



## Foothill-De Anza Community College District

12345 El Monte Road, Los Altos Hills, CA 94022

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### SUBAWARD AGREEMENT

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This Subaward Agreement No. 19-006 (hereinafter referred to as "Subaward") is entered into by and between the Foothill-De Anza Community College District (hereinafter referred to as "District") on behalf of its sponsored program California Virtual Campus - Online Education Initiative (CVC-OEI) and the Chabot-Las Positas Community College District on behalf of Chabot College (hereinafter referred to as "Subrecipient"), for the Subrecipient to perform the work which is more particularly set forth in this Subaward and in the Exhibits attached hereto and incorporated into this Subaward by this reference.

#### RECITALS

WHEREAS, the District, as fiscal agent for the California Virtual Campus – Online Education Initiative (hereinafter referred to as "Sponsor"), under its *Improving Online CTE Pathways* grant program, has appropriated one-time funds for the purpose of performing the project entitled the *Improving Online CTE Pathways Project* (hereinafter referred to as "Project");

WHEREAS, the District is authorized to enter into subagreements in performance of its responsibilities under the funding cited above; and

WHEREAS, the District and the Subrecipient desire to enter into an agreement calling for collaboration on the Project;

NOW, THEREFORE, the parties mutually agree as follows:

1. **STATEMENT OF WORK.** The Subrecipient shall perform the work required in Exhibit A, the Subrecipient Statement of Work (hereinafter referred to as "Work").
2. **TERM.** The term of this Subaward shall commence on July 01, 2019 and shall expire on June 30, 2020. Applicable and required final reporting are due on September 30, 2020. The Term could be extended upon written notice by District, based on extension of funds from the California Community Colleges Chancellor's Office.
3. **KEY PERSONNEL.** The Subrecipient's performance under this Subaward shall be under the direction of Subrecipient's Principal Investigator(s), Kristin Lima, Ed.D., who is considered essential to the Work. Substitutions or substantial reductions in the Principal Investigator's level of effort will be only for compelling reasons and with the prior written approval of the District's Authorized Representative for Technical Matters.
4. **COST REIMBURSEMENT.** The total amount of funds made available and reimbursable to Subrecipient under this Subaward shall not exceed \$326,294.00 as specified in Exhibit B, and comply with Expenditure Guidelines. In no event shall the District be liable for reimbursement of any cost which would result in cumulative payment under this Subaward exceeding the total reimbursable cost unless this Subaward is modified in writing in accordance with Section 24, Changes. This section is in accordance with grant reimbursement rules and guidelines as prescribed by District and the CVC-OEI: <https://cvc.edu/wp-content/uploads/2019/02/Improving-Online-CTE-Pathways-Expenditure-Guidelines.pdf>
5. **LEVEL OF EFFORT.** The Principal Investigator may devote additional full-time equivalent (FTE) as specified in Exhibit A and corresponding with Exhibit B. Auditable records must be kept by the Subrecipient on the foregoing, and progress reports must be submitted to the District on a quarterly basis, fifteen (15) days following the end of each fiscal quarter, and a final Annual Report summarizing the activities of the fiscal year ninety (90) days after June 30 of the fiscal year. If actual efforts are less than the amounts shown in Exhibit B a proportionate reduction in the total reimbursement cost for this Subaward shall be made.
6. **ALLOWABLE COSTS.** The allowability of costs under this Subaward shall be determined in accordance with the terms of this Subaward, and the terms of Exhibit D, the *Improving Online CTE Pathways* RFA (hereinafter referred to as "RFA").
7. **BUDGET.** The Budget, Exhibit B, lists costs and categories of costs approved to fund the Subrecipient performance of the Work. Rebudgeting of up to 10% of each budget category, while not changing the Work, is allowable without prior approval. Approval requests related to the aforementioned will be reviewed and, if

appropriate, approved by the District's Authorized Representative for Technical Matters and the Executive Director of the CVC-OEI.

8. SEPARATE ACCOUNTING. The Subrecipient will establish a separate account for all funds specified in this Subaward. Reimbursement is only for actual expenses for transactions transpiring between July 01, 2019 and June 30, 2020. No Encumbrances and/or Commitments will be considered towards reimbursement.

9. USE OF FACILITIES AND EQUIPMENT. The Subrecipient will furnish the facilities and equipment necessary to perform and complete the Work on this Project, and District has rights to inspect facilities furnished.

10. INVOICING. The Subrecipient shall submit invoices, on a quarterly basis with corresponding quarterly report narratives (and final Annual Report) for approval to the District's Authorized Representative for Business Matters quarterly. In order to be eligible for reimbursement, invoices shall be for allowable, approved costs incurred in accordance with the terms of this Subaward and shall display expenses for reimbursement by budget category identifying the total project costs, the reimbursable costs and the Subrecipient's share pursuant to Exhibit B, in accordance with the schedule indicated in Exhibit C. All invoices submitted under this Subaward including the final invoice must be received by the District no later than fifteen (15) days after the end of the reporting period for that invoice, including the fiscal year end when all invoices must be received by the District no later than fifteen (15) days following the fiscal year end date of June 30.

Q1 (July 01, 2019 - September 30, 2019) - Report and Invoices due on October 15, 2019

Q2 (October 01, 2019 - December 31, 2019) - Report and Invoices due on January 15, 2020

Q3 (January 01, 2020 - March 31, 2020) - Report and Invoices due on April 15, 2020

Q4 (April 01, 2020 - June 30, 2020) - Report and Invoices due on July 15, 2020

Invoices should include: *District Subaward Number, College/District Name, Project Title, and the Period for which reimbursement is being requested.* An authorized representative of the Subrecipient shall sign and certify on each invoice that the costs for which reimbursement is requested are the actual costs as recorded in the Subrecipient's records and as expended for the Work actually performed in accordance with the terms of this Subaward. Invoices should be emailed to the District's Authorized Representative for Business Matters as defined in Section 14 Authorized Representatives.

11. PAYMENT. Payment shall be made upon receipt after review and verification of the invoice along with the supporting documentation and General Ledger (GL) report by the District. Payment shall be contingent upon the receipt a quarterly narrative as well as funding from the Sponsor and upon Subrecipient compliance with the terms and conditions of this Subaward. All payments shall be subject to correction and adjustment upon audit or any disallowance. The Subrecipient is solely responsible for reimbursing the District for amounts paid the Subrecipient but disallowed under the terms of this Subaward.

12. AUDIT. The District, the Sponsor, the Comptroller General of the United States of America, the Bureau of State Audits of the State of California, any other appropriate government agency authorized by law, or their duly authorized representatives shall, until five (5) years after final payment under this Subaward, have access to any of the Subrecipient's records related to this Subaward, at the Subrecipient's regular place of business, for the purpose of conducting audits. The period of access for records relating to a) appeals under a dispute, b) litigation or settlement of claims arising from the performance of this Subaward, or c) costs and expenses of this Subaward to which exception has been taken shall continue until such appeals, litigation, claims, or exceptions are disposed of.

13. PROGRESS REPORTS. The Subrecipient shall furnish the District with regular, aligning with the academic year's fiscal quarters, Quarterly Reports of findings and progress made under this Subaward. A form satisfactory to the District shall be used to submit the progress reports, and the report certification must be signed. The reports shall be submitted to the District's Authorized Representative for Business Matters in accordance with the schedule indicated in Exhibit A. Quarterly Reports are separate from Financial reporting responsibilities, and must correspond with Section 10, Invoicing.

14. FINAL ANNUAL REPORT. The Subrecipient shall furnish the District with a final Annual Report, summarizing findings and activities under this Subaward. A form satisfactory to the District shall be used to submit the final Annual Report, and the report certification must be signed. The report shall be submitted to the District's Authorized Representative for Business Matters in accordance with the schedule indicated in Exhibit C.

15. AUTHORIZED REPRESENTATIVES. For the purpose of this Subaward, the individuals identified below are hereby designated representatives of the respective parties.

For the District	Technical Matters:	Justin Schultz Director of Planning and Grants Administration California Virtual Campus – Online Education Initiative <a href="mailto:jschultz@cvc.edu">jschultz@cvc.edu</a>
	Business Matters:	CVC-OEI Grants Management Program Officer California Virtual Campus – Online Education Initiative <a href="mailto:grants@cvc.edu">grants@cvc.edu</a>
	Authorized Official:	Jory Hadsell Executive Director California Virtual Campus – Online Education Initiative <a href="mailto:jhadsell@cvc.edu">jhadsell@cvc.edu</a>

For the Subrecipient	Technical Matters:	Name: <u>Kristin Lima, Ed.D.</u> Title: <u>Dean of Applied Technology and Business</u> Address: <u>Chabot College, Hayward CA</u>
	Business Matters:	Name: <u>Dale Wagoner</u> Title: <u>Vice President, Administrative Services</u> Address: <u>Chabot College, Hayward CA</u>
	Authorized Official:	Name: Doug Roberts Title: <u>Interim Vice Chancellor</u> Address: <u>CLPCCD Dublin, Ca</u>

16. PRECEDENCE. The order of precedence for interpretation shall solely be governed by this Subaward.

17. RIGHTS IN DATA AND MATERIALS. The Subrecipient hereby grants to the District and to the Sponsor an irrevocable, worldwide, royalty-free, non-exclusive license to use the materials developed by the Subrecipient under the terms of this Subaward. "Materials" shall mean recorded information, regardless of form or medium in which recorded.

18. PATENTS. The determination of rights of ownership and disposition of inventions resulting from the performance of the Work under this Subaward shall be in accordance with U.S. Patent Law. Subrecipient agrees to notify the District of any inventions made under this Subaward. The Subrecipient hereby grants to District and to

CVC-OEI a royalty-free, non-exclusive and irrevocable right to practice any inventions conceived or first actually reduced to practice in the performance of work under this Subaward, for the purpose of education and research, or to the extent required to meet the District's obligations through the grant awarded for CVC-OEI.

19. PUBLICATIONS. The Subrecipient shall be free to publish results of the Work provided that the terms of this Agreement are met, and the review copies of materials intended for publication are submitted to the Executive Director of the CVC-OEI at least 45 days prior to publication. The Subrecipient agrees to give the Executive Director of the CVC-OEI review comments serious consideration prior to publishing and to include the following statement in any publication resulting from the Work: "This publication was supported by CVC-OEI through a subaward agreement with the Foothill-De Anza Community College District" All materials, except scientific articles or papers published in scientific journals, must also contain the following: "Any opinions, findings, and conclusions or recommendations expressed in this publication are those of the author(s) and do not necessarily reflect the views of the Foothill-De Anza Community College District or those of the California Community College Chancellor's Office."

20. INDEPENDENT CONTRACTOR. Each party shall retain complete control and jurisdiction over such programs of its own that are outside of this Subaward, and nothing in the execution of this Subaward or in its performance shall be construed to establish a joint venture of the parties hereto. Students, instructors, and District staff participating in this program shall not be considered as employees of the Subrecipient, and agents or employees of the Subrecipient shall not be considered employees of the District. Accordingly, employees of one party shall not be entitled to employee benefits normally provided to bona fide employees of the other party.

21. ASSIGNMENT. The Subrecipient may not assign, transfer or Subaward any part of this Subaward, any interest herein or claims hereunder, without the prior, written approval of the District and Sponsor.

22. TERMINATION. Either party may at any time cancel this Subaward or renewal thereof, with or without cause, by giving thirty (30) days advance written notice to the other party which shall commence on the date of mailing of the written notice by certified mail or personal delivery. Thereafter, this Subaward shall become null and void except for the portion or portions of payment herein agreed upon for which expenses have been necessarily incurred in the performance of this Subaward.

23. GENERAL RELEASE. The Subrecipient's acceptance of payment of the final invoice under this Subaward shall release the District from all claims of the Subrecipient, and from all liability to the Subrecipient concerning the Work, except where such claims or liabilities arise from any negligent act, error or omission of the District.

24. USE OF NAME. Neither the Subrecipient nor the District shall make use of this Subaward, or use the other's name or that of any member of the other's staff for publicity or advertising purposes without prior written approval of the other party. This restriction shall not include internal documents available to the public that identify the existence of the Subaward.

25. CHANGES. By mutual written consent, the Subrecipient and the District may make changes to the Work and to the terms of this Subaward. Any such changes shall be in the form of a written amendment signed by authorized representatives of the Subrecipient and the District.

26. INDEMNIFICATION.

26.1. Subrecipient shall defend, indemnify and hold District, 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 Subaward 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 Subrecipient, its officers, employees or agents.

26.2. District shall defend, indemnify and hold Subrecipient, 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 Subaward 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 acts or omissions of District, its officers, employees or agents.

26.3. This indemnification provision shall survive termination of the Subaward and remain in effect.

27. INSURANCE. Subrecipient at its sole cost and expense, shall insure its activities in connection with this Subaward and obtain and maintain for the duration of this Subaward insurance as follows

27.1. Commercial General Liability insurance with a limit of not less than \$1,000,000 per occurrence for bodily injury, property damage, personal injury, products and completed operations, and blanket contractual coverage.

27.2. Automobile Liability insurance with a combined single limit of not less than \$1,000,000 per accident for bodily injury and property damage with respect to the Subrecipient's owned, hired, and non-owned vehicles.

27.3. Workers' Compensation insurance as required under California State law.

27.4. Employer's Liability insurance with limits of not less \$1,000,000 each accident, \$1,000,000 each employee, \$1,000,000 policy limit for bodily injury or disease.

27.5. Professional Liability insurance covering acts, errors, mistakes, and omissions arising out of the work or services performed by Subrecipient, or any person employed by the Subaward, with a limit of not less than \$1,000,000 each claim.

27.6. Such other insurance in such amounts which from time to time may be reasonably required by the mutual consent of the District and the Subrecipient against other insurable risks relating to performance of this Subaward.

Insurance shall be issued by an insurance company(ies) licensed in California with a current A.M. Best rating of A:VII or better. The General Liability and Automobile Liability Insurance policies shall be endorsed to name the Foothill-De Anza Community College District, its trustees, officers, agents, employees, and volunteers as additional insureds as their interest may appear. All insurance policies shall be endorsed to provide for thirty (30) days' advance written notice by certified mail to the District of cancellation, suspension, or any material change of the required insurance coverage. If any insurance policy(ies) required by this Subaward is(are) written on a "claims made" basis: (i) the retroactive date must be shown, and must be before the date of the Subaward or the beginning of Work; and (ii) insurance shall be maintained and evidence of insurance must be provided for at least three (3) years after completion of the Subaward Work. The Subrecipient's insurance must be primary, and any insurance or self-insurance maintained by the District shall not contribute to it. The requirements in this paragraph shall not limit the Subrecipient's liability pursuant to Section 26, Indemnification, of this Subaward. If any part of this Subaward is assigned or Subawarded, these insurance requirements also apply to all assignees and Subrecipients. The Subrecipient may fulfill its insurance obligations under this paragraph by self-insurance pursuant to an established plan operated in accordance with accepted insurance practices. Prior to commencing Work under this Subaward, Subrecipient shall furnish District with certificates of insurance and original endorsements evidencing the coverage, limits, and conditions required by this Subaward.

1. EQUIPMENT. Upon termination of this Subaward, equipment furnished or purchased by the District for the program shall be retained by the District, and equipment furnished or purchased by the Subrecipient shall be retained by the Subrecipient, unless otherwise restricted by the Executive Director of the CVC-OEI.

2. PROGRAM INCOME. The Subrecipient will provide a report to the District of any program income generated under this Subaward.

3. CONFLICT OF INTEREST. Subrecipient warrants that there is no perceived or apparent conflict of interest related to the Work under this Subaward.

4. APPROPRIATED FUNDS. The continuation and renewal of this Subaward shall be subject to sufficient appropriated funds being received by District to administer and support the program. In the event sufficient funds are not available or are discontinued at any time, the District may cancel this Subaward by delivering written notice to the Subrecipient.

5. APPLICABLE LAW. This Subaward shall be subject to and interpreted under applicable federal laws and the laws of the State of California.

6. NOTICES. All notices required or permitted by this Subaward shall be by written instrument and shall be mailed by certified mail or personally delivered to the District's or Subrecipient's Authorized Official.

7. ENTIRE AGREEMENT. This Subaward is the complete agreement of the Subrecipient and the District and supersedes all prior written or oral representations and agreements with respect to the Work.

IN WITNESS WHEREOF, the respective parties have executed this Subaward on the dates indicated below.

**FOOTHILL - DE ANZA COMMUNITY COLLEGE DISTRICT**

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

*(Signature of Authorized Official of District)*

Name: Susan Cheu

Title: Interim Vice Chancellor, Business Services

Date: \_\_\_\_\_

**Chabot College/Chabot-Las Positas Community College District**

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

Name: Doug Roberts

Title: Interim Vice Chancellor, CLPCCD

Date: \_\_\_\_\_

**RECOMMENDED BY**

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

*(Signature of Authorized Official of CVC-OEI)*

Name: Jory Hadsell

Title: Executive Director

Date: \_\_\_\_\_

**Exhibits**

- A Subrecipient Statement of Work
- B Subrecipient Budget, and Expenditure Guidelines
- C Reporting and Invoicing Responsibilities
- D Improving Online Career Technical Education (CTE) Pathways Request for Application (RFA)

**EXHIBIT A**

**SUBRECIPIENT STATEMENT OF WORK**

(Please See Attached Subrecipient Project Proposal)

**EXHIBIT B.1**

**SUBRECIPIENT BUDGET**

The Subrecipient is provided an approved reimbursable budget not-to-exceed \$326,294.00 to perform works as stated in the Subaward Exhibit A, Subrecipient Statement of Work. Costs associated in delivering works must align with the District's invoicing guidelines which include Supporting Documentation as described in Exhibit C, Section C.3., with accompanying Quarterly Reports. Reimbursement of funds is contingent upon satisfactory and timely completion of deliverables as stated in the Subaward Exhibit A.

(Please See Attached Subrecipient Project Budget)



## EXHIBIT B.2

### EXPENDITURE GUIDELINES

#### B.2.1. UTILIZATION OF FUNDS

Funds under the Improving Online CTE Pathways grant program must be utilized for program implementation as prescribed in the Request for Applications (RFA). Within these parameters, and in line with proposed grant outcomes, colleges and/or districts are afforded discretion and flexibility to make spending decisions locally.

#### B.2.2. REASONABLE AND JUSTIFIABLE

All expenditures should be reasonable and justifiable. "Reasonable" means expenditures are prudent and every effort is made to utilize funds efficiently. "Justifiable" means expenditures are consistent with goals and activities related to the *Improving Online CTE Pathways* grant program and are in line with local policies and practices.

Colleges and/or districts are strongly urged to develop policies and procedures to document and justify program expenditures. Developing written documentation prior to the time of expenditure is recommended. This documentation should correlate with, and clearly establish the link between a given expenditure and program goals and objectives.

#### B.2.3. NON-ALLOWABLE EXPENDITURES

The California Virtual Campus - Online Education Initiative (CVC-OEI) has identified the following non-allowable expenditures for the Improving Online CTE Pathways grant program:

1. Gifts - Funds may not be used for gifts or monetary awards of any kind.
2. Stipends for Students - Funds may not be used to pay stipends to students for participation in program or classroom activities.
3. Political Contributions - Funds may not be used to pay for political contributions.
4. Courses - Funds may not be used to pay for the delivery of courses that generate full time equivalent students (FTES). Funds may, however, be used to support course development
5. Hardware & Software - Funds may not be used to purchase faculty/staff computing equipment, capital outlay items, or software licensing/subscriptions beyond the performance period of the grant as laid out in the RFA.
6. Supplanting and/or Coordination - Funds spent on grant programs may supplement existing activities or wholly fund new program activities as outlined in the college grant proposal. Outside funding received in addition to the grant award (e.g., other categorical or grant funds) may be coordinated to accomplish program goals, but grant funding may not replace, general or state categorical (restricted) district funds expended on similar program activities prior to the availability of program funding. Colleges will need to report separately regarding how Improving Online CTE Pathways grant funds were expended toward program goals.

The CVC-OEI will not provide an exhaustive list of allowable and non-allowable expenditures, as decisions for each expenditure must be made locally according to program objectives and activities, in addition to the "reasonable and justifiable" criteria outlined above. Program staff, however, are available to provide guidance on proposed expenditures.

## EXHIBIT C

### REPORTING AND INVOICING RESPONSIBILITIES

#### C.1. REQUIRED REPORTING

Invoices shall be submitted on a quarterly basis, with corresponding Quarterly Reports, no later than fifteen (15) days after the end of that individual reporting period, including the fiscal year end when all invoices must be received by the District no later than fifteen (15) days following the fiscal year end date of June 30.

The Quarterly Reports (and final Annual Report) shall detail and summarize: (1) activities accomplished through subaward, (2) direct connections with Improving Online CTE pathways goals and outcomes, (3) connection to overall CVC-OEI deliverables, and (4) direct applicability of funds expended to the deliverables outlined in the report. All funds expended must include and maintain supporting documentation as detailed in the Section C.3.

Additional content and formatting requirements as well as other relevant documentation will be communicated to the Subrecipient by the District's Authorized Representative for Technical Matters.

#### C.2. REPORTING TIMELINE

Deliverable	Reporting Period	Deliverable Due Date
Q1 Progress Report & Invoicing	July 01, 2019 to September 30, 2019	October 15, 2019
Q2 Progress Report & Invoicing	October 01, 2019 to December 31, 2019	January 15, 2020
Q3 Progress Report & Invoicing	January 01, 2020 to March 31, 2020	April 15, 2020
Q4 Progress Report & Invoicing	April 01, 2020 to June 30, 2020	July 15, 2020
Final (Annual) Project Report	July 01, 2019 to June 30, 2020	September 30, 2020

#### C.3. SUPPORTING DOCUMENTATION

Along with the invoice, Foothill-De Anza Community College District will require a system generated labor distribution report, general ledger/detailed financial activity report showing each actual transaction supporting the invoice amount. The Subrecipient must maintain any applicable supporting documentation pertaining to this agreement for five (5) years and must be able to provide such documentation upon request.

Supporting documentation (or source documents) is the physical basis upon which business transactions are recorded. Source documents are typically retained for use as evidence when auditors later review an organization's financial records and/or statements, and need to verify that transactions have, in fact, occurred. If an organization is audited, source documents back up the accounting journals and general ledger as an indisputable audit trail.

A source document describes all the basic facts of a transaction, such as:

- A description of a business transaction
- The date of the transaction (date goods are received or services provided)
- A specific amount of money
- An authorizing signature

For purposes of illustration, source documents which contain all the basic facts of a reimbursable transaction include, but are not limited to:

- *Service or Supplier Invoice.* This may serve as a source document if it describes all the basic facts of a reimbursable transaction and thereby support the issuance of a cash, check, or electronic payment to a service provider/supplier. Such an invoice may also support the recording of an expense, service provided, inventory item, or fixed asset.
- *Labor Distribution Report.* A detailed system-generated report that supports payroll salary and wages plus benefits expenditures.
- *Credit Card Receipt.* This may serve as a source document if the credit card receipt is coupled with a third party actual receipt with detailed description and cost of expenses incurred.
- *Packing Slip.* A packing slip together with a purchase order and invoice may serve as a source document for a completed sales transaction if it describes items delivered to a customer.

Source documents can be in paper or electronic form. Photocopies or scanned source documents are legally acceptable so long as they are legible, contain all the information present in the original and, within the limits of the scanning process, present that information in a format identical to the original.

Documents which have been scanned or otherwise reproduced and which do not contain all the basic facts of a transaction will not be accepted as source documents. For example, a materials receipt that specifies goods purchased and amount paid but that is scanned without the name of the supplier will not be accepted as a source document. Documents that present all the information in an original receipt, but that has been retyped in Word or Excel format will not be accepted as a source document.

**EXHIBIT D**

**REQUEST FOR APPLICATION (RFA)**

(Please Refer to Document Link Below)

<https://cvc.edu/wp-content/uploads/2019/03/RFA-Improving-Online-CTE-Pathways-032719.pdf>