grantee and OUSD 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.
		If Grantee is offering OUSD professional advice under this Agreement, Grantee shall maintain Errors and Omissions insurance or Professional Liability insurance with coverage limits of One Million Dollars (\$1,000,000) per claim.
		Grantee is not required to maintain any insurance under this agreement. Waiver of insurance does not release Grantee from responsibility for any claim or demand.

ATTACHMENT B: CONTINGENCIES

By signing this Agreement, Grantee certifies compliance with the following requirements and will provide OUSD with evidence of staff qualifications that include:

- 1. **TUBERCULOSIS SCREENING:** Grantee is required to screen employees who will be working at OUSD sites for more than six hours. Grantee affirms that each employee has current proof of negative TB testing on file and TB results are monitored.
- 2. **FINGERPRINTING OF EMPLOYEES AND AGENTS:** The fingerprinting and criminal background investigation requirements of Education Code section 45125.1 apply to Grantee's work under this Agreement and Grantee certifies its compliance with these provisions as follows: "Grantee certifies that Grantee has complied with the fingerprinting and criminal background investigation requirements of Education Code section 45125.1 with respect to all Grantee's employees, subcontractors, agents, and subcontractor's employees or agents ("Employees") regardless of whether those Employees are paid or unpaid, concurrently employed by OUSD, or acting as independent contractors of Grantee, who may have contact with OUSD pupils in the course of providing services pursuant to the Agreement, and the California Department of Justice has determined that none of those Employees has been convicted of a felony, as that term is defined in Education Code section 45122.1. Grantee further certifies that it has received and reviewed fingerprint results for each of its Employees and Grantee has requested and reviews subsequent arrest records for all Employees who may come into contact with OUSD pupils in providing services to the District under this Agreement.



In the event that OUSD, in its sole discretion, at any time during the term of this contract, desires the removal of any Grantee related persons, employee, representative or agent from a school site and, or property, Grantee shall immediately, upon receiving notice from OUSD of such desire, cause the removal of such person or persons.

ADDITIONAL CONTINGENCIES

None

ACCEPTED AND AGREED TO:


Organization: Oakland Unified School District The Regents of the University of California


Signature:  


Date: 8/21/23 8/21/23

Name: Tara Gard Joy Ayson-Yu

Title: Chief of Talent Assistant Director

 1/25/2024
Benjamin "Sam" Davis, President, BOE

Approved as to form by:  1/25/2024
Kyla Johnson-Trammell, Superintendent & Secretary, BOE

 08/21/2023
Roxanne De La Rocha Date
OUSD Staff Counsel

Attachment C: Grantee Scope of Work

Agreement Number CA-3825-2023

Grantee Name **The Regents of University of California**

Agreement Supervisor Sarah Glasband

Summary of Work UC Berkeley professor to conduct a qualitative research study on the Oakland Teacher Residency as part of our goals with the Crankstart Foundation funding

Date Created March 7, 2023

Deliverable Description	Due Date
- Develop qualitative research proposal	June 30, 2023
- Conduct qualitative research with OTR residents, graduates, and those who have left	



DATA SHARING AGREEMENT

This Data Sharing Agreement (“AGREEMENT”) is a legally binding contract entered into between the Oakland Unified School District (“OUSD”) and the below named entity (“RECIPIENT,” together with OUSD, “PARTIES”) named in Exhibit A, attached hereto and incorporated herein by reference. Unless otherwise stated herein, “RECIPIENT INDIVIDUAL” includes (to the extent they exist): RECIPIENT Board members, officers, trustees, and directors; RECIPIENT employees, agents, students, and volunteers, working under RECIPIENT’s direction, or control.

To the extent that OUSD seeks to impose any other legal obligations on RECIPIENT (e.g., RECIPIENT’s provision of services to OUSD), or RECIPIENT seeks to impose any other legal obligations on OUSD (e.g., OUSD payment of compensation to RECIPIENT), such obligations shall be set forth in a separate agreement. If one or more such agreements exist at the time of execution of this AGREEMENT, the Parties shall identify it in Exhibit A.

The PARTIES hereby agree as follows:

1. Purpose. This AGREEMENT pertains only to OUSD’s transmission of data to RECIPIENT and RECIPIENT INDIVIDUALS, and RECIPIENT and RECIPIENT INDIVIDUALS’s protection of such data (“PURPOSE”).
 - a. The elements/categories of data to be transmitted shall be listed in Exhibit A. These data, and any portion thereof (including without limitation, meta data, user content or other non-public information and/or personally identifiable information contained in that data), shall be referred to hereinafter as “OUSD Data.”
 - b. The basis under state and federal law (e.g., the Family Educational Rights and Privacy Act) upon which OUSD may transmit the OUSD Data to RECIPIENT shall be delineated in Exhibit A. The PARTIES acknowledge that OUSD limited to student directory information, as defined in 34 C.F.R. § 99.31(a)(11) and OUSD Administrative Regulation 5125.1), or de-identified student information, as defined in 34 C.F.R. § 99.31(b), does not require completion of a data sharing agreement.
 - c. No OUSD Data whatsoever may be used for any purpose other than as agreed herein and/or otherwise legally authorized. RECIPIENT shall not make any redisclosure of any OUSD Data without the express written consent of OUSD.
2. Term. The term (“TERM”) of this AGREEMENT is established in Exhibit A. The terms of this AGREEMENT shall apply to any OUSD DATA that has been provided to RECIPIENT or where

RECIPIENT has access to such OUSD DATA prior to the Start Date in relation to the PURPOSE. If the TERM is longer than one calendar year and the OUSD Data transmitted is part of a research project approved by OUSD's Department of Research, Assessment, and Data ("RAD"), RECIPIENT acknowledges that (i) it will need to obtain approval from RAD prior to extending the research project into the second and subsequent calendar years and (ii) no OUSD Data will be shared during the second and subsequent calendar years unless and until this approval is obtained.

3. Privacy Compliance. RECIPIENT shall comply with all applicable state and federal laws and regulations pertaining to data privacy and security, including the Family Educational Rights and Privacy Act, the Children's Online Privacy Protection Act, the Protection of Pupil Rights Amendment, the Student Online Personal Information Protection Act, AB 1584, and all other California privacy statutes.
4. Advertising Prohibition. RECIPIENT is prohibited from using or selling OUSD Data to: (a) market or advertise to students or families/guardians; (b) inform, influence, or enable marketing, advertising, or other commercial efforts by RECIPIENT; (c) develop a profile of a student, family member/guardian, or group for any commercial purpose unless authorized by a separate agreement with OUSD; or (d) use the OUSD Data for the development of commercial products or services.
5. Property of OUSD. All OUSD Data transmitted to the RECIPIENT pursuant to this AGREEMENT is and will continue to be the property of and under the control of OUSD. RECIPIENT acknowledges and agrees that all copies of such OUSD Data transmitted to the RECIPIENT, including any modifications or additions or any portion thereof from OUSD, are subject to the provisions of this AGREEMENT in the same manner as the original OUSD Data. The PARTIES agree that as between them, all rights, including all intellectual property rights in and to OUSD Data shall remain the exclusive property of OUSD.
6. Correction of Records. OUSD shall establish reasonable procedures by which a parent/guardian of an OUSD pupil or an eligible OUSD pupil may review OUSD Data in the pupil's records, correct erroneous information regarding the pupil, and transfer content generated by the pupil to a personal account. RECIPIENT shall respond in a timely manner to OUSD's request for OUSD Data in a pupil's records held by RECIPIENT to view or correct, as necessary.
7. Third Party Request. Should a Third Party, including law enforcement and government entities, contact RECIPIENT with a request for OUSD data or other data provided by OUSD and held by RECIPIENT pursuant to this AGREEMENT, RECIPIENT shall redirect the Third Party to request the data directly from OUSD. To the maximum extent permitted by law, RECIPIENT shall notify OUSD in advance of a compelled disclosure to a Third Party.

8. Employee Obligation. RECIPIENT shall require all RECIPIENT INDIVIDUALS who have access to OUSD Data to comply with all applicable provisions of this AGREEMENT with respect to the data shared under the AGREEMENT.
9. Subprocessors. The Parties agree that there will be no Subprocessors accessing the OUSD Data.
10. No Re-Identification or Re-Disclosure. RECIPIENT agrees not to attempt to re-identify deidentified OUSD Data and not to transfer de-identified OUSD Data to any party unless (a) that party agrees in writing not to attempt re-identification, and (b) prior written notice has been given to OUSD who has provided prior written consent for such transfer. RECIPIENT shall not copy, reproduce, or transmit any data obtained, except as necessary to fulfill the AGREEMENT.
11. Disposition of Data. RECIPIENT shall dispose or delete all OUSD Data upon written request by OUSD or when it is no longer needed for the purpose for which it was obtained. Disposition shall include: (1) the shredding of any hard copies of any OUSD Data; (2) erasing; or (3) otherwise modifying the personal information in those records to make it unreadable or indecipherable by human or digital means. Nothing in this AGREEMENT authorizes RECIPIENT to maintain OUSD Data beyond the time period reasonably needed to complete the disposition. RECIPIENT shall provide written notification to OUSD when the OUSD Data has been disposed.
12. Data Security. RECIPIENT agrees to abide by and maintain adequate data security measures, consistent with industry standards and technology best practices, to protect OUSD Data from unauthorized disclosure or acquisition by an unauthorized person.
13. Data Breach. In the event that OUSD Data is accessed or obtained by an unauthorized individual, RECIPIENT shall provide a notification to OUSD within a reasonable amount of time of the incident, and not exceeding forty-eight (48) hours. If, after RECIPIENT provides the initial notice under this Paragraph, RECIPIENT becomes aware of additional information related to such an event, RECIPIENT shall provide additional notifications to OUSD within a reasonable amount of time of the incident, and not exceeding forty-eight (48) hours. In provide notice to OUSD under this Paragraph, RECIPIENT shall follow the following process: a. The security breach notification shall be written in plain language, shall be titled "Notice of Data Breach," and shall present the information described herein under the following headings: "What Happened," "What Information Was Involved," "What We Are Doing," "What You Can Do," and "For More Information." Additional information may be provided as a supplement to the notice.
b. The security breach notification described above shall include, at a minimum, the following information:

- i. A list of the types of personal information that were or are reasonably believed to have been the subject of a breach.
 - ii. The date of the breach, the estimated date of the breach, the date range within which the breach occurred, or an estimate of how soon RECIPIENT will know this information.
 - iii. Whether the notification was delayed as a result of a law enforcement investigation, if that information is possible to determine at the time the notice is provided.
 - iv. A general description of the breach incident, if that information is possible to determine at the time the notice is provided.
 - c. RECIPIENT agrees to adhere to all requirements in applicable state and federal law with respect to a data breach related to the OUSD Data, including, when appropriate or required, the required responsibilities and procedures for notification and mitigation of any such data breach.
 - d. RECIPIENT further acknowledges and agrees to have a written incident response plan that reflects best practices and is consistent with industry standards and federal and state law for responding to a data breach, breach of security, privacy incident or unauthorized acquisition or use of OUSD Data or any portion thereof, including personally identifiable information and agrees to provide OUSD, upon request, with a copy of said written incident response plan.
 - e. RECIPIENT is prohibited from directly contacting the parents/guardians of affected OUSD pupils or eligible OUSD pupils unless expressly requested by OUSD. If OUSD requests RECIPIENT's assistance providing notice of an unauthorized access for which RECIPIENT is responsible, and such assistance is not unduly burdensome to RECIPIENT, RECIPIENT shall notify affected such parents/guardians or OUSD pupils of the unauthorized access, which shall include the information listed above. If requested by OUSD, RECIPIENT shall reimburse OUSD for reasonable costs incurred to provide such notifications.
14. Equipment and Materials. RECIPIENT shall provide all equipment, materials, and supplies necessary for the performance of this AGREEMENT.
15. Certificates/Permits/Licenses/Registration. RECIPIENT shall ensure that all RECIPIENT INDIVIDUALS secure and maintain in force such certificates, permits, licenses, and registration as are required by law in order to perform its responsibilities under this AGREEMENT.
16. Qualifications, Training, and Removal.
 - a. RECIPIENT asserts that, RECIPIENT and all RECIPIENT INDIVIDUALS have the necessary and sufficient experience, qualifications, and ability to perform its responsibilities under this AGREEMENT in a professional manner, without the advice, control or supervision of OUSD. RECIPIENT will perform its responsibilities

under this AGREEMENT in accordance with generally and currently accepted principles and practices of its profession for services to California school districts and in accordance with applicable laws, codes, rules, regulations, and/or ordinances.

- b. RECIPIENT asserts that all RECIPIENT INDIVIDUALS accessing the data are specially trained, experienced, competent and fully licensed to perform their responsibilities under this AGREEMENT in conformity with the laws and regulations of the State of California, the United States of America, and all local laws, ordinances and/or regulations, as they may apply.
 - c. RECIPIENT agrees to promptly remove or cause the removal of any RECIPIENT INDIVIDUAL from using, reviewing, or otherwise accessing OUSD Data upon receiving notice from OUSD. RECIPIENT shall promptly suspend access but shall have thirty (30) days to review such notice and correct or cure any use or access issue by a RECIPIENT INDIVIDUAL in order to permit continued access to OUSD Data shall it be needed to carry out the PURPOSE.
17. Suspension. If OUSD, at its sole discretion, develops health and safety concerns related to RECIPIENT's performance under this AGREEMENT, then the OUSD Superintendent or an OUSD Chief may, upon approval by OUSD legal counsel, issue a notice to RECIPIENT to suspend this AGREEMENT, in which case RECIPIENT shall cease using, reviewing, or otherwise accessing OUSD Data under this AGREEMENT until further notice from OUSD.
18. Termination.
 - a. For Convenience by Either PARTY. Either PARTY may at any time terminate this AGREEMENT upon thirty (30) days prior written notice to the other. In the event OUSD elects to terminate this AGREEMENT, it must do so upon approval by OUSD legal counsel, the OUSD Superintendent or an OUSD Chief may issue the termination notice without prior approval by the OUSD Governing Board, in which case this AGREEMENT would terminate upon ratification of the termination by the OUSD Governing Board or thirty (30) days after the notice was provided, whichever is later. In the case of an early termination for convenience, RECIPIENT shall cease using, reviewing, or otherwise accessing OUSD Data within (30) days of such notice being given.
 - b. For Cause. Either PARTY may terminate this AGREEMENT by giving written notice of its intention to terminate for cause to the other PARTY. Written notice shall contain the reasons for such intention to terminate, which shall include (i) material violation of this AGREEMENT or (ii) if either PARTY is adjudged bankrupt, makes a general assignment for the benefit of creditors, or a receiver is appointed on account of its insolvency. Upon approval by OUSD legal counsel, the OUSD Superintendent or an OUSD Chief may issue the termination notice without prior approval by the OUSD Governing Board, in which case this AGREEMENT would terminate upon ratification of the termination by the OUSD Governing Board or

three (3) days after the notice was provided, whichever is later, unless the condition or violation ceases or satisfactory arrangements for its correction are made. RECIPIENT shall immediately cease using, reviewing, or otherwise accessing OUSD Data upon receipt of such a termination notice.

- c. Due to Unforeseen Emergency or Acts of God. Notwithstanding any other language of this AGREEMENT, if there is an unforeseen emergency or an Act of God during the TERM that would prohibit or limit, at the sole discretion of OUSD, the ability of one or both PARTIES to perform their obligations under this AGREEMENT, OUSD may terminate this AGREEMENT upon seven (7) days prior written notice to RECIPIENT. The OUSD Governing Board may issue this type of termination notice or the OUSD Superintendent, upon approval by OUSD legal counsel, may issue this type of the termination notice without the need for approval or ratification by the OUSD Governing Board. RECIPIENT shall immediately cease using, reviewing, or otherwise accessing OUSD Data upon receipt of such a termination notice.
 - d. Upon termination, RECIPIENT shall provide OUSD with all materials produced, maintained, or collected by RECIPIENT pursuant to this AGREEMENT, whether or not such materials are complete or incomplete or are in final or draft form.
19. Legal Notices. Based on contact information set forth in Exhibit A, all legal notices provided for under this AGREEMENT shall be sent: (i) via email, (ii) personally delivered during normal business hours, or (iii) sent by U.S. Mail (certified, return receipt requested) with postage prepaid to the other PARTY. Notice shall be effective when received if personally served or emailed or, if mailed, three days after mailing. Either PARTY must give written notice of a change of mailing address or email.
20. Conflict of Interest.
- a. RECIPIENT and all RECIPIENT INDIVIDUALS shall abide by and be subject to all applicable, regulations, statutes, or other laws regarding conflict of interest. RECIPIENT shall not hire, contract with, or employ any officer or employee of OUSD related to this AGREEMENT during the TERM without the prior approval of OUSD Legal Counsel.
 - b. RECIPIENT affirms, to the best of his/her/its knowledge at the time of signing this AGREEMENT, that there exists no actual or potential conflict of interest between RECIPIENT's family, business, or financial interest and the PURPOSE under this AGREEMENT. In the event of any change in a private interest, any question regarding a possible conflict of interest which may arise as a result of such change will be promptly brought to OUSD's attention in writing.
 - c. Through its execution of this AGREEMENT, RECIPIENT acknowledges that it is familiar with the provisions of section 1090 *et seq.* and section 87100 *et seq.* of the Government Code, and certifies that it does not know of any facts which constitute a violation of said provisions. In the event RECIPIENT receives any

information subsequent to execution of this AGREEMENT which might constitute a violation of said provisions, RECIPIENT agrees it shall promptly notify OUSD in writing.

21. Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion. RECIPIENT certifies, to the best of its knowledge and belief, that it and its principals who are involved in performing this AGREEMENT are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency according to Federal Acquisition Regulation Subpart 9.4, and by signing this AGREEMENT, certifies that neither it nor its principals involved in performing this AGREEMENT appear on the Excluded Parties List (<https://www.sam.gov/>).
22. Limitation of OUSD Liability. OUSD shall have no financial obligations under this AGREEMENT other than as provided in this AGREEMENT. Notwithstanding any other provision of this AGREEMENT, in no event shall OUSD be liable, regardless of whether any claim is based on contract or tort, for any special, consequential, indirect or incidental damages, including, but not limited to, lost profits or revenue, arising out of, or in connection with, this AGREEMENT.
23. Indemnification.
 - a. To the furthest extent permitted by California law, RECIPIENT shall indemnify, defend and hold harmless OUSD, its officers, directors, employees and agents (“OUSD Indemnified Parties”) against and from any and all claims, actions, damages, expenses or liabilities, including attorneys’ fees, arising out of the performance of this Agreement but only in proportion to and to the extent to which such claims, actions, damages, expenses or liabilities, including attorneys’ fees are caused by or result from the negligent or intentional acts or omissions of RECIPIENT its officers, directors, employees and agents.
 - b. To the furthest extent permitted by California law, OUSD shall indemnify, defend, and hold harmless RECIPIENT and RECIPIENT INDIVIDUALS from any and all claims or losses accruing or resulting from injury, damage, or death of any person or entity arising out of OUSD’s performance of this AGREEMENT. OUSD shall, to the fullest extent permitted by California law, defend RECIPIENT and RECIPIENT INDIVIDUALS at OUSD’s own expense, including attorneys’ fees and costs.
24. Audit. RECIPIENT shall establish and maintain books, records, and systems of account, in accordance with generally accepted accounting principles, reflecting all business operations of RECIPIENT transacted under this AGREEMENT. RECIPIENT shall retain these books, records, and systems of account during the TERM and for three (3) years after the earlier of (i) the TERM or (ii) the date of termination. RECIPIENT shall permit OUSD, its

agent, other representatives, or an independent auditor to audit, examine, and make excerpts, copies, and transcripts from all such books, records, and systems. Audit(s) may be performed at any time, provided that OUSD shall give reasonable prior notice to RECIPIENT and shall conduct audit(s) during RECIPIENT'S normal business hours, unless RECIPIENT otherwise consents.

25. **Non-Discrimination.** It is the policy of OUSD that, in connection with all work performed under legally binding agreements, there be no discrimination because of race, color, ancestry, national origin, religious creed, physical disability, medical condition, marital status, sexual orientation, gender, or age; therefore, RECIPIENT agrees to comply with applicable Federal and California laws including, but not limited to, the California Fair Employment and Housing Act beginning with Government Code section 12900 and Labor Code section 1735 and OUSD policy. In addition, RECIPIENT agrees to require like compliance by all its subcontractor (s). RECIPIENT shall not engage in unlawful discrimination in employment on the basis of actual or perceived: race, color, national origin, ancestry, religion, age, marital status, pregnancy, physical or mental disability, medical condition, veteran status, gender, sex, sexual orientation, or other legally protected class.
26. **Drug-Free/Smoke Free Policy.** No drugs, alcohol, and/or smoking are allowed at any time in any buildings and/or grounds on OUSD property. No students, staff, visitors, RECIPIENTS, or subcontractors are to use controlled substances, alcohol or tobacco on these sites.
27. **Waiver.** No delay or omission by either PARTY in exercising any right under this AGREEMENT shall operate as a waiver of that or any other right or prevent a subsequent act from constituting a violation of this AGREEMENT.
28. **Assignment.** The obligations of RECIPIENT under this AGREEMENT shall not be assigned by RECIPIENT without the express prior written consent of OUSD and any assignment without the express prior written consent of OUSD shall be null and void.
29. **No Rights in Third Parties.** This AGREEMENT does not create any rights in, or inure to the benefit of, any third party except as expressly provided herein.
30. **Litigation.** This AGREEMENT shall be deemed to be performed in Oakland, California and is governed by the laws of the State of California, but without resort to California's principles and laws regarding conflict of laws. The Alameda County Superior Court shall have jurisdiction over any litigation initiated to enforce or interpret this AGREEMENT.
31. **Incorporation of Recitals and Exhibits.** Any recitals and exhibits attached to this AGREEMENT are incorporated herein by reference. RECIPIENT agrees that to the extent

any recital or document incorporated herein conflicts with any term or provision of this AGREEMENT, the terms and provisions of this AGREEMENT shall govern.

32. **Integration/Entire Agreement of Parties.** This AGREEMENT constitutes the entire agreement between the PARTIES and supersedes all prior discussions, negotiations, and agreements, whether oral or written. This AGREEMENT may be amended or modified only by a written instrument executed by both PARTIES.
33. **Severability.** If any term, condition, or provision of this AGREEMENT is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remaining provisions will nevertheless continue in full force and effect, and shall not be affected, impaired or invalidated in any way.
34. **Provisions Required By Law Deemed Inserted.** Each and every provision of law and clause required by law to be inserted in this AGREEMENT shall be deemed to be inserted herein and this AGREEMENT shall be read and enforced as though it were included therein.
35. **Captions and Interpretations.** Paragraph headings in this AGREEMENT are used solely for convenience, and shall be wholly disregarded in the construction of this AGREEMENT. No provision of this AGREEMENT shall be interpreted for or against a PARTY because that PARTY or its legal representative drafted such provision, and this AGREEMENT shall be construed as if jointly prepared by the PARTIES.
36. **Calculation of Time.** For the purposes of this AGREEMENT, “days” refers to calendar days unless otherwise specified and “hours” refers to hours regardless of whether it is a work day, weekend, or holiday.
37. **Counterparts and Electronic Signature.** This AGREEMENT, and all amendments, addenda, and supplements to this AGREEMENT, may be executed in one or more counterparts, all of which shall constitute one and the same amendment. Any counterpart may be executed and delivered by facsimile or other electronic signature (including portable document format) by either PARTY and, notwithstanding any statute or regulations to the contrary (including, but not limited to, Government Code section 16.5 and the regulations promulgated therefrom), the counterpart shall legally bind the signing PARTY and the receiving PARTY may rely on the receipt of such document so executed and delivered electronically or by facsimile as if the original had been received. Through its execution of this AGREEMENT, each PARTY waives the requirements and constraints on electronic signatures found in statute and regulations including, but not limited to, Government Code section 16.5 and the regulations promulgated therefrom.

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


39. Signature Authority.
 - a. Each PARTY has the full power and authority to enter into and perform this AGREEMENT, and the person(s) signing this AGREEMENT on behalf of each PARTY has been given the proper authority and empowered to enter into this AGREEMENT.
 - b. Notwithstanding subparagraph (a), RECIPIENT acknowledges, agrees, and understands (i) that only the Superintendent, and the Chiefs, Deputy Chiefs, and Executive Directors who have been delegated such authority, may validly sign contracts for OUSD and only under limited circumstances, and (ii) that all such contract still require ratification by the OUSD Governing Board. RECIPIENT agrees not to accept the signature of another other individual as having the proper authority to enter into this AGREEMENT on behalf of OUSD.

40. Contract Contingent on Governing Board Approval. The PARTIES acknowledge, agree, and understand that OUSD shall not be bound by the terms of this AGREEMENT unless and until it has been (i) formally approved by OUSD's Governing Board or (ii) validly and properly executed by the OUSD Superintendent, a Chief, or a Deputy Chief authorized by the Education Code or Board Policy, and no compensation shall be owed or made to RECIPIENT absent such formal approval or valid and proper execution.


REST OF PAGE INTENTIONALLY LEFT BLANK

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

RECIPIENT

Name: Erica Ballinger Signature: 
Position: Industry Contracts Officer Date: 12/20/23


OUSD


Name: Tara Gard Signature: 
Position: Chief of Talent Date: 12/20/23


- Board President (for approvals)
- Chief/Deputy Chief/Executive Director (for ratifications)

Name: Kyla Johnson-Trammell Signature: _____
Position: Superintendent Date: _____

Approved as to form by:

 12/20/2023
Roxanne De La Rocha Date
OUSD Staff Counsel

 1/25/2024
Benjamin "Sam" Davis, President, BOE

 1/25/2024
Kyla Johnson-Trammell, Superintendent & Secretary, BOE

**DATA SHARING AGREEMENT
EXHIBIT A**

(Paragraph numbers in Exhibit A corresponds to the applicable Paragraph number in this AGREEMENT)

RECIPIENT: Regents of the University of California, on behalf of its Berkeley campus

OTHER AGREEMENTS BETWEEN THE PARTIES:

- Funded Agreement dated February 22, 2023

1. Purpose. The following elements, if checked, shall constitute the OUSD Data for purposes of this AGREEMENT:

Category	Elements	
<i>Application Technology Metadata</i>	IP addresses of users, use of cookies, etc.	<input type="checkbox"/>
	<i>Application Use Statistics</i>	Metadata on user interaction with application <input type="checkbox"/>
<i>Assessment</i>	SBAC results	<input type="checkbox"/>
	ELPAC results	<input type="checkbox"/>
	IAB Results	<input type="checkbox"/>
	Other assessment results (list below):	
	• _____	
	• _____	<input type="checkbox"/>
<i>Attendance</i>	Attendance rate	<input type="checkbox"/>
	Number of absences	<input type="checkbox"/>
<i>Communications</i>	Online communications that are captured (emails, blog entries, etc.)	<input type="checkbox"/>
<i>Conduct</i>	Number of suspensions	<input type="checkbox"/>
	Days suspended	<input type="checkbox"/>
<i>Demographics</i>	Gender	<input type="checkbox"/>
	Race/ethnicity	<input type="checkbox"/>
	Date of birth	<input type="checkbox"/>
	Special ed. flag	<input type="checkbox"/>
	Home language	<input type="checkbox"/>

	Language proficiency	<input type="checkbox"/>
	Birth country	<input type="checkbox"/>
<i>Enrollment</i>	School	<input type="checkbox"/>
	Grade level	<input type="checkbox"/>
<i>Parent/Guardian Contact Information</i>	Name	<input type="checkbox"/>
	Address	<input type="checkbox"/>
	Email	<input type="checkbox"/>
	Phone	<input type="checkbox"/>
<i>Schedule</i>	Student scheduled courses	<input type="checkbox"/>
	Teacher names	<input type="checkbox"/>
<i>Special Indicator</i>	English language learner	<input type="checkbox"/>
	Socio-economic disadvantaged (SED) status (Note: OUSD cannot share Free/Reduced Lunch status as a standalone data element)	<input type="checkbox"/>
	Newcomer	<input type="checkbox"/>
	Title 1 flag (schoolwide)	<input type="checkbox"/>
<i>Student Contact Information</i>	Name	<input type="checkbox"/>
	Address	<input type="checkbox"/>
	Email	<input type="checkbox"/>
	Phone	<input type="checkbox"/>
<i>Local Identifiers</i>	Local student ID number	<input type="checkbox"/>
	Teacher ID number	<input type="checkbox"/>
	State student ID number	<input type="checkbox"/>
	Provider/app assigned student ID number	<input type="checkbox"/>
	Student app username	<input type="checkbox"/>
	Student app password(s)	<input type="checkbox"/>
	Dummy identifiers	<input type="checkbox"/>
<i>Student Work</i>	Student generated content; writing, pictures, etc.	<input type="checkbox"/>
<i>Transcript</i>	Student course grades	<input type="checkbox"/>
	Current year GPA	<input type="checkbox"/>
	Cumulative GPA	<input type="checkbox"/>
<i>Transportation</i>	Student bus assignment	<input type="checkbox"/>
	Student pick up and/or drop off location	<input type="checkbox"/>
	Student bus card ID number	<input type="checkbox"/>

List additional data elements here



Other

- Names, schools, and email addresses of current teacher residents in Oakland's Teacher Residency Program.

The basis under state and federal law (e.g., Family Educational Rights and Privacy Act) upon which OUSD may transmit the OUSD Data to RECIPIENT is as follows (check all that apply):

OUSD Data includes personally identifiable information from a student record other than directory information. Note: RECIPIENT is responsible for obtaining parental consent, as defined in 34 C.F.R. § 99.30, and presenting evidence thereof to OUSD.

OUSD Data includes personally identifiable information from a student record, AND at least one of the following:

RECIPIENT is a contractor, consultant, volunteer, or other party to whom OUSD has outsourced institutional services or functions, and RECIPIENT performs an institutional service or function for which the agency or institution would otherwise use employees; is under the direct control of the agency or institution with respect to the use and maintenance of education records; and is subject to the requirements of § 99.31(a) governing the use and redisclosure of personally identifiable information from education records. (See 34 C.F.R. § 99.31(a)(1)(i)(B).)

RECIPIENT is another school, school system, or institution of postsecondary education where an OUSD student seeks or intends to enroll, or where the student is already enrolled, and the disclosure is for purposes related to the student's enrollment or transfer. (See 34 C.F.R. § 99.31(a)(2).)

RECIPIENT is an authorized representatives of the Comptroller General of the United States; the Attorney General of the United States; the Secretary of Education; or state and local educational authorities. (See 34 C.F.R. § 99.31(a)(3).)

RECIPIENT is an authorized representatives of the Comptroller General of the

United States; the Attorney General of the United States; the Secretary of Education; or state and local educational authorities. (See 34 C.F.R. § 99.31(a)(3).)

- RECIPIENT requires the data in order to determine an OUSD student's
- eligibility for financial aid; amount of aid; conditions for aid; or to enforce the terms and conditions of the aid. (See 34 C.F.R. § 99.31(a)(4).)
-

- RECIPIENT is an organization conducting studies for, or on behalf of, educational agencies or institutions to develop, validate, or administer predictive tests; administer student aid programs; or improve instruction.
- (See 34 C.F.R. § 99.31(a)(6).) Any RECIPIENT receiving OUSD Data pursuant to this subsection must first submit a research application pursuant to OUSD's Department of Research, Assessment, and Data protocols, and such application shall be incorporated into this AGREEMENT by reference.
-

- The disclosure is in connection with a health or safety emergency. (See 34 C.F.R. §§ 99.31(a)(10) & 99.36.)
-

2. Term.

- a. This AGREEMENT shall start on the below Start Date. If no date is entered, then this AGREEMENT shall start on the latest of the dates on which each of the PARTIES signed this AGREEMENT.

Start Date: January 30, 2023

- b. Unless terminated earlier, this AGREEMENT shall end on the below End Date. If no date is entered, then this AGREEMENT shall end on the first June 30 after start date listed in subparagraph (a). If the dates set forth in this subparagraph and subparagraph (a) would cause this AGREEMENT to exceed the limits set forth in state law (e.g., Education Code section 17596), this AGREEMENT shall instead automatically end upon reaching said limit.

End Date: June 30, 2023

19. Legal Notices.

OUSD

Site/Dept: Legal Department

Address: 1011 Union Street, Site 946

City, ST Zip: Oakland, CA 94607

Phone: 510-879-5060

Email: ousdlegal@ousd.org

RECIPIENT

UC Berkeley Industry Alliances Office

2150 Shattuck Ave., Suite 408

Berkeley, CA 94704
iaoawards@berkeley.edu