

**SUBCONTRACT
BETWEEN
CALIFORNIA STATE UNIVERSITY EAST BAY FOUNDATION
AND
CHABOT COLLEGE**

Issued By:	Issued To:
California State University East Bay Foundation 25976 Carlos Bee Boulevard Hayward, CA 94542 Attn: Linda Dobb Telephone: (510) 885-3773 Fax: (510) 885-4618 E-Mail: rajnesh.prasad@csueastbay.edu	Chabot College 25555 Hesperian Blvd Hayward, CA 94545 Attn: Telephone: Fax: E-Mail:

Subcontract Summary

Effective Date: 06/01/2012

Period of Performance: 06/01/2012 – 12/15/2013

Subcontract Type: Cost-Reimbursement

Value: \$20,000.00

Funding: Other (Non-profit)

Subcontract For: Phase II: Model Community Transfer Program for Future Mathematics and Science Teachers

Grant Award Agreement from S.D. Bechtel, Jr. Foundation/Stephen Bechtel Fund

Preamble

This Subcontract is hereby made and entered into by and between California State University East Bay Foundation (hereinafter referred to as "CSUEB Foundation"), a non-profit corporation duly organized under the laws of the State of California, and Chabot College (hereinafter referred to as "Subcontractor").

Recitals

WHEREAS, California State University East Bay Foundation has received a grant (hereinafter referred to as the "Grant Award") from the Prime Sponsor to perform the work entitled "Phase II: Model Community Transfer Program for Future Mathematics and Science Teachers", and

WHEREAS, in furtherance of the Grant Award, CSUEB Foundation intends to acquire from Subcontractor, for and on behalf of the Prime Sponsor, the services, data, and reports as set forth in ARTICLE I – SERVICES TO BE DELIVERED of this Subcontract; and

The parties hereto mutually agree as follows:

Article 1 – Services to be Delivered

Subcontractor, as an independent contractor and not as an agent for CSUEB Foundation, shall provide services (the "Services") in its area of expertise to assist CSUEB Foundation in the conduct of its performance under the Grant Award. Subcontractor shall do all that is reasonably necessary or incident to the satisfactory and timely completion of the effort described in Attachment 1, Statement of Work.

Article 2 – Period and Place of Performance

June 1, 2012 to December 15, 2013

The primary place of performance shall be at Subcontractor's discretion unless set forth in Attachment 1.

Article 3 – Limitation of Liability/Incremental Funding

- a) Of the total price of this subcontract the sum \$20,000.00 is presently available for payment.
- b) Assuming the Grant Award is fully funded, CSUEB Foundation agrees to pay the full price for *complete* performance of the effort as described in Attachment 1, Statement of Work.
- c) At no time will CSUEB Foundation's payment liability exceed the amount specified in Part (a) of this section without modification hereto. Actual total liability at any time during performance is always limited to the incrementally funded amount set forth in part (a) of this article.

Article 4 – Payment and Schedule

Subcontractor shall be paid monthly according to the submitted invoices for performance of the services that Subcontractor has agreed to perform in accordance to Attachment 1, Statement of Work. Deliverables shall be submitted in accordance to Attachment 1. Subcontractor shall submit to CSUEB Foundation invoices for all Services rendered and CSUEB Foundation agrees make payment on a monthly basis. The foregoing fees are Subcontractor’s sole compensation for rendering Services to CSUEB Foundation. The parties agree that CSUEB Foundation is not responsible to reimburse any costs or expenses incurred by Subcontractor in performing the Services unless explicitly set forth in Attachment 1.

Monthly invoices, including the information requested in (1) through (5) below, should be submitted to the following, either by mail or e-mail:

Jason Singley, Ph.D
25800 Carlos Bee Blvd, SCN 231B
Hayward, CA 94542-3088
jason.singley@csueastbay.edu

Maximum cumulative payments will be subject to the funding limit in effect at the time of payment. Payments to the subcontractor shall be coordinated with payments received under the Grant Award. Proper invoices shall contain, or be supported by a report containing the following information:

- (1) SUBCONTRACT NUMBER AND BILLING PERIOD
- (2) REMITTANCE ADDRESS AND PHONE NUMBER
- (3) DIRECT LABOR HOURS AND RATES (IF NOT FIXED-PRICE)
- (4) IF AUTHORIZED, DIRECT EXPENSES/TRAVEL WITH SUFFICIENT DESCRIPTION AND DETAIL
- (5) CUMULATIVE BILLINGS TO DATE
- (6) SIGNATURE BY SUBCONTRACTOR OFFICIAL CERTIFYING ALL COSTS ARE VALID AND PROPERLY CHARGED TO THIS SUBCONTRACT

Article 5 – Technical Representative

The CSUEB Foundations Technical Representative is identified below. **The Technical Representative is not authorized to change the scope of the work or make any changes to the funding or budget.** Only the CSUEB Contract Representative may make such changes. The role of the Technical Representative is to monitor Subcontractor performance and provide technical oversight and direction within the scope of work authorized in Attachment 1.

Technical Representative:

Rachelle Distefano
25800 Carlos Bee Blvd, SCN 131
Hayward, CA 94542-3088
Ph: 510-885-2898, Fax: 510-885-2035
rachelle.distefano@csueastbay.edu

Article 6 – Contract Representative Authority

- a) Only CSUEB Foundation’s Contract Representative or his/her designated authorized representative may approve changes in any of the requirements under this subcontract. Such changes shall be in writing. Any changes made at the direction of any other person will be considered to have been made without authority and will warrant no adjustment in the contract or payment terms.
- b) Wherever this subcontract or its attachments provide for determinations to be made by CSUEB Foundation relative to successful completion of events stated in this contract, such determinations shall be made by CSUEB Foundation’s Contract Representative or his/her designated authorized representative.
- c) California State University East Bay Linda Dobb
 Foundation Contract Representative: Interim Associate Provost
 Telephone: (510) 885-3773
 Fax (510) 885 4618
 E-Mail: linda.dobb@csueastbay.edu

Article 7 – Proprietary Information and Inventions

Subcontractor understands that CSUEB Foundation possesses Proprietary Information which is important to its business, and that this Agreement creates a relationship of confidence and trust between Subcontractor and CSUEB Foundation with regard to Proprietary Information. All business, personnel, technical and financial information Subcontractor learns, develops or obtains during the period that Subcontractor is to be providing the Services that relate to CSUEB Foundation or the business of CSUEB Foundation or that are received by or for CSUEB Foundation in confidence, constitute “Proprietary Information”. Subcontractor shall hold in confidence and not disclose or, except in performing the Services, use any Proprietary Information.

Subcontractor agrees that all intellectual property (“IP”) which it makes, conceives, reduces to practice or develops (in whole or in part, either alone or jointly with others) during the term of this Agreement in connection with the Services or which relate to any Proprietary Information shall be the sole property of CSUEB Foundation. Subcontractor agrees to assign and hereby assigns to CSUEB Foundation all Rights to such IP. All Proprietary Information and all copyrights, patents, patent rights, mask work rights, trade secret rights, and other intellectual property and rights anywhere in the world (collectively, “Rights”) in connection therewith shall be the sole property of CSUEB Foundation. Subcontractor hereby assigns

to CSUEB Foundation all Rights Subcontractor may have or acquire in such Proprietary Information and IP during the term of this Agreement in connection with the Services.

Article 8 – Audit

CSUEB Foundation shall have the right to directly review, audit, or otherwise examine the fiscal books and records of Subcontractor to verify compliance with the terms of this Agreement and costs charged hereunder. Any such audit shall occur with or without notice during regular business hours. Subcontractor shall cooperate fully and provide all requested documentation. Subcontractor shall refund, or CSUEB Foundation will be entitled to deny reimbursement for, any costs found to be incorrectly charged to this Agreement.

Article 9 – Liability to Third Parties

a) Liability The Subcontractor expressly agrees to indemnify, hold harmless and defend the State of California, CSUEB, CSUEB Foundation, Inc. and its successors, agents, assigns, officers, directors and employees from and against any and all claims, demands, actions, proceedings, liability, losses, damages, costs, expenses and attorneys' fees arising out of, relating to or resulting from, or alleged to arise out of, relate to or result from the performance, including negligent performance, of the Services contracted for under this Agreement. In the event of any such claim, demand, action, proceeding, liability, loss and/or damage, the Foundation shall have the right to withhold payment of any sums due the Subcontractor until such claim, demand, action, proceeding, liability, loss and/or damage, including costs, expenses and attorneys' fees has been settled or until CSUEB Foundation shall be reasonably satisfied that the Subcontractor has sufficient insurance to cover such claim, demand, action, proceeding, liability, loss and/or damage and that such insurance coverage is applicable thereto. In the absence of such insurance coverage of the Subcontractor as required by this Agreement, CSUEB Foundation shall have the right to withhold payment of sums due the Subcontractor under this Agreement, and to set-off such amounts from any liability of CSUEB Foundation for which the Subcontractor has agreed to indemnification under this Agreement.

b) Insurance Subcontractor agrees to procure, and thereafter maintain during the term of this Agreement, the following insurance policies:

- Comprehensive General Liability insurance providing coverage against claims for Bodily Injury or Death, and Property Damage. Such insurance shall provide protection to the limit of not less than \$1,000,000 combined single limit for Bodily Injury and Property Damage.
- Workers' Compensation insurance statutory coverage including Employers Liability with limits of not less than \$1,000,000.
- Comprehensive Automobile Liability with limits not less than \$1,000,000 each occurrence, combined single limit for Bodily Injury and Property Damage, including coverage for owned, non-owned and hired vehicles if automobile use will be required for performance of the Services.

Comprehensive General Liability and Comprehensive Automobile Liability insurance policies required by this Agreement shall name "California State University East Bay Foundation" as an additional insured with

respect to work being performed. Subcontractor agrees to provide all required certificates of insurance to the Foundation prior to the commencement of any work under this Contract. The CSUEB Foundation and Subcontractor agree that the specified coverage or limits of insurance in no way limit the liability of the Subcontractor.

Article 10 – Applicable Laws

The Subcontractor agrees to comply with all applicable, federal, state and local laws and regulations during the performance of this Agreement. Subcontractor understands that all California and federal anti-discrimination and drug-free workplace requirements shall apply as set forth in Attachments 3 and 4, which are made a part of this Agreement.

Article 11 – Termination and Disputes

a) Termination of Agreement Except as otherwise provided herein, this Agreement shall be terminated as follows:

1. Effective immediately upon Subcontractor's default or failure to perform the Services or comply with this Agreement in a manner reasonably satisfactory to CSUEB Foundation;
2. By mutual agreement of the parties;
3. Upon two weeks written notice CSUEB Foundation may terminate this Agreement for any reason;
4. Effective immediately upon termination of Grant Award; or
5. Upon expiration of the Period of Performance set forth in Article II.

Termination of this Agreement under the provisions set forth herein shall not release the contractor from the provisions set forth in Articles 7, 8, 9, and 11 with respect to any Services provided hereunder prior to such termination. CSUEB Foundation shall pay Subcontractor for all goods or services delivered and accepted by CSUEB Foundation as of the date of termination, or issuance of a stop work order, whichever is sooner.

b) Disputes Any and all disputes arising under or relating to the performance of the Services contracted for under this Agreement, and which exceed the jurisdictional limitations of small claims court, shall be settled by arbitration in accordance with the Commercial Arbitration Rules of the American Arbitration Association or any successor thereto then prevailing. Such arbitration shall be final and binding upon the parties and shall be the sole and exclusive remedy of the parties with respect to any dispute arising out of, relating to or resulting from the interpretation of the terms of the Agreement or breach or alleged breach thereof. Each party shall bear its own costs of such arbitration, except the costs of the arbitrator, which shall be borne equally by the parties.

Article 12 – Assignment and Subcontracting

This Agreement and any of the rights, interest, duties and/or obligations contained herein shall not be assigned or delegated by any party hereto without the prior written consent of the other party. Any such assignment or delegation by a party hereto, whether express or implied or by operation of law, without the

prior written consent of the other party, shall be null and void and shall constitute a default by the assigning or delegating party. This Agreement shall be binding upon and shall insure to the benefit of the successors and assigns of the parties hereto as permitted by this Agreement.

Article 13 – Waiver

The failure of either party to insist on performance of any provision of this Agreement shall not be construed as a waiver of that provision in any later instance.

Article 14 – Grant Award Provisions (if Attachment 2 is attached)

This subcontract incorporates the Prime Sponsor Grant Award clauses set forth in Attachment 2. With respect to the rights, duties, and obligations of CSUEB Foundation and Subcontractor thereunder, all such clauses shall be interpreted and construed in such manner as to recognize and give effect to the contractual relationship between CSUEB Foundation and Subcontractor under this Agreement and the rights of the Sponsor with respect thereto under the Grant Award from which such clauses are derived.

Article 15 – Severability

The invalidity of any provision hereof shall not affect the validity of any other provisions or this Agreement as a whole.

Article 16 – Order of Precedence

In case of conflicting terms or specifications, the Order of Precedence of the terms of this subcontract is as follows:

- 1) Subcontract Articles
- 2) Statement of Work
- 3) Attachment 3
- 4) Attachment 4
- 5) Attachment 2 (if attached)

Article 17 – Attachments

This Subcontract consists of this document and the following attachments:

- Attachment 1 - Statement of Work
- Attachment 3 - Applicable Laws
- Attachment 4 – Drug-free Workplace

Article 18 – Entire Agreement

This Agreement contains the entire agreement and understanding between the parties hereto relating to their rights herein granted and any obligations herein assumed and supersedes any and all previous

negotiations, discussions, agreements and/or understandings of any kind relating to the subject matter hereof. There are no representations, agreements, arrangements or understandings, oral or written, between the parties hereto relating to the subject matter hereof which are not fully expressed herein.

IN WITNESS THEREOF, the parties hereto have caused this Subcontract to be executed on the day, month, and year set forth below.

California State University East Bay Foundation

Subcontractor

By: _____

By: _____

Name: Linda Dobb

Name: _____

Title: Interim Associate Provost

Title: _____

Date: _____

Date: _____

**ATTACHMENT 1
STATEMENT OF WORK**

Project Name: East Bay Teacher Pathways Program Improvement and Faculty Inquiry

GOAL: Building on Chabot College’s pilot East Bay Teacher’s Pathway program, this mini-grant will be used to:

(A) refine curriculum and program pathway to better align with the foundational math and science credentials, and

(B) provide professional development for faculty who will be teaching Chabot’s new Applied Algebra and Data Analysis course which is being developed and piloted spring, summer and fall 2012 and will be used for the next East Bay Teacher’s Pathways program.

Outcomes/Measurable Objectives/Activities	Evidence	Y1	Y1 ends May 2013	Y1	Y2 12/15/2 013	Y2
		Summer June, 12 - Aug 12	Fall Aug, 12-Dec, 12	Spring Jan 13- May 13	Summer June, 13-Aug 13	Fall Aug 13- Dec 13
Outcome 1. Create a model educational plan and a well-articulated program of math courses for students planning to complete a foundational level math certification program through Chabot College and CSUEB.	Pre-set SEP Plan posted online via Sci & Math website, meeting notes, and articulation information.	X				
Measures: A document describing an model educational plan for these students and proposing any changes in Chabot College math curriculum that would improve their educational experience will be submitted to the dean of the division.		X				
Objectives/Activities						
1.1 Research course content for required math courses at CSUEB.		X				
1.2 Compare course content at Chabot College with CSUEB courses		X				
1.3 Meet with CSUEB partners to discuss possible changes in Chabot courses.		X				
1.4 Propose new courses or changes in course content		X				
1.5 Prepare summary document, including a student education plan that will provide liberal studies students a seamless pathway to the foundational math and science credential option.		X				

Outcome 2. Plan faculty development program for Math 62 and Math 54, our core developmental math courses for students in the foundational-math teaching program. .	Documents from research on peer coaching/prof dev models, action plan with identified faculty participants, planning meeting notes	X	X			
Measures: A written plan, including a time line, description of procedures, names of participants, and reporting forms will be submitted to the dean of the division.			X			
Objectives/Activities 2.1 Research effective peer-coaching models and key principles of teaching and learning on which to focus activities.		X	X			
2.2 Recruit instructors to participate in the program			X			
2.3 Establish on-campus support for any technology necessary for peer coaching and communication between coaching pairs.			X			
2.4 Create a written plan with supporting documents.			X			
2.5 Hold introductory workshops for the first group of participants			X			
Outcome 3. Carry out successful faculty development using a coaching model	Attendance records at workshops, peer visit/coaching notes, faculty survey, student survey results in classrooms where peer-coaching occurred.			X	X	X
Measures: Progress will be measured by periodic teacher reports supplemented by student surveys near the end of each of each of the two or three semesters of coaching activity.				X	X	X
Objectives/Activities 3.1 Establish key principles and methods at an introductory workshop at the beginning of each semester				X	X	X
3.2 Elect a coordinator and establish coaching pairs.				X		
3.3 Carry out at least six class visits and three follow-up sessions per pair.				X	X	X
3.4 Create a written plan with supporting documents.			X			
3.5 Evaluate effectiveness using teacher reports and student surveys.				X	X	X

						Year 1 request	Year 2 request	Total Request
Subtotal						\$0	\$0	\$0
MILEAGE	<u>Project Purpose</u>							
Subtotal						\$0	\$0	\$0
OTHER COSTS <i>(Please itemize and describe purpose)</i>	<u>Project Purpose</u>							
Subtotal						\$0	\$0	\$0
TOTAL REQUEST						\$11,750	\$8,250	\$20,000

**ATTACHMENT 2
PRIME FLOW-DOWNS**

See below

**S. D. Bechtel, Jr. Foundation
Stephen Bechtel Fund**

Pledge Agreement

<u>Organization:</u> California State University East Bay Foundation, Inc. (the "Grantee") 25800 Carlos Bee Blvd. Hayward, CA 94542	<u>Project/Program Director:</u> Jason Singley, Chair/Assistant Professor in Physics 510-885-3482 jason.singley@csueastbay.edu
<u>Total Pledge Amount To Be Paid Over The Pledge Period:</u> \$600,000 (the "Pledge")	<u>Pledge Period:</u> April 1, 2011-- March 31, 2014
<u>Annual Payment Amount:</u> \$216,000 (Two Hundred and Sixteen Thousand and 0/100ths) 2011 \$212,000 (Two Hundred and Twelve Thousand and 0/100ths) 2012 \$172,000 (One Hundred and Seventy-two Thousand and 0/100ths) 2013	<u>Grant Report(s) Due Annually By:</u> March 31st following each grant payment year
<u>Description:</u> Funds to be used for Phase II of CSU East Bay's Model Mathematics and Science Teacher Transfer Project, the goal of which is to replicate, scale up and adapt the models for system-wide use, as set forth in the proposal submitted to the S.D. Bechtel, Jr. Foundation and/or the Stephen Bechtel Fund dated February 4, 2011(the "Proposal") and as described in any relevant correspondence regarding the Proposal, all of which are incorporated by reference (collectively, the "Project").	

The following terms are agreed upon as conditions for this Pledge Agreement:

1. Payment. Payments of this Pledge shall be made to the Grantee by either the S. D. Bechtel, Jr. Foundation or the Stephen Bechtel Fund (each alone or together, the "Grantor"). All terms of this Pledge Agreement are applicable regardless of which organization provides payment. Grantee affirms that each payment received from Grantor during the Pledge Period shall satisfy the Pledge Amount of \$600,000 and shall be used exclusively to implement the purposes of the Project.
2. Purposes. Grantee shall use the entire Pledge Amount, including any interest earned thereon, to implement the charitable purposes of the Project. Any portion of the Pledge Amount, including any interest earned thereon, not spent at the completion of the Pledge Period shall be returned immediately to Grantor.
3. Impermissible Purposes. Grantee agrees that no portion of the Pledge Amount shall be used, as defined by the Internal Revenue Code and applicable Treasury Regulations, (a) to lobby or to otherwise influence legislation, (b) to influence the outcome of any specific public election or participate or intervene in any political campaign on behalf of or in opposition to any candidate for public office, (c) to carry on, directly or indirectly, any voter registration drive, (d) to induce or encourage violations of law or public policy, (e) to cause any private inurement or improper private benefit to occur, (f) to take any action that would or reasonably could jeopardize its tax-exempt status, or (g) for any non-charitable purpose.
4. Tax-Exempt Status. Grantee warrants that, as of the date of this Pledge Agreement, Grantee's tax-exempt status is valid. Grantee shall use best efforts to maintain its tax-exempt status. Grantee shall immediately notify Grantor of any events that may lead to or actually lead to a change in Grantee's tax-exempt status. Grantee acknowledges and agrees that such an event may lead to the termination of this Pledge Agreement or the addition of terms, conditions or other limitations on the Pledge Amount.
5. Reporting. The Grantee shall submit a Grant Report(s) to the Grantor by the date(s) specified above, or by alternative date(s) mutually agreed upon by Grantor and Grantee, in accordance with the attached Report Requirements, all of which are incorporated by reference. Grantee shall provide information about any portion of the Pledge Amount that may be paid to organizations or consultants engaged in fundraising or public relations. Grantee shall notify Grantor immediately of any anticipated or actual changes in key personnel of the Grantee or the Project. Grantee acknowledges and agrees that changes in key personnel may lead to the termination of this Pledge Agreement or the addition of terms, conditions or other limitations on the Pledge Amount.
6. Accounts and Record Keeping. Grantee shall maintain adequate records relating to the Project in addition to all records required by the Internal Revenue Code and Treasury Regulations. Grantee shall make all records relating to the Project available for inspection by Grantor upon Grantor's request throughout the Pledge Period and for at least four (4) years after the end of the Pledge Period.
7. No Assignment or Delegation. Grantee shall not assign or otherwise transfer its rights or delegate any of its obligations under this Pledge Agreement without the prior written consent of the Grantor.
8. Publicity. Grantee shall not release any public announcements or statements to the media regarding the Grantor's, any member of the Bechtel family's, or the Bechtel Group's affiliation with or contribution to the Project without the prior written consent of Grantor. Grantee shall not make any commitments for permanent recognition of any of the foregoing without the prior written consent of Grantor.
9. Insurance and Indemnification. Grantee shall maintain insurance with a reputable insurance company(ies) in such amounts and covering such risks as is prudent and is usually carried by organizations engaged in projects similar to Grantee. Grantee shall furnish Grantor with evidence of insurance on this Project upon Grantor's request. Grantee hereby agrees to indemnify, defend and hold harmless Grantor, its Officers and its employees from and against, and in respect to, any and all losses, expenses, costs, obligations,

**S. D. Bechtel, Jr. Foundation
Stephen Bechtel Fund**

liabilities and damages, including interest, penalties and reasonable attorney's fees and expenses, that Grantor may incur as a result of any grossly negligent or willful acts and omissions of Grantee or any of its agents or employees ensuing out of Grantee's performance of this Grant Agreement.

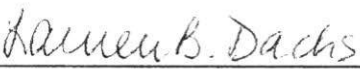
10. Future Payments. All future payments are expressly contingent upon the submission of the required Grant Report(s), the satisfactory progression of the Project as determined by Grantor, and the continued compliance with the terms of this Pledge Agreement.
11. Termination and Modifications by Grantee. Grantee shall not terminate, modify or redirect the Project in any material way without the prior written consent of Grantor. Should Grantee wish to terminate, modify or redirect the Project in any material way, Grantee shall provide Grantor with a written request that includes the reason for termination, modification or redirection and detailed accounting of the use of Pledge Amount spent to date. Grantor reserves the right to deny Grantee's request and terminate this Pledge Agreement in its sole and absolute discretion and may demand the return of any uncommitted or unspent Pledge Amount with accrued interest.
12. Termination and Modifications by Grantor. Grantor reserves the right to curtail or terminate this Pledge Agreement in its sole and absolute discretion if at any time Grantor determines that the purposes of this Project, or the terms and conditions of this Pledge Agreement, are not being met or will not be met. Grantor will endeavor to give Grantee reasonable written notice prior to curtailment or termination of this Pledge Agreement to discuss Grantor's concerns, but the determination to continue, curtail or terminate the Pledge Agreement shall remain in Grantor's sole and absolute discretion. Any unspent or uncommitted amount the Pledge Amount, and any accrued interest on such amount, as of the date of Grantor's notice, as well as any amounts not used for the charitable purposes of the Project, shall be repaid to the Grantor within thirty (30) days of Grantor's notice.
13. No Waiver. Any failure to exercise a right and any delay in exercising a right under this Pledge Agreement shall not be deemed a waiver of that right or any other rights by Grantor, nor shall any partial exercise of a right under this Pledge Agreement preclude any additional or further exercise of any of any other right.
14. Governing Law. This Pledge Agreement shall be construed in accordance with and governed by the laws of the State of California.
15. Dispute Resolution. Except as set forth in this section, Grantor and Grantee waive the right to all remedies in court, including any right to a jury trial, with respect to any claim arising out of or related to this Agreement, and any dispute or claim shall be submitted to arbitration on the written request of Grantor/Grantee after service of that request on the other organization. Any dispute submitted to arbitration pursuant to this section shall be finally and conclusively determined by arbitration conducted in San Francisco, California, before a single arbitrator in accordance with the then current rules of Judicial Arbitration and Mediation Services applying the laws of the State of California. The award or decision of the arbitrator which may include an order of specific performance, injunction, or other equitable relief shall be final and binding on all parties and enforceable in any court of competent jurisdiction. There shall be no right of appeal, except as contained in Section 1286.2 of the California Code of Civil Procedure. During the pendency of any arbitration process, each party to any arbitration shall bear its own expenses, including but not limited to such party's attorney's fees, if any. Upon conclusion of the arbitration, the arbitrator shall specify the "prevailing party" in its award and the "prevailing party" shall be entitled to prompt reimbursement of reasonable attorneys' fees and expenses incurred in connection with the arbitration.
16. Severability. In the event that a provision or parts of a provision of this Pledge Agreement is deemed superseded, invalid, illegal or otherwise unenforceable pursuant to applicable laws by an authority having jurisdiction, the remaining provisions or parts of provisions shall remain in full force and effect as if the unenforceable provision or part were deleted.
17. Entire Agreement. This Pledge Agreement constitutes the entire agreement between Grantor and Grantee. No oral representations or other agreements have been made by Grantor and Grantee except as stated herein. The Pledge Agreement shall not be altered in any way except as herein provided, and no term or provision hereof may be waived except in writing signed by a duly authorized Officer or Grantor.

The undersigned certify that they are the duly elected and authorized Officers of Grantor/Grantee and that, was such, are authorized to enter into this Pledge Agreement and to obligate the Grantor/Grantee to observe all the terms and conditions placed in this Pledge Agreement, and in connection with this Pledge Agreement to make, execute, and deliver on behalf of Grantor/Grantee all agreements, representations, receipts, reports and other instruments of every kind.

The terms of this Pledge Agreement are accepted and agreed to by:



on behalf of the ~~California State University East Bay~~ Foundation,
Inc. Provost & VP, Academic Affairs



on behalf of the **S. D. Bechtel, Jr. Foundation** or the
Stephen Bechtel Fund

Title Date

President Title April 5, 2011 Date

ATTACHMENT 3

During the performance of this Agreement, Subcontractor and all of its subcontractors, if any, shall not deny this Agreement's benefits to any person on the basis of religion, color, race, sex, age, or physical or mental disability, nor shall they discriminate unlawfully against any employee of applicant for employment because of race, religion, color, national origin, ancestry, physical handicap, mental disability, medical condition, marital status, age or sex. Subcontractor shall insure that the evaluation and treatment of employees and applicants for employment are free of such discrimination.

Subcontractor shall comply with the provisions of the Fair Employment and Housing Act (Government Code, Section 12900 et seq.), the provisions of Article 9.5, Chapter 1, Part 1, Division 3, Title 2 of the Government Code (Government Code, Sections 1113511139.5) and the policies adopted by the California State University, East Bay, Foundation to complement such article.

Subcontractor and its subcontractors, if any, shall give notice of their obligations under this clause to labor organizations which they have a collective bargaining or other agreement.

Subcontractor shall include the nondiscrimination and compliance provisions of this clause in all subcontracts, if any, to perform work under this Agreement.

ATTACHMENT 4 SUBCONTRACTOR DRUG-FREE WORKPLACE CERTIFICATION

This certification is required by the regulation implementing the Drug-Free Workplace Act of 1988, 45 CFR Part 76, Subpart F. The regulations, published in the January 31, 1989 Federal Register, require certification by subcontractors of the California State University East Bay Foundation that they will maintain a drug-free workplace

The subcontractor certifies that it will provide a drug-free workplace by:

- (1) Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensation, possession or use of a controlled substance is prohibited in the subcontractor's workplace and specifying the actions that will take against employees for violation of such prohibition;
- (2) Establishing a drug-free awareness program to inform employees about:
 - (1) The danger of drug abuse in the workplace;
 - (2) The subcontractor's policy of maintaining a drug-free workplace;
 - (3) Any available drug counseling, rehabilitation, and employee assistance programs; and,
 - (4) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace.
- (3) Making it a requirement that each employee to engaged in the performance of the subcontract be given copy of the statement required by paragraph (a);
- (4) Notifying the employee in the statement required by paragraph (a) that, as a condition of employment under the grant, the employee will:
 - (1) Abide by the terms of the statement; and
 - (2) Notifying the employer of any criminal drug statute conviction for a violation occurring in the workplace no later than five days after such conviction;
- (5) Notifying the California State University East Bay Foundation within ten days after receiving notice under subparagraph (d)(2) from an employee or otherwise receiving actual notice of such conviction;
- (6) Taking one of the following actions, within 30 days of receiving notice under subparagraph (d)(2), with respect to any employee who is so convicted;
 - (1) Taking appropriate personnel action against such an employee, up to and including termination, or
 - (2) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency;
- (7) Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (a), (b), (c), (d), (e), and (f).

ACCEPTANCE:

In accordance with the subcontract, I hereby understand that a drug-free workplace will be provided according to the requirements described above.