

OFFICE OF THE CITY ATTORNEY  
CHARLES PARKIN, City Attorney  
333 West Ocean Boulevard, 11th Floor  
Long Beach, CA 90802-4664

OPERATIONAL AGREEMENT

**34413**

THIS OPERATIONAL AGREEMENT ("Agreement") is made and entered, in duplicate, as of February 25, 2016, for reference purposes only, pursuant to a minute order adopted by the City Council of the City of Long Beach at its meeting on November 3, 2015, by and between CALIFORNIA STATE UNIVERSITY, LONG BEACH RESEARCH FOUNDATION, CENTER FOR HEALTH EQUITY RESEARCH ("CSULB-CHER"), with a place of business at 6300 State University Drive, Suite 332, Long Beach, California 90815, and the CITY OF LONG BEACH, a municipal corporation ("City").

WHEREAS, City is the fiscal agent and grantee for the federally-funded continuation support for the National Forum on Youth Violence Prevention, State and Community Development grant program ("Forum Grant Program" and also referred to as the "DOJ Safe Schools Grant"); and

WHEREAS, City shall utilize the grant funds for the development and execution of an evaluation of the Forum Grant Program ("Evaluation Plan"); and

WHEREAS, CSULB-CHER provides and has experience in conducting local evaluations of similar projects; and

WHEREAS, City and CSULB-CHER wish to mutually cooperate and collaborate with each other for the purpose of developing and executing the Evaluation Plan;

NOW, THEREFORE, in consideration of the mutual terms, covenants, and conditions in this Agreement, the parties agree as follows:

1. CSULB-CHER RESPONSIBILITIES. CSULB-CHER shall develop and execute an Evaluation Plan as follows:

A. CSULB-CHER shall develop an Evaluation Plan to assess the effectiveness of the DOJ Safe Schools Grant activities, as more particularly described in Exhibit "A", attached to this Agreement and incorporated by this reference, by working with key project personnel (including, but not limited to, the

1 Long Beach Unified School District Director of Student Support Services and the  
2 City of Long Beach Community Program Specialist) to explore feasibility and  
3 appropriateness of proposed evaluation activities, as well as solicit feedback  
4 regarding additional activities or measures that should be included in the Evaluation  
5 Plan. The final Evaluation Plan shall be submitted to the City for approval no later  
6 than thirty (30) calendar days from the date that this Agreement is executed.

7 B. Upon City's approval of the Evaluation Plan, CSULB-CHER  
8 shall execute all related evaluation activities as outlined in such Plan. Throughout  
9 the implementation of evaluation activities, CSULB-CHER shall maintain ongoing  
10 communication with the City through the Community Program Specialist assigned  
11 to the grant program, to provide updates regarding the progress and status of the  
12 Evaluation Plan. Upon completion of executing the Evaluation Plan, CSULB-CHER  
13 shall prepare a report ("Evaluation Report") containing a detailed overview of the  
14 data collection methods, evaluation activities, evaluation results and findings as to  
15 whether the DOJ Safe Schools Grant activities were effective in reducing chronic  
16 truancy and improving systems. The final Evaluation Report must be delivered to  
17 the City of Long Beach no later than September 30, 2016, unless otherwise  
18 extended by the City at its sole discretion.

19 2. CITY RESPONSIBILITIES. As the fiscal agent and lead for the Forum  
20 Grant Program, the City shall provide overall leadership under the DOJ Safe Schools  
21 Grant. Specifically, the City shall serve as the coordinating body under the DOJ Safe  
22 Schools Grant to ensure the attainment of the grant goals, objectives and outcomes. This  
23 includes providing technical support and assistance to all organizations receiving a sub-  
24 award under this grant program.

25 3. FUNDING. City shall pay for these services in the manner described  
26 below, not to exceed Thirty-Seven Thousand Five Hundred Dollars (\$37,500). City shall  
27 pay CSULB-CHER in due course of payments following receipt from CSULB-CHER and  
28 approval by City of invoices showing the services or task performed for the implementation

1 of a cost reimbursement budget. Services will be reimbursed to CSULB-CHER for project-  
2 related expenses. CSULB-CHER shall certify on the invoices that CSULB-CHER has  
3 performed the services in full conformance with this Agreement and is entitled to receive  
4 payment. Each invoice shall be submitted on agency letterhead, and shall be accompanied  
5 by supporting documentation of services rendered and a progress report indicating the  
6 progress to date of services performed and covered by the invoice, including a brief  
7 statement of any project problems and potential causes of delay in performance, and listing  
8 those services that are projected for performance by CSULB-CHER during the next invoice  
9 cycle.

10 4. TERM. The term of this Agreement shall commence at midnight on  
11 October 1, 2015, and shall terminate at 11:59 p.m. on September 30, 2016, unless  
12 otherwise extended by the City at its sole discretion or sooner terminated as provided in  
13 this Agreement, or unless the services or the Project is completed sooner.

14 5. INDEPENDENT CONTRACTOR. In performing its services, CSULB-  
15 CHER is and shall act as an independent contractor and not an employee, representative  
16 or agent of City. CSULB-CHER shall have control of CSULB-CHER's work and the manner  
17 in which it is performed. CSULB-CHER shall be free to contract for similar services to be  
18 performed for others during this Agreement. CSULB-CHER acknowledges and agrees  
19 that (a) City will not withhold taxes of any kind from CSULB-CHER's compensation; (b) City  
20 will not secure workers' compensation or pay unemployment insurance to, for or on  
21 CSULB-CHER's behalf; and (c) City will not provide and CSULB-CHER is not entitled to  
22 any of the usual and customary rights, benefits or privileges of City employees. CSULB-  
23 CHER expressly warrants that neither CSULB-CHER nor any of CSULB-CHER's  
24 employees or agents shall represent themselves to be employees or agents of City.

25 6. ASSIGNMENT AND SUBCONTRACTING. This Agreement  
26 contemplates the personal services of CSULB-CHER and CSULB-CHER's employees,  
27 and the parties acknowledge that a substantial inducement to City for entering this  
28 Agreement was and is the professional reputation and competence of CSULB-CHER and

1 CSULB-CHER's employees. CSULB-CHER shall not assign its rights or delegate its duties  
2 under this Agreement, or any interest in this Agreement, or any portion of it, without the  
3 prior approval of City, except that CSULB-CHER may with the prior approval of the City  
4 Manager of City, assign any moneys due or to become due CSULB-CHER under this  
5 Agreement. Any attempted assignment or delegation shall be void, and any assignee or  
6 delegate shall acquire no right or interest by reason of an attempted assignment or  
7 delegation. Furthermore, CSULB-CHER shall not subcontract any portion of its  
8 performance without the prior approval of the City Manager or designee, or substitute an  
9 approved subconsultant or contractor without approval prior to the substitution. Nothing  
10 stated in this Section shall prevent CSULB-CHER from employing as many employees as  
11 CSULB-CHER deems necessary for performance of this Agreement.

12 7. CONFLICT OF INTEREST. CSULB-CHER, by executing this  
13 Agreement, certifies that, at the time CSULB-CHER executes this Agreement and for its  
14 duration, CSULB-CHER does not and will not perform services for any other client which  
15 would create a conflict, whether monetary or otherwise, as between the interests of City  
16 and the interests of that other client. And, CSULB-CHER shall obtain similar certifications  
17 from CSULB-CHER's employees, subconsultants and contractors.

18 8. MATERIALS. CSULB-CHER shall furnish all labor and supervision,  
19 supplies, materials, tools, machinery, equipment, appliances, transportation and services  
20 necessary to or used in the performance of CSULB-CHER's obligations under this  
21 Agreement.

22 9. OWNERSHIP OF DATA. All materials, information and data  
23 prepared, developed or assembled by CSULB-CHER or furnished to CSULB-CHER in  
24 connection with this Agreement, including but not limited to documents, estimates,  
25 calculations, studies, maps, graphs, charts, computer disks, computer source  
26 documentation, samples, models, reports, summaries, drawings, designs, notes, plans,  
27 information, material and memorandum ("Data") shall be the exclusive property of City.  
28 Data shall be given to City, and City shall have the unrestricted right to use and disclose

1 the Data in any manner and for any purpose without payment of further compensation to  
2 CSULB-CHER. Copies of Data may be retained by CSULB-CHER but CSULB-CHER  
3 warrants that Data shall not be made available to any person or entity for use without the  
4 prior approval of City. This Agreement and documentation prepared or developed as part  
5 of CSULB-CHER's proposal to City for awarding of this Agreement shall not be considered  
6 confidential data. This warranty shall survive termination of this Agreement for five (5)  
7 years.

8           10. TERMINATION. Either party shall have the right to terminate this  
9 Agreement for any reason or no reason at any time by giving thirty (30) calendar days prior  
10 written notice to the other party. In the event of termination under this Section, City shall  
11 pay CSULB-CHER for services satisfactorily performed and costs incurred up to the  
12 effective date of termination for which CSULB-CHER has not been previously paid. On  
13 the effective date of termination, CSULB-CHER shall deliver to City all Data developed or  
14 accumulated in the performance of this Agreement, whether in draft or final form, or in  
15 process. And, CSULB-CHER acknowledges and agrees that City's obligation to make final  
16 payment is conditioned on CSULB-CHER's delivery of the Data to City.

17           11. CONFIDENTIALITY. CSULB-CHER shall keep all Data confidential  
18 and shall not disclose the Data or use the Data directly or indirectly, other than in the course  
19 of performing its services, during the term of this Agreement and for five (5) years following  
20 expiration or termination of this Agreement. In addition, CSULB-CHER shall keep  
21 confidential all information, whether written, oral or visual, obtained by any means  
22 whatsoever in the course of performing its services for the same period of time. CSULB-  
23 CHER shall not disclose any or all of the Data to any third party, or use it for CSULB-  
24 CHER's own benefit or the benefit of others except for the purpose of this Agreement.

25           12. BREACH OF CONFIDENTIALITY. CSULB-CHER shall not be liable  
26 for a breach of confidentiality with respect to Data that: (a) CSULB-CHER demonstrates  
27 CSULB-CHER knew prior to the time City disclosed it; or (b) is or becomes publicly  
28 available without breach of this Agreement by CSULB-CHER; or (c) a third party who has

1 a right to disclose does so to CSULB-CHER without restrictions on further disclosure; or  
2 (d) must be disclosed pursuant to legal process.

3 13. ADDITIONAL COSTS. Any costs incurred by City due to CSULB-  
4 CHER's failure to meet the standards required by the scope of work or CSULB-CHER's  
5 failure to perform fully the tasks described in the scope of work which, in either case,  
6 causes City to request that CSULB-CHER perform again all or part of the Scope of Work  
7 shall be at the sole cost of CSULB-CHER and City shall not pay any additional  
8 compensation to CSULB-CHER for its re-performance.

9 14. AMENDMENT. This Agreement, including all Exhibits, shall not be  
10 amended, nor any provision or breach waived, except in writing signed by the parties which  
11 expressly refers to this Agreement.

12 15. LAW. This Agreement shall be construed in accordance with the laws  
13 of the State of California, and the venue for any legal actions brought by any party with  
14 respect to this Agreement shall be the County of Los Angeles, State of California for state  
15 actions and the Central District of California for any federal actions.

16 16. ENTIRE AGREEMENT. This Agreement, including all Exhibits,  
17 constitutes the entire understanding between the parties and supersedes all other  
18 agreements, oral or written, with respect to the subject matter in this Agreement.

19 17. INDEMNITY.

20 A. CSULB-CHER shall indemnify, protect and hold harmless City,  
21 its Boards, Commissions, and their officials, employees and agents ("Indemnified  
22 Parties"), from and against any and all liability, claims, demands, damage, loss,  
23 obligations, causes of action, proceedings, awards, fines, judgments, penalties,  
24 costs and expenses, including attorneys' fees, court costs, expert and witness fees,  
25 and other costs and fees of litigation, arising or alleged to have arisen, in whole or  
26 in part, out of or in connection with (1) CSULB-CHER's breach or failure to comply  
27 with any of its obligations contained in this Agreement, including any obligations  
28 arising from the Project's compliance with or failure to comply with applicable laws,

1 including all applicable federal and state labor requirements including, without  
2 limitation, the requirements of California Labor Code section 1770 *et seq.* or (2)  
3 negligent or willful acts, errors, omissions or misrepresentations committed by  
4 CSULB-CHER, its officers, employees, agents, subcontractors, or anyone under  
5 CSULB-CHER's control, in the performance of work or services under this  
6 Agreement (collectively "Claims" or individually "Claim").

7 B. In addition to CSULB-CHER's duty to indemnify, CSULB-  
8 CHER shall have a separate and wholly independent duty to defend Indemnified  
9 Parties at CSULB-CHER's expense by legal counsel approved by City, from and  
10 against all Claims, and shall continue this defense until the Claims are resolved,  
11 whether by settlement, judgment or otherwise. No finding or judgment of  
12 negligence, fault, breach, or the like on the part of CSULB-CHER shall be required  
13 for the duty to defend to arise. City shall notify CSULB-CHER of any Claim, shall  
14 tender the defense of the Claim to CSULB-CHER, and shall assist CSULB-CHER,  
15 as may be reasonably requested, in the defense.

16 C. If a court of competent jurisdiction determines that a Claim was  
17 caused by the sole negligence or willful misconduct of Indemnified Parties, CSULB-  
18 CHER's costs of defense and indemnity shall be (1) reimbursed in full if the court  
19 determines sole negligence by the Indemnified Parties, or (2) reduced by the  
20 percentage of willful misconduct attributed by the court to the Indemnified Parties.

21 D. The provisions of this Section shall survive the expiration or  
22 termination of this Agreement.

23 18. AMBIGUITY. In the event of any conflict or ambiguity between this  
24 Agreement and any Exhibit, the provisions of this Agreement shall govern.

25 19. NONDISCRIMINATION.

26 A. In connection with performance of this Agreement and subject  
27 to applicable rules and regulations, CSULB-CHER shall not discriminate against any  
28 employee or applicant for employment because of race, religion, national origin,

1 color, age, sex, sexual orientation, gender identity, AIDS, HIV status, handicap or  
2 disability. CSULB-CHER shall ensure that applicants are employed, and that  
3 employees are treated during their employment, without regard to these bases.  
4 These actions shall include, but not be limited to, the following: employment,  
5 upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or  
6 termination; rates of pay or other forms of compensation; and selection for training,  
7 including apprenticeship.

8 B. It is the policy of City to encourage the participation of  
9 Disadvantaged, Minority and Women-Owned Business Enterprises in City's  
10 procurement process, and CSULB-CHER agrees to use its best efforts to carry out  
11 this policy in its use of subconsultants and contractors to the fullest extent consistent  
12 with the efficient performance of this Agreement. CSULB-CHER may rely on written  
13 representations by subconsultants and contractors regarding their status. CSULB-  
14 CHER shall report to City in May and in December or, in the case of short-term  
15 agreements, prior to invoicing for final payment, the names of all subconsultants  
16 and contractors hired by CSULB-CHER for this Project and information on whether  
17 or not they are a Disadvantaged, Minority or Women-Owned Business Enterprise,  
18 as defined in Section 8 of the Small Business Act (15 U.S.C. Sec. 637).

19 20. EQUAL BENEFITS ORDINANCE. Unless otherwise exempted in  
20 accordance with the provisions of the Ordinance, this Agreement is subject to the  
21 applicable provisions of the Equal Benefits Ordinance (EBO), section 2.73 et seq. of the  
22 Long Beach Municipal Code, as amended from time to time.

23 A. During the performance of this Agreement, the CSULB-CHER  
24 certifies and represents that the CSULB-CHER will comply with the EBO. The  
25 CSULB-CHER agrees to post the following statement in conspicuous places at its  
26 place of business available to employees and applicants for employment:

27 "During the performance of a contract with the City of Long Beach, the  
28 CSULB-CHER will provide equal benefits to employees with spouses and its



1 employees with domestic partners. Additional information about the City of  
2 Long Beach's Equal Benefits Ordinance may be obtained from the City of  
3 Long Beach Business Services Division at 562-570-6200."

4 B. The failure of the CSULB-CHER to comply with the EBO will be  
5 deemed to be a material breach of the Agreement by the City.

6 C. If the CSULB-CHER fails to comply with the EBO, the City may  
7 cancel, terminate or suspend the Agreement, in whole or in part, and monies due or  
8 to become due under the Agreement may be retained by the City. The City may  
9 also pursue any and all other remedies at law or in equity for any breach.

10 D. Failure to comply with the EBO may be used as evidence  
11 against the CSULB-CHER in actions taken pursuant to the provisions of Long Beach  
12 Municipal Code 2.93 et seq., Contractor Responsibility.

13 E. If the City determines that the CSULB-CHER has set up or used  
14 its contracting entity for the purpose of evading the intent of the EBO, the City may  
15 terminate the Agreement on behalf of the City. Violation of this provision may be  
16 used as evidence against the CSULB-CHER in actions taken pursuant to the  
17 provisions of Long Beach Municipal Code Section 2.93 et seq., Contractor  
18 Responsibility.

19 21. NOTICES. Any notice or approval required by this Agreement shall  
20 be in writing and personally delivered or deposited in the U.S. Postal Service, first class,  
21 postage prepaid, addressed to CSULB-CHER at the address first stated above, and to City  
22 at 333 West Ocean Boulevard, Long Beach, California 90802, Attn: City Manager, with a  
23 copy to the City Engineer at the same address. Notice of change of address shall be given  
24 in the same manner as stated for other notices. Notice shall be deemed given on the date  
25 deposited in the mail or on the date personal delivery is made, whichever occurs first.

26 22. COPYRIGHTS AND PATENT RIGHTS.

27 A. CSULB-CHER shall place the following copyright protection on  
28 all Data: © City of Long Beach, California \_\_\_\_\_, inserting the appropriate year.

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B. City reserves the exclusive right to seek and obtain a patent or copyright registration on any Data or other result arising from CSULB-CHER's performance of this Agreement. By executing this Agreement, CSULB-CHER assigns any ownership interest CSULB-CHER may have in the Data to City.

C. CSULB-CHER warrants that the Data does not violate or infringe any patent, copyright, trade secret or other proprietary right of any other party. CSULB-CHER agrees to and shall protect, defend, indemnify and hold City, its officials and employees harmless from any and all claims, demands, damages, loss, liability, causes of action, costs or expenses (including reasonable attorney's fees) whether or not reduced to judgment, arising from any breach or alleged breach of this warranty.

23. WAIVER. The acceptance of any services or the payment of any money by City shall not operate as a waiver of any provision of this Agreement or of any right to damages or indemnity stated in this Agreement. The waiver of any breach of this Agreement shall not constitute a waiver of any other or subsequent breach of this Agreement.

24. AUDIT. City shall have the right at all reasonable times during the term of this Agreement and for a period of five (5) years after termination or expiration of this Agreement to examine, audit, inspect, review, extract information from and copy all books, records, accounts and other documents of CSULB-CHER relating to this Agreement.

25. THIRD PARTY BENEFICIARY. This Agreement is not intended or designed to or entered for the purpose of creating any benefit or right for any person or entity of any kind that is not a party to this Agreement.


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1 IN WITNESS WHEREOF, the parties have caused this document to be duly  
2 executed with all formalities required by law as of the date first stated above.

3 CALIFORNIA STATE UNIVERSITY, LONG  
4 BEACH RESEARCH FOUNDATION,  
5 CENTER FOR HEALTH EQUITY  
6 RESEARCH

4.7

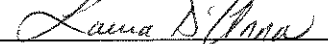
\_\_\_\_\_, 2016

By 

Name Sandra A. Shereman  
Title Sr. Director Sponsored Programs

4-7

\_\_\_\_\_, 2016

By 

Name Dr. Laura D'Anna  
Title Director, CSULB-CHER

"CSULB-CHER"

12 CITY OF LONG BEACH, a municipal  
13 corporation

June 7

\_\_\_\_\_, 2016

By  **Assistant City Manager**  
City Manager

"City"

EXECUTED PURSUANT  
TO SECTION 301 OF  
THE CITY CHARTER.

16 This Agreement is approved as to form on April 15, 2016.

18 CHARLES PARKIN, City Attorney

19 By 

Deputy

OFFICE OF THE CITY ATTORNEY  
CHARLES PARKIN, City Attorney  
333 West Ocean Boulevard, 11th Floor  
Long Beach, CA 90802-4664

EXHIBIT A  
Sample Evaluation Plan Activities

The following activities shall be included in the DOJ Safe Schools grant Evaluation Plan:

- Assess outreach efforts (e.g., compare the number of small businesses approached and compare to the number of businesses that agree to participate in the All In Campaign to reduce truancy, and who agree to post the All In decal on store windows) to measure community engagement
- Work with the project consultant and school staff at each of the four sites to ensure that necessary data are recorded to help inform the campaign, including the number of telephone calls the school sites receive from local businesses and residents to report truancy, response time, and the number of participants at campaign events
- Analyze school-specific attendance and truancy data to assess pre-/post-campaign changes
- Interview local businesses that agreed to participate (1 interview per site) to learn about what factors contributed to their decision to participate, ease of reporting, and about the campaign's impact on loitering
- Interview small businesses that did not agree to participate (1 interview per site) to learn about barriers to participation and suggestions for community engagement
- Interview City Prosecutor to assess efficiency of new data-sharing process with Long Beach Unified School District
- Interview engaged parents (1 interview per site) to collect information about opportunities for improving the campaign should it be implemented on a larger scale (e.g. district wide)
- Interview school staff and/or principals to assess if the campaign was effective in improving school climate, attendance and academic performance