

**MEMORANDUM OF UNDERSTANDING BY AND BETWEEN  
THE OHIO DEPARTMENT OF EDUCATION AND BATTELLE MEMORIAL INSITUTE**

**THIS AGREEMENT** is by and between the Ohio Department of Education on behalf of the STEM Committee (hereinafter “ODE”), located at 25 South Front Street, Columbus, Ohio 43215 and Battelle Memorial Insitute (hereinafter “Battelle”), located at 505 King Avenue, Columbus, Ohio 43201

**BACKGROUND INFORMATION**

- A. STEM is “science, technology, engineering, and mathematics.”
- B. Battelle is a nonprofit incorporated charitable trust headquartered in the State of Ohio with the following core purposes: conducting and managing scientific research and technology development; translating technology into applications and products for the benefit of society; and being a benefactor for the betterment of mankind, particularly with respect to education;
- C. Battelle, along with several other entities joined together in 2008 to create and announce the Ohio STEM Learning Network (OSLN);
- D. ORC 3326 established the STEM Committee under the support of ODE and created a working relationship between the STEM Committee and OSLN for reviewing proposals for STEM schools; and
- E. ODE and the STEM Committee continue to work with Battelle and OSLN in advancing STEM initiatives.

***NOW THEREFORE***, in consideration of the mutual covenants and promises set forth herein and for other good and valuable consideration, the Parties hereby agree as follows:

**PROVISIONS**

**Section 1: Nature of Agreement**

- a. Battelle agrees to the responsibilities and terms set forth in the “Scope of Work,” attached hereto as Appendix A, made a part hereof, and incorporated herein by reference as if fully rewritten herein.
- b. Battelle shall serve as an independent contractor with respect to the collaborations and discharge of responsibilities set forth in this Agreement. It is specifically understood and agreed by the Parties that any services rendered by Battelle under this Agreement are exclusively advisory. Battelle shall possess no authority to exercise any powers of ODE; shall not directly or indirectly exercise any powers of ODE; and shall have no responsibility for, or incur any liability of any nature with respect to, or deriving from, any decision made or action taken by ODE in the exercise of its powers. It is further understood by the Parties that neither has the authority to bind the other to any third person or otherwise to act in any way as the representative of the other. Further, Battelle nor its personnel shall at any time, or for any purpose, be considered public employees for the purpose of Ohio Public Employees Retirement Systems benefits.

- c. Battelle shall provide advisory services to ODE in discharge of its responsibilities set forth in this Agreement, and ODE shall not hire, supervise or pay any assistants to Battelle in provision of such advisory services under this Agreement. ODE shall not be required to provide any training to Battelle to enable Battelle to provide the advisory services required hereunder.
- d. It is expressly understood by the Parties that requests may be made by ODE for the sole purpose of furthering the progress of collaborations described in this Agreement. Management of Battelle's activities including the right to control or direct the manner or means by which advisory services are performed and provided, remains exclusively with Battelle. ODE retains the right to ensure that Battelle's work is in conformity with the terms and conditions of this Agreement.

## **Section 2: Term**

This Agreement shall be effective on the date of the last signature of the Parties and shall terminate June 30, 2018, unless the Agreement is terminated pursuant to the terms contained in Article III of this Agreement. This Agreement can be renewed by either Party upon written notice on the same terms and conditions.

## **Section 3: Termination**

- a. The Parties may terminate this Agreement for the following reasons:
  - i. Default by either Party. Default is defined as the failure by a Party to perform substantially in accordance with the terms and conditions of the Agreement. Termination for default may occur only after the Party alleging default has notified the other Party in writing of its alleged default and provided a reasonable period of time for such Party to remedy the alleged default.
  - ii. The lack of need for the services as specified under this Agreement, including, but not limited to, program changes; changes in laws, rules or regulations; or lack of adequate capacity to carry out the work by either Party. If a termination is desired, written notice thirty (30) days prior to the date of termination will be provided by the Party desiring to terminate.
  - iii. If Battelle deems it to be in the best interest of Battelle by serving ODE with written notice thirty (30) days prior to the date of termination.
- b. Upon termination of this Agreement, by either Party, Battelle shall deliver to ODE all work product and documents which were prepared by Battelle for the exclusive purpose of providing services under this Agreement as well as all documents held by Battelle on behalf of ODE in the course of providing services under the Agreement. All such materials shall become, and remain, the property of ODE to be used in such manner as ODE may choose. For the avoidance of doubt and not by limitation, any work product or document prepared or produced by Battelle in its

capacity as manager of the OSLN or prepared or produced in whole or part with respect to Battelle's STEM education activities beyond the scope of this Agreement shall be delivered to ODE

#### **Section 4: Compensation**

There shall be no financial remuneration for any work performed under this Agreement.

#### **Section 5: Ohio Public Records & Open Meetings Law**

Battelle acknowledges that ODE is subject to Ohio Public Records law. Further, Battelle acknowledges and agrees that it may also become subject to Ohio Public Records law, specifically ORC 149.43, if it possesses documents and/or records, transmitted and/or provided to Battelle, during the undertaking or performance of its duties and responsibilities as set forth in Appendix A.

Battelle acknowledges that ODE is subject to Ohio Open Meetings Law. Battelle agrees that in the event it desires to schedule a meeting or an event with ODE, or a majority of the STEM committee, it shall contact the provided ODE administrator to schedule the meeting or event in accordance with Ohio law.

#### **Section 6: Drug and Alcohol Free Workplace**

Battelle shall comply with all applicable federal, state, and local laws regarding smoke free and drug free work places and shall make a good faith effort to ensure that all its employees, while engaged in the work being performed hereunder, will not purchase, transfer, use or possess illegal drugs or alcohol or abuse prescription drugs in any way.

#### **Section 7: Representations and Compliance with Law**

- a. **Boycott**: Pursuant to ORC 9.76(B), Battelle warrants and represents that it is not boycotting with whom the State of Ohio can enjoy open trade, including Israel, and will not do so during the term of this Agreement.
- b. **Unresolved Findings**: Battelle represents and warrants that it is not subject to an unresolved finding for recovery under ORC 9.24
- c. **Suspension and Debarment**: Battelle represents and warrants that it is not subject to any state or federal suspicion or debarment.
- d. **Unfair Labor Practice**: Battelle represents and warrants that it is not listed with the Ohio Secretary of State for unfair labor practices, pursuant to ORC 121.23.
- e. **Compliance**: Battelle agrees to comply with all applicable federal, state, and local laws.
- f. **Ohio Ethics Laws**: No personnel of Battelle or employee who exercises any functions or responsibilities in connection with the review or approval of the understanding or carrying out of any such work, shall prior to the completion of said work, voluntarily acquire any personal interest, direct or indirect, which is incompatible or in conflict with the discharge or fulfillment of his or her functions and responsibilities with respect to the carrying out of said work.

- g. **Equal Opportunity and Nondiscrimination**: Battelle shall not discriminate on the basis of race, gender, religion, national origin, ethnicity, sexual orientation, age, or disability in the solicitation, selection, hiring, or treatment of subcontractors, vendors, or suppliers. Battelle shall provide equal opportunity for subcontractors to participate in subcontracting opportunities.
- h. **Executive Order 2011-12K**: Battelle affirms to have read and understands Executive Order 2011-12K and shall abide by those requirements in the performance of this Agreement.
- i. **Acknowledgement**: Battelle agrees that if any of the representations and warranties set forth within this Article is deemed to be false, this Agreement shall be void *ab initio* and Battelle shall follow the terms set forth in Section 2 of Article III.

### **Section 8: Governing Law**

This Agreement and the rights of the Parties shall be governed, construed, and interpreted in accordance with the laws of the State of Ohio and only Ohio courts shall have jurisdiction over any action or proceeding concerning the Agreement.

### **Section 9: Notice**

Any notice required hereunder shall be made in writing and shall be accomplished by personal delivery or by United States certified mail, return receipt requested, postage prepaid, addressed to the Party at the address set forth below.

Paolo DeMaria  
Superintendent of Public Instruction  
Ohio Department of Education  
25 South Front Street  
Columbus, Ohio 43215

with a copy to:

Diane Lease  
Chief Legal Counsel  
Ohio Department of Education  
25 South Front Street  
Columbus, Ohio 43215

Aimee Kennedy, PhD  
Senior Vice President  
of Education and Philanthropy  
Battelle Memorial Insitute  
505 King Avenue  
Columbus, Ohio 43201

**Section 10: Amendments or Modification**

No amendment or modification of this Agreement shall be effective against either Party unless such amendment or modification is set forth in writing and signed by both Parties.

**Section 11: Waiver**

The waiver or failure of either Party to exercise in any respect any right provided for herein shall not be deemed a waiver of any further right hereunder.

**Section 12: Headings**

The headings in this Agreement have been inserted for convenient reference only and shall not be considered in any questions of interpretation or construction of this Agreement.

**Section 13: Severability**

The provisions of this Agreement are severable and independent, and if any such provision shall be determined to be unenforceable in whole or in part, the remaining provisions and any partially enforceable provision shall, to the extent enforceable in any jurisdiction, nevertheless be binding and enforceable.

**Section 14: Entire Contract**

This Agreement constitutes the entire agreement of the Parties hereunder and supersedes prior understandings, whether written or oral, between the Parties.

**IN WITNESS WHEREOF**, the Parties have executed this Agreement on the date set aside by their respective signatures.

**BATTELLE MEMORIAL INSTITUTE**

By: \_\_\_\_\_  
AIMEE KENNEDY  
SENIOR VICE PRESIDENT OF EDUCATION  
AND PHILANTHROPY

\_\_\_\_\_  
DATE

**OHIO DEPARTMENT OF EDUCATION**

By: \_\_\_\_\_  
PAOLO DEMARIA  
SUPERINTENDENT OF PUBLIC INSTRUCTION

\_\_\_\_\_  
DATE

**APPENDIX A**  
**SCOPE OF WORK**

**1. BATTELLE’S RESPONSIBILITIES AND DUTIES**

Battelle shall perform the following activities:

**a. Recommendations**

- i.** Battelle shall assist ODE, in an advisory capacity, in evaluating the proposals of STEM school applicants and recommending which schools should receive a STEM or STEM equivalent designation based on the information provided within the applicant’s proposal.
- ii.** Battelle shall evaluate proposals submitted by a partnership of public and private entities, consisting of the permitted entities based off the criteria set forth in ORC 3326.03.
- iii.** Battelle shall evaluate proposals submitted for a STEM equivalent by a community school established under ORC 3314 or to a chartered nonpublic school based off the criteria set forth in ORC 3326.032.

**b. Technical Assistance**

- i.** Battelle shall provide to STEM school applicants guidance and technical assistance with the application process, including, but not limited to: STEM school designs, governance, start-up designation proposals, and review of proposal content prior to submission and/or after submission if the application is returned by ODE for further development.
- ii.** Battelle shall provide the following to STEM or STEM equivalent designated schools:
  - 1.** Support in developing and implementing a high-quality curriculum consistent with STEM pedagogy and the requirements set forth in ORC 3326.03 and ORC, 3326.032;
  - 2.** Field support and any other forms of technical assistance currently offered to schools through OSLN.

## **2. ODE'S RESPONSIBILITIES AND DUTIES**

ODE shall perform the following activities:

### **a. STEM Initiatives**

- i.** ODE shall communicate and provide timely updates regarding state-level STEM initiatives.
- ii.** ODE shall include Battelle, in an advisory capacity, through the STEM working group, in decisions regarding STEM initiatives.
- iii.** ODE may post links to OSLN's website on ODE's website and provide notice and information on ODE's website and through the email list serv regarding STEM related programs.
- iv.** ODE shall consider Battelle in any partnership opportunities related to STEM with the understanding that ODE may consider and enter partnerships with other organizations, in addition to Battelle, for STEM initiatives in Ohio.

### **b. Monitoring**

- i.** ODE may request that Battelle assist in monitoring a STEM designated school and the school's implementing of the proposal approved by ODE.
- ii.** In the event Battelle is tasked with monitoring the implementing of a STEM school's proposal, it shall communicate to ODE, within two weeks of the date it is put on notice, if it observes a school failing to implement the proposal that was approved by ODE.

### **c. Meetings**

ODE, in collaboration with Battelle, may schedule a meeting of the STEM committee at 505 King Avenue, Columbus, Ohio 43201 address.