

SERVICE AGREEMENT

Between

**THE REGENTS OF THE UNIVERSITY OF CALIFORNIA
UNIVERSITY OF CALIFORNIA, SANTA BARBARA**

And

SANTA BARBARA UNIFIED SCHOOL DISTRICT

This Service Agreement (hereinafter "Agreement") is made as of the 7th day of September, 2018 by and between THE REGENTS OF THE UNIVERSITY OF CALIFORNIA, a California constitutional corporation, on behalf of the Gevirtz Graduate School of Education at the Santa Barbara campus (hereinafter the "University") and SANTA BARBARA UNIFIED SCHOOL DISTRICT, having a principal place of business at 720 Santa Barbara Street, Santa Barbara, CA 93101 (hereinafter the "Sponsor").

WHEREAS, the University has established the South Coast Writing Project (SCWriP) with a mission of improving student writing by improving the teaching of writing;

WHEREAS, the project contemplated by this Agreement is of mutual interest and benefit to both the University and the Sponsor, and is consistent with the educational objectives of the University;

NOW THEREFORE, in consideration of the premises and the mutual covenants contained herein, the parties hereby agree as follows:

1. Statement of Work

1.1 The University, through its Principal Investigator(s) (as defined below), shall use reasonable efforts to perform the service activities set forth in the document titled "Statement of Work" which is attached to this Agreement as Exhibit A and is incorporated herein by this reference. The Sponsor acknowledges and agrees that the University cannot guarantee the results of its activities and that minor deviations from the "Statement of Work" might occur.

2. Deliverables

2.1 The deliverables due from the University under this Agreement (hereinafter the "Deliverables") are described in, and will be submitted to the Sponsor in accordance with, the document titled "Deliverables" which is attached to this Agreement as Exhibit B and is incorporated herein by this reference.

3. Performance Period and Term

3.1 The period of performance and the term of this Agreement will commence on October 1, 2018 and will conclude on June 30, 2019.

4. Cost to Sponsor

4.1 The cost to the Sponsor for the University's performance under this Agreement shall be Ninety Three Thousand, Nine Hundred and Thirty-Four and 00/100 Dollars (\$93,934).

5. Payment

5.1 The Sponsor shall make payments to the University in accordance with the provisions set forth in the document titled "Payment Schedule" which is attached to this Agreement as Exhibit C and is incorporated herein by this reference. The Sponsor must make checks payable to "The Regents of the University of California" and must send payments to:

Kelly Hayton
Manager Finance & Administration
Gevirtz Graduate School of Education
University of California
Santa Barbara, CA 93106-9490

6. Principal Investigator

6.1 The University's performance under this Agreement will be under the direction of Dr. Tim Dewar, who will serve as Principal Investigator(s) (hereinafter the "Principal Investigator"). In the event that the Principal Investigator becomes unable or is unwilling to continue work under this Agreement, and an alternate Principal Investigator is not agreeable to the Sponsor, the Sponsor will have the option to terminate this Agreement in accordance with Article 16. The Sponsor acknowledges and agrees that the Principal Investigator is the service contact for the University but is not authorized to amend, modify, or terminate this Agreement. Requests to amend, modify, or terminate this Agreement must be made in accordance with Article 15.

7. Rights in Data and Data Security

7.1 Subject to this Article 7, and in accordance with Article 10 and Article 11 of this Agreement, the Sponsor will have the right to use the Deliverables. The Sponsor hereby agrees that under no circumstances will the Sponsor state or imply that the University has tested, endorsed, or approved any product, service, or company.

7.2 Except as set forth in Article 11 of this Agreement, the University will have the right to publish and to use any information or data specified to be delivered under this Agreement, including the Deliverables, and any information or data gathered by or received by the University in connection with this Agreement. The Sponsor hereby grants to the University, to the extent that the Sponsor has the legal right to do so, a non-exclusive, royalty-free, irrevocable, worldwide license to use, reproduce, display publicly, and otherwise distribute any and all information and data that the Sponsor provides to the University in connection with this Agreement.

7.3 The Sponsor and the University acknowledge and agree that the University may not and will not disclose to the Sponsor any personally identifiable information in connection with this Agreement and that if such information is to be included in the Deliverables it must first be rendered anonymous and/or must be presented in an aggregate form.

8. Supplies and Equipment

8.1 In the event that the University purchases supplies or equipment in connection with this Agreement, title to such supplies and equipment will vest in the University.

9. Patents and Inventions

9.1 Inventorship and ownership of developments or discoveries first conceived and actually reduced to practice in the performance of this Agreement will be determined in accordance with University of California policies and applicable United States patent laws.

10. Copyright and Grant of License

10.1 Copyright in and ownership of original works of authorship first created and fixed in a tangible medium of expression by the University, or by the University's officers, employees, or agents, in the performance of this Agreement, including the Deliverables, will vest in the University.

10.2 The University hereby grants to the Sponsor, subject to the terms and conditions of this Agreement and to the extent that the University has the legal right to do so, a non-exclusive, royalty-free, irrevocable, worldwide license to use, reproduce, display publicly, and otherwise distribute the Deliverables in connection with the Sponsor's non-profit educational activities.

11. Confidentiality

11.1 During the term of this Agreement, the Sponsor might provide the University, and the University might provide the Sponsor, with certain proprietary business or technical information or materials (hereinafter "Confidential Information"). Except as required by law, and provided that all such written information or materials are clearly marked "Confidential" and provided that all oral disclosures of such information or materials are reduced to a writing clearly marked "Confidential" that is provided to the respective party within thirty (30) days of such oral disclosure, the University and the Sponsor will hold such information and materials in confidence and each hereby agrees to use reasonable efforts to prevent its disclosure to third parties. The Sponsor acknowledges and agrees that the Sponsor will provide Confidential Information only to the Principal Investigator. The obligations set forth in this Article 11 shall continue in effect for three (3) years after the expiration or the termination of this Agreement.

11.2 Information and materials disclosed by the Sponsor or by the University will not be considered Confidential Information when such information or materials: (1) are now public knowledge or subsequently become such through no breach of this Agreement; (2) are rightfully in the University's or the Sponsor's possession prior to the Sponsor's or the University's disclosure as shown by written records; (3) are rightfully disclosed to the University or to the Sponsor by a third party; or (4) are independently developed by or for the University or the Sponsor without reliance upon Confidential Information received by the Sponsor or the University. The University and the Sponsor hereby agree that the Deliverables will not be considered Confidential Information.

11.3 Because the University is a public, non-profit, educational institution and does not have identified resources to sustain liabilities related to the disclosure of information, the Sponsor agrees that no financial liability will attach to the University in the event that the University breaches its obligations under this Article 11.

12. Performance

12.1 The Sponsor acknowledges and agrees that the University is under no obligation to perform, and the Sponsor is under no obligation to fund, the services contemplated under this Agreement unless and until all required University approvals are secured.

13. Publication

13.1 It is understood that, as set forth in Article 7 of this Agreement, the University will be allowed to use the information and data collected in connection with this Agreement for appropriate research purposes such as presentations at professional conferences and for scientific publications provided that no individual identifying information is used.

14. Governing Law and Venue

14.1 This Agreement will be governed by, and interpreted in accordance with, the laws of the State of California as applied to contracts made and performed in California and without regard to the conflict of laws provisions thereof.

14.2 The parties acknowledge and agree that the exclusive venue for any cause of action of any nature arising out this Agreement will be a state court having jurisdiction over Santa Barbara, California.

15. Notice

15.1 Any notice required by or made in connection with this Agreement will be deemed to have been properly received when delivered in person or when mailed by registered or certified first class mail to the addresses given below:

To the University: Kelly Hayton
Manager, Finance & Administration
Gevirtz Graduate School of Education
University of California
Santa Barbara, CA 93106-9490

With a copy to: Contracts and Property Office
University of California
Santa Barbara, CA 93016-2095

To the Sponsor: Shawn Carey
Assistant Superintendent of Secondary Education
Santa Barbara Unified School District
720 Santa Barbara Street

Santa Barbara, CA 93101

With a copy to: Dr. Chelsea Guillermo-Wann
Director, Research and Evaluation
Santa Barbara Unified School District
720 Santa Barbara Street
Santa Barbara, CA 93101

16. Termination

16.1 Either the University or the Sponsor may terminate this Agreement by giving at least sixty (60) days' written notice to the other. In the event of such termination, the Sponsor will pay the University for the University's actual direct and indirect costs, for the costs of non-cancellable commitments incurred prior to the date of termination, and for fair close-out related costs. If the total of such costs is less than the total of funds advanced to the University by the Sponsor, the University will return the balance to the Sponsor.

17. Publicity

17.1 Neither party will use the name, trade name, trademark, or other designation of the other party without the prior written permission of the other party. However, nothing in this Article 17 is intended to restrict either party from disclosing the existence of and nature of this Agreement (including the name of the other party) or from including any reference to the existence of and nature of this Agreement in the routine reporting of its activities.

18. Indemnification

18.1 The Sponsor shall defend, indemnify, and hold the University, its officers, employees, and agents harmless from and against any and all liability, loss, expense (including reasonable attorneys' fees), or claims for injury or damages arising out of the performance of this Agreement but only in proportion to and to the extent such liability, loss, expense, attorneys' fees, or claims for injury or damages are caused by or result from the negligent or intentional acts or omissions of the Sponsor, its officers, agents, or employees.

18.2 The University shall defend, indemnify, and hold the Sponsor, its officers, employees, and agents harmless from and against any and all liability, loss, expense (including reasonable attorneys' fees), or claims for injury or damages arising out of the performance of this Agreement but only in proportion to and to the extent such liability, loss, expense, attorneys' fees, or claims for injury or damages are caused by or result from the negligent or intentional acts or omissions of the University, its officers, agents, or employees.

18.3 This Article 18 will survive the termination or the expiration of this Agreement.

19. DISCLAIMER OF WARRANTIES AND LIMITATION OF LIABILITY

19.1 THE SPONSOR ACKNOWLEDGES AND AGREES THAT THE UNIVERSITY MAKES NO WARRANTIES, EITHER EXPRESS OR IMPLIED, REGARDING THE UNIVERSITY'S SERVICES OR THE DELIVERABLES INCLUDING, BUT NOT LIMITED

TO, WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, OR NON-INFRINGEMENT. THE SPONSOR ACKNOWLEDGES AND AGREES THAT THE SERVICES AND THE DELIVERABLES PROVIDED UNDER THIS AGREEMENT ARE PROVIDED ON AN "AS IS" BASIS.

19.2 THE SPONSOR ACKNOWLEDGES AND AGREES THAT, NOTWITHSTANDING ANYTHING TO THE CONTRARY IN THIS AGREEMENT, THE UNIVERSITY'S AGGREGATE LIABILITY WILL NOT EXCEED THE AMOUNT ACTUALLY RECEIVED BY THE UNIVERSITY FROM THE SPONSOR PURSUANT TO THIS AGREEMENT.

20. Excusable Delays

20.1 The University will be excused from performance hereunder if a delay is caused by inclement weather, fire, flood, strike, or other labor dispute, acts of God, acts of governmental officials or agencies, terrorism, or any other cause beyond the control of the University. The excusable delay will be allowed for the period of time affected by the delay. If a delay occurs, the parties will revise the performance period or other provisions hereunder as appropriate.

21. Assignment and Delegation

21.1 Neither party will assign its rights, or delegate its duties, under this Agreement without the prior express written consent of the other party, provided, however, that the Sponsor may assign this Agreement to a successor in ownership of all or substantially all its business assets in the field to which this Agreement relates if such successor will expressly assume in writing the obligation to perform in accordance with the terms and conditions of this Agreement. Any other purported assignment or delegation will be void.

22. Amendments

22.1 No amendments to, or modifications or waivers of, this Agreement shall be valid unless in writing and unless signed by an authorized signatory of each party to this Agreement.

23. Additional Provisions

23.1 Not a Partnership or Joint Venture. The parties acknowledge and agree that the University is performing its obligations under this Agreement as an independent contractor. The parties, by this Agreement, do not intend to create a partnership, principal/agent, master/servant, or joint venture relationship and nothing in this Agreement shall be construed as creating such a relationship between the parties.

23.2 Severability. If any term or provision of this Agreement shall be held to be invalid or illegal, such term or provision shall not affect the validity or enforceability of the remaining terms and provisions of this Agreement.

23.3 Recitals and Headings. The recitals herein constitute an integral part of the Agreement reached and are to be considered as such. However, the captions and headings contained in this Agreement have been inserted for reference and convenience only and in no way define, limit, or describe the text of this Agreement or the intent of any provision.

23.4 No Waiver. The waiver by either party of a breach or default of any provision of this Agreement shall not constitute a waiver of any succeeding breach, nor shall any delay or omission on the part of either party to exercise any right that it has under this Agreement operate as a waiver of such right, unless the terms of this Agreement set forth a specific time limit for the exercise thereof.

23.5 No Third Party Rights. Nothing in this Agreement is intended to make any person or entity who is not a signatory to this Agreement a third-party beneficiary of any right created by this Agreement or by operation of law.

24. Entire Agreement and Counterparts

24.1 This Agreement, and Exhibit A, Exhibit B, and Exhibit C, constitute the entire agreement and understanding between the parties and supersede all previous agreements and understandings, if any.

24.2 This Agreement may be executed in two (2) or more counterparts, each of which shall be deemed an original, but all of which shall constitute one and the same instrument. If this Agreement is executed in counterparts, no signatory hereto shall be bound by this Agreement until all parties named below have executed a counterpart of this Agreement.

IN WITNESS WHEREOF, the undersigned have executed this Agreement as of the dates written below.

**SANTA BARBARA UNIFIED SCHOOL
DISTRICT**

By: _____

Name: Cary Matsuoka
Title: Superintendent

Date: _____

**THE REGENTS OF THE UNIVERSITY
OF CALIFORNIA**

Calli Price

Digitally signed by Calli Price
DN: cn=Calli Price, o=UCSB
Procurement,
email=calli.price@ucsb.edu, c=US
Date: 2018.09.10 14:06:18 -0700

By: _____

Name: Calli Price
Title: Manager, Procurement Services

Date: 9/10/2018

EXHIBIT A

Statement of Work

Pathway/Literacy Project Professional Development

Description of Services:

SCWriP will provide the programming for 5 full-day retreats and 5 two-hour afterschool meetings for the third cohort of the Pathway Project. The content of this professional learning will focus on the use of cognitive strategies. SCWriP will also arrange the logistics (venues, food projection equipment, etc.) for these meetings.

SCWriP will also provide the programming for three full-day reunions of previous Pathway cohorts, including arranging the logistics of the meetings.

SCWriP will additionally facilitate the registration of up to 25 Santa Barbara Unified School District teachers for the UCI Winter Literacy Conference.

Location: District and third-party meeting rooms

Professional Learning Providers: SCWriP Will provide a team of SCWriP Teacher-consultants to plan and deliver the professional learning.

Curriculum: SCWriP will provide the curriculum for all meetings based on the work done in the Pathway Project. The curriculum will focus on the use of cognitive strategies in reading and writing instruction.

EXHIBIT B

Deliverables

SCWriP will provide teacher-ready lessons and resources for teaching secondary English Language Arts. This will include consumable materials used in the Retreats and Afterschool workshops.

EXHIBIT C

Payment Schedule

On or after the date of execution, the University will invoice the Sponsor for the full amount set forth in the Agreement.

The Sponsor shall remit payment for the full invoice amount within thirty (30) days of receipt.