**STATE OF OREGON**

**GRANT AGREEMENT**

Grant No. XXXXX

This Grant Agreement (“Grant”) is between the State of Oregon acting by and through its Department of Education (“Agency”) and \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (“Grantee”), each a “Party” and, together, the “Parties”.

# SECTION 1: AUTHORITY

Pursuant to ORS 327.128 and the American Rescue Plan Act (ARPA), US Public Law 117-2 (Elementary and Secondary School Emergency Relief Fund or ESSER III), Agency is authorized to enter into a grant agreement and provide funding for the purposes described in this Grant.

# SECTION 2: PURPOSE

This Grant provides opportunities for Culturally Specific Community Based Organizations, in partnership with districts, to offer culturally affirming and enriching after school learning programs for students, particularly Focal Students, who have been impacted by the COVID-19 pandemic.

# SECTION 3: EFFECTIVE DATE AND DURATION

When all Parties have executed this Grant, and all necessary approvals have been obtained (“Executed Date”), this Grant is effective and has a Grant funding start date as of July 1, 2022 (“Effective Date”), and unless extended or terminated earlier in accordance with its terms, will expire on September 16, 2024.

# SECTION 4: GRANT MANAGERS

**4.1** Agency’s Grant Manager is:

DeAndra Brooks

255 Capitol St. NE Salem, OR 97310

503-830-3138 deandra.brooks@ode.oregon.gov

**4.2** Grantee’s Grant Manager is:

Name

Address

|  |  |
| --- | --- |
| XXX-XXX-XXXX | |
| email |  |

**4.3** A Party may designate a new Grant Manager by written notice to the other Party.

# SECTION 5: PROJECT ACTIVITIES

Grantee must perform the project activities set forth in Exhibit A (the “Project”), attached hereto and incorporated in this Grant by this reference, for the period beginning on the Effective Date and ending on the expiration date set forth in Section 3 (the “Performance Period”).

# SECTION 6: GRANT FUNDS

In accordance with the terms and conditions of this Grant, Agency will provide Grantee up to $\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (“Grant Funds”) for the Project. Agency will pay the Grant Funds from moneys available through its federal U.S. Department of Education IDEA Special Education and Improvement Grants for Children with Disabilities (“Funding Source”).

# SECTION 7: DISBURSEMENT GENERALLY

**7.1** Disbursement.

**7.1.1** Subject to the availability of sufficient moneys in and from the Funding Source based on Agency’s reasonable projections of moneys accruing to the Funding Source, Agency will disburse Grant Funds to Grantee for the allowable Project activities described in Exhibit A that are undertaken during the Performance Period.

**7.1.2** Grantee must provide to Agency any information or detail regarding the expenditure of Grant Funds required under Exhibit A prior to disbursement or as Agency may request.

**7.1.3** Agency will only disburse Grant Funds to Grantee for activities completed or materials produced, that, if required by Exhibit A, are approved by Agency. If Agency determines any completed Project activities or materials produced are not acceptable and any deficiencies are the responsibility of Grantee, Agency will prepare a detailed written description of the deficiencies within 15 days of receipt of the materials or performance of the activity, and will deliver such notice to Grantee. Grantee must correct any deficiencies at no additional cost to Agency within 15 days. Grantee may resubmit a request for disbursement that includes evidence satisfactory to Agency demonstrating deficiencies were corrected.

**7.2 Conditions Precedent to Disbursement.** Agency’s obligation to disburse Grant Funds to Grantee under this Grant is subject to satisfaction of each of the following conditions precedent:

**7.2.1** Agency has received sufficient funding, appropriations, expenditure limitation, allotments, or other necessary expenditure authorizations to allow Agency, in the exercise of its reasonable administrative discretion, to make the disbursement from the Funding Source;

**7.2.2** No default as described in Section 15 has occurred; and

**7.2.3** Grantee’s representations and warranties set forth in Section 8 are true and correct on the date of disbursement(s) with the same effect as though made on the date of disbursement.

**7.3 No Duplicate Payment.** Grantee may use other funds in addition to the Grant Funds to complete the Project; provided, however, the Grantee may not credit or pay any Grant Funds for Project costs that are paid for with other funds and would result in duplicate funding.

# SECTION 8: REPRESENTATIONS AND WARRANTIES

**8.1 Organization/Authority.** Grantee represents and warrants to Agency that:

**8.1.1** Grantee is an [insert type of entity: school district, education service district, non-profit entity, university, unit of local government, etc.], duly organized and validly existing;

**8.1.2** Grantee has all necessary rights, powers, and authority under any organizational documents and under Oregon Law to (i) execute this Grant, (ii) incur and perform its obligations under this Grant, and (iii) receive financing, including the Grant Funds, for the Project;

**8.1.3** This Grant has been duly executed by Grantee and when executed by Agency, constitutes a legal, valid and binding obligation of Grantee enforceable in accordance with its terms;

**8.1.4** If applicable and necessary, the execution and delivery of this Grant by Grantee has been authorized by an ordinance, order, or resolution of its governing body, or voter approval, that was adopted in accordance with applicable law and requirements for filing public notices and holding public meetings; and

**8.1.5** There is no proceeding pending or threatened against Grantee before any court or

governmental authority that if adversely determined would materially adversely affect the Project or the ability of Grantee to carry out the Project.

**8.2 False Claims Act.** Grantee acknowledges the Oregon False Claims Act, ORS 180.750 to 180.785, applies to any “claim” (as defined by ORS 180.750) made by (or caused by) Grantee that pertains to this Grant or to the Project. Grantee certifies that no claim described in the previous sentence is or will be a “false claim” (as defined by ORS 180.750) or an act prohibited by ORS 180.755. Grantee further acknowledges in addition to the remedies under Section 16, if it makes (or causes to be made) a false claim or performs (or causes to be performed) an act prohibited under the Oregon False Claims Act, the Oregon Attorney General may enforce the liabilities and penalties provided by the Oregon False Claims Act against the Grantee.

**8.3 No limitation.** The representations and warranties set forth in this Section are in addition to, and not in lieu of, any other representations or warranties provided by Grantee.

# SECTION 9: OWNERSHIP

**9.1 Intellectual Property Definitions.** As used in this Section and elsewhere in this Grant, the following terms have the meanings set forth below:

“Third Party Intellectual Property” means any intellectual property owned by parties other than Grantee or Agency.

“Work Product” means every invention, discovery, work of authorship, trade secret, or other tangible or intangible item Grantee is required to create or deliver as part of the Project, and all intellectual property rights therein.

**9.2 Grantee Ownership.** Grantee must deliver copies of all Work Product as directed in Exhibit A. Grantee retains ownership of all Work Product, and grants Agency an irrevocable, non-exclusive, perpetual, royalty-free license to use, to reproduce, to prepare derivative works based upon, to distribute, to perform, and to display the Work Product; to authorize others to do the same on Agency’s behalf; and to sublicense the Work Product to other entities without restriction.

**9.3 Third Party Ownership.** If the Work Product created by Grantee under this Grant is a derivative work based on Third Party Intellectual Property, or is a compilation that includes Third Party Intellectual Property, Grantee must secure an irrevocable, nonexclusive, perpetual, royalty-free license allowing Agency and other entities the same rights listed above for the pre-existing element of the Third Party Intellectual Property employed in the Work Product. If state or federal law requires that Agency or Grantee grant to the United States a license to any intellectual property in the Work Product, or if state or federal law requires Agency or the United States to own the intellectual property in the Work Product, then Grantee must execute such further documents and instruments as Agency may reasonably request in order to make any such grant or to assign ownership in such intellectual property to the United States or Agency.

**9.4 Real Property.** If the Project includes the acquisition, construction, remodel, or repair of real property or improvements to real property, Grantee may not sell, transfer, encumber, lease, or otherwise dispose of any real property or improvements to real property paid for with Grant Funds for a period of six (6) years after the Effective Date of this Grant without the prior written consent of the Agency.

# SECTION 10: CONFIDENTIAL INFORMATION

**10.1 Confidential Information Definition.** Grantee acknowledges it and its employees or agents may, in the course of performing its responsibilities, be exposed to or acquire information that: (i) is confidential to Agency or Project participants or (ii) the disclosure of which is restricted under federal or state law, including without limitation: (a) personal information, as that term is used in ORS 646A.602(12), (b) social security numbers, and (c) information protected by the federal Family Educational Rights and Privacy Act under 20 USC § 1232g (items (i) and (ii) separately and collectively “Confidential Information”).

**10.2 Nondisclosure.** Grantee agrees to hold Confidential Information as required by any applicable law and in all cases in strict confidence, using at least the same degree of care Grantee uses in maintaining the confidentiality of its own confidential information. Grantee may not copy, reproduce, sell, assign, license, market, transfer, or otherwise dispose of, give, or disclose Confidential Information to third parties, or use Confidential Information except as is allowed by law and for the Project activities, and Grantee must advise each of its employees and agents of these restrictions. Grantee must assist Agency in identifying and preventing any unauthorized use or disclosure of Confidential Information. Grantee must advise Agency immediately if Grantee learns or has reason to believe any Confidential Information has been, or may be, used or disclosed in violation of the restrictions in this Section. Grantee must, at its expense, cooperate with Agency in seeking injunctive or other equitable relief, in the name of Agency or Grantee, to stop or prevent any use or disclosure of Confidential Information. At Agency’s request, Grantee must return or destroy any Confidential Information. If Agency requests Grantee to destroy any Confidential Information, Grantee must provide Agency with written assurance indicating how, when and what information was destroyed.

**10.3 Identity Protection Law.** Grantee must have and maintain a formal written information security program that provides safeguards to protect Confidential Information from loss, theft, and disclosure to unauthorized persons, as required by the Oregon Consumer Information Protection Act, ORS 646A.600-646A.628. If Grantee or its agents discover or are notified of a potential or actual “Breach of Security”, as defined by ORS 646A.602(1)(a), or a failure to comply with the requirements of ORS 646A.600-646A.628, (collectively, “Breach”) with respect to Confidential Information, Grantee must promptly but in any event within one calendar day (i) notify Agency’s Grant Manager of such Breach and (ii) if the applicable Confidential Information was in the possession of Grantee or its agents at the time of such Breach, Grantee must (a) investigate and remedy the technical causes and technical effects of the Breach and (b) provide Agency with a written root cause analysis of the Breach and the specific steps Grantee will take to prevent the recurrence of the Breach or to ensure the potential Breach will not recur. For the avoidance of doubt, if Agency determines notice is required of any such Breach to any individual(s) or entity(ies), Agency will have sole control over the timing, content, and method of such notice, subject to Grantee’s obligations under applicable law.

**10.4 Subgrants/Contracts.** Grantee must require any subgrantees or contractors under this Grant who are exposed to or acquire Confidential Information to treat and maintain such information in the same manner as is required of Grantee under subsections 10.1 and 10.2 of this Section.

**10.5 Background Check.** If requested by Agency and permitted by law, Grantee’s employees, agents, contractors, and volunteers that perform Project activities must agree to submit to a criminal background check prior to performance of any Project activities or receipt of Confidential Information. Background checks will be performed at Grantee’s expense. Based on the results of the background check, Grantee or Agency may refuse or limit (i) the participation of any Grantee employee, agent, contractor, subgrantee, or volunteer, in Project activities or (ii) access to Agency Confidential Information or Grantee premises.

# SECTION 11: INDEMNITY/LIABILITY

**11.1 Indemnity.** Grantee must defend, save, hold harmless, and indemnify the State of Oregon and Agency and their officers, employees, and agents from and against all claims, suits, actions, losses, damages, liabilities, costs, and expenses of any nature whatsoever, including attorneys’ fees, resulting from, arising out of, or relating to the activities of Grantee or its officers, employees, subgrantees, contractors, or agents under this Grant (each of the foregoing individually or collectively a “Claim” for purposes of this Section). If legal limitations apply to the indemnification ability of Grantee, this indemnification must be for the maximum amount of funds available for expenditure, including any available contingency funds, insurance, funds available under ORS 30.260 to 30.300, or other available non-appropriated funds.

**11.2 Defense.** Grantee may have control of the defense and settlement of any Claim subject to this Section. But neither Grantee nor any attorney engaged by Grantee may defend the Claim in the name of the State of Oregon, nor purport to act as legal representative of the State of Oregon or any of its agencies, without first receiving from the Attorney General, in a form and manner determined appropriate by the Attorney General, authority to act as legal counsel for the State of Oregon. Nor may Grantee settle any Claim on behalf of the State of Oregon without the approval of the Attorney General. The State of Oregon may, at its election and expense, assume its own defense and settlement in the event the State of Oregon determines Grantee is prohibited from defending the State of Oregon, or is not adequately defending the State of Oregon’s interests, or an important governmental principle is at issue and the State of Oregon desires to assume its own defense. Grantee may not use any Grant Funds to reimburse itself for the defense of or settlement of any Claim.

**11.3 Limitation.** Except as provided in this Section, neither Party will be liable for incidental, consequential, or other indirect damages arising out of or related to this Grant, regardless of whether the damages or other liability is based in contract, tort (including negligence), strict liability, product liability, or otherwise. Neither Party will be liable for any damages of any sort arising solely from the termination of this Grant in accordance with its terms.

# SECTION 12: INSURANCE

**12.1 Private Insurance.** If Grantee is a private entity, or if any contractors or subgrantees used to carry out the Project are private entities, Grantee and any private contractors or subgrantees must obtain and maintain insurance covering Agency in the types and amounts indicated in Exhibit B.

**12.2 Public Body Insurance.** If Grantee is a “public body” as defined in ORS 30.260, Grantee agrees to insure any obligations that may arise for Grantee under this Grant, including any indemnity obligations, through (i) the purchase of insurance as indicated in Exhibit B, or (ii) the use of self-insurance or assessments paid under ORS 30.282 that is substantially similar to the types and amounts of insurance coverage indicated on Exhibit B, or (iii) a combination of any or all of the foregoing.

**12.3 Real Property.** If the Project includes the construction, remodel or repair of real property or improvements to real property, Grantee must insure the real property and improvements against liability and risk of direct physical loss, damage, or destruction at least to the extent that similar insurance is customarily carried by entities constructing, operating, and maintaining similar property or facilities.

# SECTION 13: GOVERNING LAW, JURISDICTION

This Grant is governed by and construed in accordance with the laws of the State of Oregon without regard to principles of conflicts of law. Any claim, action, suit, or proceeding (collectively “Claim”) between Agency or any other agency or department of the State of Oregon, or both, and Grantee that arises from or relates to this Grant must be brought and conducted solely and exclusively within the Circuit Court of Marion County for the State of Oregon; provided, however, if a Claim must be brought in a federal forum, then it will be brought and conducted solely and exclusively within the United States District Court for the District of Oregon. In no event may this Section be construed as a waiver by the State of Oregon of any form of defense or immunity, whether sovereign immunity, governmental immunity, immunity based on the eleventh amendment to the Constitution of the United States or otherwise, to or from any Claim or from the jurisdiction of any court. GRANTEE, BY EXECUTION OF THIS GRANT, HEREBY CONSENTS TO THE PERSONAL JURISDICTION OF SUCH COURTS.

# SECTION 14: ALTERNATIVE DISPUTE RESOLUTION

The Parties should attempt in good faith to resolve any dispute arising out of this Grant. This may be done at any management level, including at a level higher than persons directly responsible for administration of the Grant. In addition, the Parties may agree to utilize a jointly selected mediator or arbitrator (for non-binding arbitration) to resolve the dispute short of litigation. Each Party will bear its own costs incurred for any mediation or non-binding arbitration.

# SECTION 15: DEFAULT

**15.1 Grantee.** Grantee will be in default under this Grant upon the occurrence of any of the following events:

**15.1.1** Grantee fails to use the Grant Funds for the intended purpose described in Exhibit A or otherwise fails to perform, observe, or discharge any of its covenants, agreements, or obligations under this Grant;

**15.1.2** Any representation, warranty, or statement made by Grantee in this Grant or in any documents or reports relied upon by Agency to measure the Project, the expenditure of Grant Funds, or the performance by Grantee is untrue in any material respect when made; or

**15.1.3** A petition, proceeding, or case is filed by or against Grantee under any federal or state bankruptcy, insolvency, receivership, or other law relating to reorganization, liquidation, dissolution, winding-up, or adjustment of debts; in the case of a petition filed against Grantee, Grantee acquiesces to such petition or such petition is not dismissed within 20 calendar days after such filing, or such dismissal is not final or is subject to appeal; or Grantee becomes insolvent or admits its inability to pay its debts as they become due, or Grantee makes an assignment for the benefit of its creditors.

**15.2 Agency.** Agency will be in default under this Grant if, after 15 days’ written notice specifying the nature of the default, Agency fails to perform, observe or discharge any of its covenants, agreements, or obligations under this Grant; provided, however, Agency will not be in default if Agency fails to disburse Grant Funds because there is insufficient expenditure authority for, or moneys available from, the Funding Source.

# SECTION 16: REMEDIES

**16.1 Agency Remedies.** In the event Grantee is in default under Section 15.1, Agency may, at its option, pursue any or all of the remedies available to it under this Grant and at law or in equity, including, but not limited to: (i) termination of this Grant under Section 18.2, (ii) reducing or withholding payment for Project activities or materials that are deficient or for which Grantee has failed to complete by any scheduled deadlines, (iii) requiring Grantee to complete, at Grantee’s expense, additional activities necessary to satisfy its obligations or meet performance standards under this Grant, (iv) initiation of an action or proceeding for damages, specific performance, or declaratory or injunctive relief, (v) exercise of its right of recovery of overpayments under Section 17 of this Grant, or setoff, or both, or (vi) declaring Grantee ineligible for the receipt of future awards from Agency. These remedies are cumulative to the extent the remedies are not inconsistent, and Agency may pursue any remedy or remedies singly, collectively, successively, or in any order whatsoever.

**16.2 Grantee Remedies.** In the event Agency is in default under Section 15.2 and whether or not Grantee elects to terminate this Grant, Grantee’s sole monetary remedy will be, within

any limits set forth in this Grant, reimbursement for Project activities completed and accepted by Agency and authorized expenses incurred, less any claims Agency has against Grantee. In no event will Agency be liable to Grantee for any expenses related to termination of this Grant or for anticipated profits.

# SECTION 17: WITHHOLDING FUNDS, RECOVERY

Agency may withhold from disbursements of Grant Funds due to Grantee, or Grantee must return to Agency within 30 days of Agency’s written demand:

**17.1** Any Grant Funds paid to Grantee under this Grant, or payments made under any other agreement between Agency and Grantee, that exceed the amount to which Grantee is entitled;

**17.2** Any Grant Funds received by Grantee that remain unexpended or contractually committed for payment of the Project at the end of the Performance Period;

**17.3** Any Grant Funds determined by Agency to be spent for purposes other than allowable

Project activities; or

**17.4** Any Grant Funds requested by Grantee as payment for deficient activities or materials.

# SECTION 18: TERMINATION

**18.1 Mutual.** This Grant may be terminated at any time by mutual written consent of the

Parties.

**18.2 By Agency.** Agency may terminate this Grant as follows:

**18.2.1** At Agency’s discretion, upon 30 days advance written notice to Grantee;

**18.2.2** Immediately upon written notice to Grantee, if Agency fails to receive funding, appropriations, limitations, or other expenditure authority at levels sufficient in Agency’s reasonable administrative discretion, to perform its obligations under this Grant;

**18.2.3** Immediately upon written notice to Grantee, if federal or state laws, rules, regulations, or guidelines are modified or interpreted in such a way that Agency’s performance under this Grant is prohibited or Agency is prohibited from funding the Grant from the Funding Source; or

**18.2.4** Immediately upon written notice to Grantee, if Grantee is in default under this Grant and such default remains uncured 15 days after written notice thereof to Grantee.

**18.3 By Grantee.** Grantee may terminate this Grant as follows:

**18.3.1** If Grantee is a governmental entity, immediately upon written notice to Agency, if Grantee fails to receive funding, appropriations, limitations, or other expenditure authority at levels sufficient to perform its obligations under this Grant.

**18.3.2** If Grantee is a governmental entity, immediately upon written notice to Agency, if applicable laws, rules, regulations, or guidelines are modified or interpreted in such a way that the Project activities contemplated under this Grant are prohibited by law or Grantee is prohibited from paying for the Project from the Grant Funds or other planned Project funding; or

**18.3.3** Immediately upon written notice to Agency, if Agency is in default under this Grant and such default remains uncured 15 days after written notice thereof to Agency.

**18.4 Cease Activities.** Upon receiving a notice of termination of this Grant, Grantee must immediately cease all activities under this Grant, unless Agency expressly directs otherwise in such notice. Upon termination, Grantee must deliver to Agency all materials or other property that are or would be required to be provided to Agency under this Grant or that are needed to complete the Project activities that would have been performed by Grantee.

# SECTION 19: MISCELLANEOUS

**19.1 Conflict of Interest.** Grantee by signature to this Grant declares and certifies the award of this Grant and the Project activities to be funded by this Grant, create no potential or actual conflict of interest, as defined by ORS Chapter 244, for a director, officer, or employee of Grantee.

**19.2 Nonappropriation.** Agency’s obligation to pay any amounts and otherwise perform its duties under this Grant is conditioned upon Agency receiving funding, appropriations, limitations, allotments, or other expenditure authority sufficient to allow Agency, in the exercise of its reasonable administrative discretion, to meet its obligations under this Grant. Nothing in this Grant may be construed as permitting any violation of Article XI, Section 7 of the Oregon Constitution or any other law limiting the activities, liabilities, or monetary obligations of Agency.

**19.3 Amendments.** The terms of this Grant may not be altered, modified, supplemented, or otherwise amended, except by written agreement of the Parties.

**19.4 Notice.** Except as otherwise expressly provided in this Grant, any notices to be given under this Grant must be given in writing by email, personal delivery, or postage prepaid mail, to a Party’s Grant Manager at the physical address or email address set forth in this Grant, or to such other addresses as either Party may indicate pursuant to this Section. Any notice so addressed and mailed becomes effective five (5) days after mailing. Any notice given by personal delivery becomes effective when actually delivered. Any notice

given by email becomes effective upon the sender’s receipt of confirmation generated by the recipient’s email system that the notice has been received by the recipient’s email system.

**19.5 Survival.** All rights and obligations of the Parties under this Grant will cease upon termination of this Grant, other than the rights and obligations arising under Sections 8, 10, 11, 13, 14, 16, 17 and subsections 19.2, 19.5 hereof, and 19.13 and those rights and obligations that by their express terms survive termination of this Grant; provided, however, termination of this Grant will not prejudice any rights or obligations accrued to the Parties under this Grant prior to termination.

**19.6 Severability.** The Parties agree if any term or provision of this Grant is declared by a court of competent jurisdiction to be illegal or in conflict with any law, the validity of the remaining terms and provisions will not be affected, and the rights and obligations of the Parties will be construed and enforced as if the Grant did not contain the particular term or provision held to be invalid.

**19.7 Counterparts.** This Grant may be executed in several counterparts, all of which when taken together constitute one agreement, notwithstanding that all Parties are not signatories to the same counterpart. Each copy of the Grant so executed constitutes an original.

**19.8 Compliance with Law.** In connection with their activities under this Grant, the Parties must comply with all applicable federal, state, and local laws.

**19.9 Intended Beneficiaries.** Agency and Grantee are the only parties to this Grant and are the only parties entitled to enforce its terms. Nothing in this Grant provides, is intended to provide, or may be construed to provide any direct or indirect benefit or right to third persons unless such third persons are individually identified by name herein and expressly described as intended beneficiaries of this Grant.

**19.10 Assignment and Successors.** Grantee may not assign or transfer its interest in this Grant without the prior written consent of Agency, and any attempt by Grantee to assign or transfer its interest in this Grant without such consent will be void and of no force or effect. Agency’s consent to Grantee’s assignment or transfer of its interest in this Grant will not relieve Grantee of any of its duties or obligations under this Grant. The provisions of this Grant will be binding upon and inure to the benefit of the Parties hereto, and their respective successors and permitted assigns.

**19.11 Contracts and Subgrants.**

**19.11.1** Grantee may not enter into any subgrants for any of the Project activities required of Grantee under this Grant.

**19.11.2** Grantee may not, without Agency’s prior written consent, enter into any contracts for any of the Project activities required of Grantee under this Grant. Agency’s consent to any contract will not relieve Grantee of any of its duties or obligations under this Grant.

**19.12 Time of the Essence.** Time is of the essence in Grantee’s performance of the Project activities under this Grant.

**19.13 Records Maintenance and Access.** Grantee must maintain all financial records relating to this Grant in accordance with generally accepted accounting principles. In addition, Grantee must maintain any other records, whether in paper, electronic, or other form, pertinent to this Grant in such a manner as to clearly document Grantee’s performance. All financial records and other records, whether in paper, electronic, or other form, that are pertinent to this Grant, are collectively referred to as “Records.” Grantee acknowledges and agrees Agency and the Oregon Secretary of State's Office and the federal government and their duly authorized representatives will have access to all Records to perform examinations and audits and make excerpts and transcripts. Grantee must retain and keep accessible all Records for a minimum of six (6) years, or such longer period as may be required by applicable law, following termination of this Grant, or until the conclusion of any audit, controversy, or litigation arising out of or related to this Grant, whichever date is later.

**19.14 Headings.** The headings and captions to sections of this Grant have been inserted for identification and reference purposes only and may not be used to construe meaning or to interpret this Grant.

**19.15 Grant Documents.** This Grant consists of the following documents, which are incorporated by this reference and listed in descending order of precedence:

* This Grant less all exhibits
* Exhibit C (Federal Terms and Conditions)
* Exhibit A (the “Project”)
* Exhibit B (Insurance)
* Exhibit D (Federal Award Identification)

**19.16 Merger, Waiver.** This Grant and all exhibits and attachments, if any, constitute the entire agreement between the Parties on the subject matter hereof. There are no understandings, agreements, or representations, oral or written, not specified herein regarding this Grant. No waiver or consent under this Grant binds either Party unless in writing and signed by both Parties. Such waiver or consent, if made, is effective only in the specific instance and for the specific purpose given.

# SECTION 20: SIGNATURES

EACH PARTY, BY SIGNATURE OF ITS AUTHORIZED REPRESENTATIVE, HEREBY ACKNOWLEDGES IT HAS READ THIS GRANT, UNDERSTANDS IT, AND AGREES TO BE BOUND BY ITS TERMS AND CONDITIONS. The Parties further agree that by the exchange of this Grant electronically, each has agreed to the use of electronic means, if applicable, instead of the exchange of physical documents and manual signatures. By inserting an electronic or manual signature below, each authorized representative acknowledges that it is their signature, that each intends to execute this Grant, and that their electronic or manual signature should be given full force and effect to create a valid and legally binding agreement.

IN WITNESS WHEREOF, the Parties have executed this Grant as of the dates set forth below.

## STATE OF OREGON acting by and through its Department of Education

By:

Contracting Officer Date

## Grantee

By:

Authorized Signature Date

Printed Name Title

Federal Tax ID Number

## Approved for Legal Sufficiency in accordance with ORS 291.047

By:

Name, Title Date

**EXHIBIT A**

**THE PROJECT**

## SECTION I. DEFINITIONS

**“After School Learning”** means programs to help address unfinished learning as part of a responsive system, grounded in equity that accelerates learning by building on strengths and addressing needs of students and their communities. Such a program will center high quality, Culturally Affirming instruction, leadership, and programming.

**“Community-Based Organization”** means a nonprofit organization that is reflective of a community or significant segments of a community it seeks to serve.

**“Community Voice”** means that members representing the community served by the project, including students, will be involved in co-constructing the project design, implementation, and/or providing strategic guidance in final decision-making.

**“Culturally Affirming”** means centering racial consciousness, supporting the development of positive self-concept, and affirming the lived experiences of historically and currently underserved groups.

**“Culturally Specific Organization”** means an organization that serves a particular cultural community and is primarily staffed and led by members of that community. These organizations demonstrate an intimate knowledge of lived experience of the community including but not limited to: the impact of structural and individual racism or discrimination on the community, knowledge of specific disparities, barriers or challenges documented in the community and how that influences the structure of their program or service, commitment to the community’s strengths-based and self-driven thriving and resilience, ability to describe and adapt their services to the community’s cultural practices, health and safety beliefs and or practices, positive cultural identity and or pride, and religious beliefs, etc.

**“Focal Student”** means youth who were already facing limited educational opportunities and disengagement—including students from racial or ethnic groups that have historically experienced academic disparities, students with disabilities, students who are navigating homelessness, students in foster care, economically disadvantaged students, students who identify as LGBTQ2SIA+, students recently arrived, migrant students, students with experience of incarceration or detention, and/or emerging bilingual students.

**“Grant Funds”** Monies made available through Elementary and Secondary School Emergency Relief Fund III (ESSER III) State Set Aside Key Investments.

**"Partnership”** means a group of eligible applicants who agree to work together with a common interest and shared vision. In a partnership, there is a high level of trust and twoway communication, and differences in power and privilege addressed. Roles and responsibilities on all sides are well defined and developed with shared authority in decisionmaking. There might be shared space and staff, with expectations and agreements in writing. **“Program”** means thetotality of the collective practices, projects, and impacts being established through applicants awarded with CSASL funding.

**“Project”** means the activities and strategies applicants will develop to meet the vision, values, and desired outcomes of the CSASL program.

**“Student”** means youth who have been disproportionately impacted by the pandemic, including those for whom the pandemic may have exacerbated existing inequities.

## SECTION II. BACKGROUND AND GOALS

Our goal is to increase students’ academic skills, cultural identity development, leadership skills, and ability to give back to their communities, which will improve the learning and experience of Oregon students and address the negative impacts of COVID on student wellbeing and access to educational resources.

The pandemic resulted in significant gaps experienced by students that exacerbated the systemic inequities that exist in Oregon schools. In response to this challenge, the ARPA provides an additional $122 billion for the Elementary and Secondary School Emergency Relief Fund III (ESSER III or ARP ESSER). The State of Oregon received $1.1 billion in awards vi[a ESSER III.](https://www.oregon.gov/ode/schools-and-districts/grants/Pages/ESSER-Fund-III.aspx)

Through consultation, engagement, and collaboration with educational partners across the state, the Oregon Department of Education identified the following priorities and themes.

Oregon Identified Priorities

* Address unfinished learning as part of a responsive system, grounded in equity, meeting students where they are and accelerating their learning by building on strengths and addressing needs.
* Prioritize health, safety, wellness, and connection for all communities.
* Strengthen high-quality, culturally affirming and revitalizing instruction, leadership, and programming.

Oregon Themes

* Family Engagement: Realize family and community engagement strategies in each area and hold districts accountable to their plans.
* Centering Equity: Don’t let equity get lost in the shuffle within each priority area.
* Disparate Impact: Students in special education, in foster care, from highly mobile populations, who are Black/African American, American Indian/Alaska Native, and Latino/a/x, Pacific Islander communities, from areas with low vaccination rates, and others were affected differently and may need different solutions in each area.
* Grade Level Transition: Assessments can be a part of ensuring students are acknowledged for their achieved mastery, acknowledging students may not need to only be learning in one grade level across subjects.
* Sustainability: The one-time nature of these funds is of concern when it comes to sustaining efforts in each area, as well as ODE’s ability to support the continuity.

The ARPA directs the Agency to award 90% of the ESSER III funds as grants to Local Education

Agencies (LEAs or districts) in the proportion they received funds under Part A of Title I of the Every Student Succeeds Act (ESSA) in fiscal year 2020. The remainder (10%) of the funds were allocated by the state t[o 12 set-aside key investments.](https://www.oregon.gov/ode/schools-and-districts/grants/Documents/CARES%20Act/ESSER%20III/ESSER%20III%20Set%20Aside%20Investment%20Plan%2012.8.21.pdf) The CSASL Program is Key Investment #10 and offers $9M in Grant Funds to eligible entities through September 30, 2024.

This Program provides grant opportunities for Community-Based Organizations (CBOs) and Culturally Specific Organizations to offer Culturally Affirming and enriching After School Learning opportunities for Students, particularly Focal Students.

The Program seeks to provide programming that is anchored in four (4) essential pillars of practice:

* Addressing unfinished learning through academic and mental health supports
* Culturally Affirming practices, including cultural identity development
* Leadership and self-advocacy skills
* Giving back to the community

Since participation in after school programming is voluntary, priority will be given to programs who demonstrated that they have a plan to explicitly recruit and retain one or more Focal Student groups.

Applicants awarded a Grant must report Project outcomes to Agency and provide evidence demonstrating progress made towards meeting Project goals within the Performance Period of the Grant. These reports must include, but are not limited to: quarterly reports, expenditure reports, data on specific measures of the Project, interim and final Grant reports, and other information as needed (e.g., changes to project logic model, timeline of progress, plans for sustaining the program) using agency approved forms.

## SECTION III. PROJECT ACTIVITIES

Grantee must use the Grant Funds only for the costs of Project activities that occur, including expenses incurred, during the Performance Period.

Grantee shall complete all activities described in the following table. Grantee shall complete all identified activities and administer all Grant Funds ina non-discriminatory manner that complies with all state and federal law.

|  |  |  |
| --- | --- | --- |
| **#** | **ACTIVITY** | **Due Date** |
| 1 | According to program plan (“Plan”) and program budget (“Budget”) in approved application, implement an after school program is anchored in four (4) essential pillars of practice:   * Addressing unfinished learning through academic and mental health supports; * Culturally Affirming practices, including cultural identity development; | Ongoing and as requested by  Agency |

|  |  |  |
| --- | --- | --- |
|  | ●Leadership and self-advocacy skills; and ●Giving back to the community.    To guide Project activities and ensure progress toward Project goals, Grantee is encouraged to consider collaboration with community stakeholders, coordination with similar programs and projects within the state of Oregon, and in alignment to its schools and district continuous improvement plans.    Agency and Grantee will collaborate to ensure the Grantee’s proposed Plan and Budget are reasonable, necessary and directly related to Project activities. |  |
| 2 | Participate in regular check-ins, professional development, and technical assistance with the Program and Agency Grant Manager and Program Manager. | Ongoing and as requested by Agency |
| 3 | Participate in all evaluation activities as determined by the Agency. This includes but is not limited to:   * Mid-Year Report     Data subject to evaluation includes but is not limited to:   * Program outcome data * Local metrics that support outcomes identified in project description * Student counts * Successes and challenges     Submit to Agency a Mid-Year Report on the template provided by ODE to grantee on or before October 1 of each year of the Performance Period. | December 2022    December 2023 |
| 4 | Participate in all evaluation activities as determined by the Agency. This includes but is not limited to:   * End of year outcome reporting     Data subject to evaluation includes but is not limited to:   * Program outcome data * Local metrics that support outcomes identified in project description * Student counts * Successes and challenges     Submit to Agency an End of Year Report on the template provided by ODE to Grantee on or before April 1 of each year of the Performance Period. | June 2023    June 2024 |
| 5 | Submit report on expenditures to Agency grant manager via Smartsheets providing details that include but are not limited to: | Two weeks after quarterly expenditure |
|  | * Quarterly expenditures aligned to budget categories identified in the approved budget * Brief narrative describing how expenditures support project goals and implementation of program     Quarterly expenditure reporting windows are:  ○ November 1, 2022-February 28, 2023  ○ March 1-2023-June 30, 2023  ○ July 1, 2023-October 31, 2023  ○ November 1, 2023-February 28, 2024  ○ March 1, 2024-June 30, 2024  ○ July 1, 2024-September 16, 2024   * After the final expenditure reporting window, grantees must submit all final claims for reimbursement by September 30, 2024. | reporting window closes   * March 14,   2023   * July 14,   2023   * November   14, 2023   * March 13,   2024   * July 15,   2024   * September 30, 2024 |
| 6 | In the event of any changes to the Plan, Grantee shall submit a revised Plan to Agency for approval. | As needed or upon Agency request. |

If the Performance Period begins prior to the Executed Date, any reports for Project activities shown in this Exhibit A as due prior to the Executed Date must be provided to Agency within 30 days of the Executed Date, if not already provided to Agency despite the lack of an executed Grant. Grantee will not be in default for failure to perform any reporting requirements prior to the Executed Date.

## SECTION IV. BUDGET

**Plan/Budget Adjustments.** After the Plan is accepted by Agency, the Plan may be adjusted only with written approval from the Agency Grant Manager, or designee, in order to reflect agreed upon modifications necessary for delivery measures, achievement of outcomes, and/ or effective use of Grant Funds. Grantee shall not receive or be entitled to receive reimbursement for any Activities not approved by the Agency Grant Manager or Program Manager prior to implementation of such Activities.

Grantee must follow the approved budget as set forth in its Plan. Grantee may expend Grant Funds that differ from the amounts shown for each category or line item shown in the Budget by up to and including 10% of the category or line item without the prior consent of Agency’s Grant Manager. Grantee may expend Grant Funds that differ from the amounts shown in the accepted Budget for each category or line item in the Budget by more than 10% of the category or line item with the prior written approval of Agency’s Grant Manager, as long as the total amount expended for all Project activities paid for with Grant Funds does not exceed the amount identified in Section 6 of this Grant for each Performance Period. Any adjustment that results in an increase to the amount identified in Section 6 may not be done without an amendment to this Grant.

Grantee must submit any Plan adjustments, or Budget adjustments of more than 10% allocated for any category or line item in the Budget, to Agency using an Agency provided form. No adjustments to the Budget will bind the Agency, nor will the Agency be required to compensate Grantee in accordance with such adjustments, unless and until Agency Grant Manager, or designee, approves such adjustments in writing.

**Indirect Costs.** Grantee may be reimbursed for indirect costs, as a percentage of the Grant Funds disbursed under this Grant, in an amount that does not exceed Grantee’s federally-approved rate at the time the cost was incurred. The rates described in this paragraph override any other verbal or written rate(s) provided by Agency.

**Indirect Costs.** Grantee may seek reimbursement for indirect costs as a percentage of the Grant Funds disbursed under this Grant and in accordance with the federal cost principles. Indirect costs must not exceed Grantee’s federally-approved rate at the time the cost was incurred. If Grantee does not have a federally-approved rate, Grantee will not be reimbursed for indirect costs. The rates described in this paragraph override any other verbal or written rate(s) provided by Agency, including in any notice of award provided by Agency’s Electronic Grants Management System (“EGMS”).

**Capitalized Assets.** Grantee must seek and obtain Agency’s prior written approval before using Grant Funds to purchase any assets or property (whether tangible or intangible) with a useful life of more than one year and a per-unit acquisition cost of $2,500.

If the Project includes the acquisition of equipment as defined i[n 2 CFR § 200.1](https://www.ecfr.gov/current/title-2/subtitle-A/chapter-II/part-200/subpart-A/subject-group-ECFR2a6a0087862fd2c/section-200.1) “Equipment”,

Grantee must seek and obtain Agency’s prior written approval, using an Agency provided Equipment approval form, before using Grant Funds to purchase Equipment. Equipment purchased with Grant Funds must be used by the Grantee for the Project for which it was acquired and in accordance wit[h 2 CFR § 200.313.](https://www.ecfr.gov/current/title-2/subtitle-A/chapter-II/part-200/subpart-D/subject-group-ECFR8feb98c2e3e5ad2/section-200.313)

**Final Date for Reimburable Activities.** The final day for CSASL program expenditures is September 16, 2024.

## SECTION V. ACCESSIBILITY

**Worldwide Web Accessibility.** If, as part of the Project, Grantee develops data or information that will be displayed or accessed through an Agency public website or world-wide web application (the “Content”), Grantee must comply with Section 508 of the Rehabilitation Act of 1973 (29 U.S.C. 794d), as amended by the Workforce Investment Act of 1998 (P.L. 105-220), and provide individuals with disabilities access to and use of the Content in the website or application that is comparable to the access provided to individuals without disabilities. Grantee must design and format Content that meets at least the following standards, including as the standards are updated or replaced by subsequent versions (collectively, “Mandatory Standard”):

* The Web Accessibility Initiative Accessible Rich Internet Applications Suite (WAI-ARIA) 1.0;
* The World Wide Web Consortium’s (W3C’s) Web Content Accessibility Guidelines

(WCAG) 2.0 Level AA for web content, including as each is updated (Mandatory Standard);

* The web accessibility evaluation tool (WAVE), found at: <http://wave.webaim.org/extension/>
* Content to be posted on the web must adhere to:<https://www.webaccessibility.com/>
* PDF files must comply with:<http://webaim.org/techniques/acrobat/>
* Word files must comply with:<http://webaim.org/techniques/word/>
* PPT files must comply with:<http://webaim.org/techniques/powerpoint/>
* Excel files must comply with:<https://webaim.org/techniques/excel/>

**Testing.** Grantee must test all Content prior to submission to Agency to ensure it meets the Mandatory Standard. Agency will test the website or application to validate the Content meets the Mandatory Standard, including a manual validation review of the Content against the current W3 Checklist for Web Content Accessibility (link included for reference: [https://www.w3.org/TR/1999/WAI-WEBCONTENT-19990505/full-checklist.pdf)](https://www.w3.org/TR/1999/WAI-WEBCONTENT-19990505/full-checklist.pdf). If the Content fails the testing, Agency will notify Grantee and Grantee must remedy any deficiencies as provided in Section 7.1.3 of this Grant. If Agency determines that previously accepted Content does not meet the Mandatory Standard, Agency may issue a written notice to Grantee to remove the Content. Grantee must remove Content identified in any such notice within 3 calendar days and take other corrective action specified in the notice.

## SECTION VI. PROJECT EVALUATION/REPORTING REQUIREMENTS

Ongoing evaluations and progress monitoring will occur throughout the course of this grant.

Upon completion (on or before September 30, 2024), Grantees will submit to Agency a comprehensive report to include but not be limited to:

* Student assessment tools and student outcome data
* Data showing fidelity of implementation of culturally affirming practices, including cultural identity development, leading towards improvement in student outcomes
* Data showing the aggregated impact of response to intervention processes regarding unfinished learning through academic and mental health supports
* Description of leadership and self-advocacy skills implemented
* A recommendation for future statewide systems of support to increase culturally affirming practices for all students
* Grantee must provide to the Agency additional data as requested.

If the Performance Period begins prior to the Executed Date, any reports for Project activities shown in this Exhibit A as due prior to the Executed Date must be provided to Agency within 30 days of the Executed Date, if not already provided to Agency despite the lack of an executed Grant. Grantee will not be in default for failure to perform any reporting requirements prior to the Executed Date.

## SECTION VII. DISBURSEMENT PROVISIONS

Agency will disburse the Grant Funds using EGMS, on a cost incurred monthly basis upon receipt of Grantee’s request(s) for disbursement.

With each request for disbursement, Grantee must submit an expenditure report using the template provided by and in manner directed by the Grant Manager.

Grantee’s final request for disbursement must be received within 45 days of expiration or termination of this Grant.

**EXHIBIT B**

**INSURANCE**

### INSURANCE REQUIREMENTS

Grantee must obtain at Grantee’s expense, and require its first tier contractors and subgrantees, if any, to obtain the insurance specified in this exhibit prior to performing under this Grant, and must maintain it in full force and at its own expense throughout the duration of this Grant, as required by any extended reporting period or continuous claims made coverage requirements, and all warranty periods that apply. Grantee must obtain and require its first tier contractors and subgrantees, if any, to obtain the following insurance from insurance companies or entities acceptable to Agency and authorized to transact the business of insurance and issue coverage in Oregon. Coverage must be primary and non-contributory with any other insurance and selfinsurance, with the exception of professional liability and workers’ compensation. Grantee must pay and require its first tier contractors and subgrantees to pay, if any, for all deductibles, selfinsured retention, and self-insurance, if any.

### WORKERS’ COMPENSATION & EMPLOYERS’ LIABILITY

All employers, including Grantee, that employ subject workers, as defined in ORS 656.027, must comply with ORS 656.017 and provide workers' compensation insurance coverage for those workers, unless they meet the requirement for an exemption under ORS 656.126(2). Grantee must require and ensure that each of its subgrantees and contractors comply with these requirements. If Grantee is a subject employer, as defined in ORS 656.023, Grantee must also obtain employers' liability insurance coverage with limits not less than $500,000 per accident. If Grantee is an employer subject to any other state’s workers’ compensation law, Grantee must provide workers’ compensation insurance coverage for its employees as required by applicable workers’ compensation laws including employers’ liability insurance coverage with limits not less than $500,000, and must require and ensure that each of its out-of-state subgrantees and contractors comply with these requirements.

### COMMERCIAL GENERAL LIABILITY Required Not required

Commercial general liability insurance covering bodily injury and property damage in a form and with coverage that are satisfactory to Agency. This insurance must include personal and advertising injury liability, products and completed operations, contractual liability coverage for the indemnity provided under this Grant, and have no limitation of coverage to designated premises, project, or operation. Coverage must be written on an occurrence basis in an amount of not less than $1,000,000 per occurrence. Annual aggregate limit may not be less than $2,000,000.

### AUTOMOBILE LIABILITY INSURANCE Required Not required

Automobile liability insurance covering Grantee’s business use including coverage for all owned, non-owned, or hired vehicles with a combined single limit of not less than $1,000,000 for bodily injury and property damage. This coverage may be written in combination with the commercial general liability insurance (with separate limits for commercial general liability and automobile liability). Use of personal automobile liability insurance coverage may be acceptable if evidence that the policy includes a business use endorsement is provided.

### PROFESSIONAL LIABILITY Required Not required

Professional liability insurance covering any damages caused by an error, omission or any negligent acts related to the activities performed under this Grant by the Grantee and Grantee’s contractors, subgrantees, agents, officers, or employees in an amount not less than $1,000,000 per claim. Annual aggregate limit may not be less than $2,000,000. If coverage is on a claims made basis, then either an extended reporting period of not less than 24 months must be included in the professional liability insurance coverage, or the Grantee must provide continuous claims made coverage as stated below.

### DIRECTORS, OFFICERS, AND ORGANIZATION LIABILITY Required Not required

Directors, officers, and organization liability insurance covering the Grantee’s organization, directors, officers, and trustees’ actual or alleged errors, omissions, negligent, or wrongful acts, including improper governance, employment practices and financial oversight - including improper oversight and/or use of Grant Funds and donor contributions - with a combined single limit of no less than $1,000,000 per claim.

### PHYSICAL ABUSE AND MOLESTATION INSURANCE COVERAGE Required Not required

Abuse and molestation insurance in a form and with coverage satisfactory to the State covering damages arising out of actual or threatened physical abuse, mental injury, sexual molestation, negligent: hiring, employment, supervision, investigation, reporting to proper authorities, and retention of any person for whom the Grantee, its contractors, or subgrantees (“Covered Entity”) is responsible including but not limited to any Covered Entity’s employees and volunteers. Policy endorsement’s definition of an insured must include the Covered Entity and its employees and volunteers. Coverage must be written on an occurrence basis in an amount of not less than $1,000,000 per occurrence. Any annual aggregate limit may not be less than $2,000,000. Coverage can be provided by a separate policy or as an endorsement to the commercial general liability or professional liability policies. The limits must be exclusive to this required coverage. Incidents related to or arising out of physical abuse, mental injury, or sexual molestation, whether committed by one or more individuals, and irrespective of the number of incidents or injuries or the time period or area over which the incidents or injuries occur, must be treated as a separate occurrence for each victim. Coverage must include the cost of defense, and the cost of defense must be provided outside the coverage limit.

### EXCESS/UMBRELLA INSURANCE

A combination of primary and excess/umbrella insurance may be used to meet the required limits of insurance.

### ADDITIONAL INSURED

All liability insurance, except for workers’ compensation, professional liability, and network security and privacy liability (if applicable), required under this Grant must include an additional insured endorsement specifying the State of Oregon, its officers, employees, and agents as Additional Insureds, including additional insured status with respect to liability arising out of ongoing operations and completed operations, but only with respect to Grantee’s activities to be performed under this Grant. Coverage must be primary and non-contributory with any other insurance and self-insurance. The Additional Insured endorsement with respect to liability arising out of Grantee’s ongoing operations must be on ISO Form CG 20 10 07 04 or equivalent and the Additional Insured endorsement with respect to completed operations must be on ISO form CG 20 37 07 04 or equivalent.

### WAIVER OF SUBROGATION

Grantee waives, and must require its first tier contractors and subgrantees waive, rights of subrogation which Grantee, Grantee’s first tier contractors and subgrantees, if any, or any insurer of Grantee may acquire against the Agency or State of Oregon by virtue of the payment of any loss. Grantee must obtain, and require its first tier contractors and subgrantees to obtain, any endorsement that may be necessary to affect this waiver of subrogation, but this provision applies regardless of whether or not the Agency has received a waiver of subrogation endorsement from the Grantee or the Grantee’s insurer(s).

### CONTINUOUS CLAIMS MADE COVERAGE

If any of the required liability insurance is on a claims made basis and does not include an extended reporting period of at least 24 months, then Grantee must maintain continuous claims made liability coverage, provided the effective date of the continuous claims made coverage is on or before the Effective Date of this Grant, for a minimum of 24 months following the later of:

1. Grantee ’s completion and Agency’s acceptance of all activities required under the Grant, or
2. Agency or Grantee termination of the Grant, or
3. The expiration of all warranty periods provided under the Grant.

### CERTIFICATE(S) AND PROOF OF INSURANCE

Grantee must provide to Agency a Certificate(s) of Insurance for all required insurance before performing any Project activities required under this Grant. The Certificate(s) must list the State of Oregon, its officers, employees, and agents as a Certificate holder and as an endorsed Additional Insured. The Certificate(s) must also include all required endorsements or copies of the applicable policy language effecting coverage required by this Grant. If excess/umbrella insurance is used to meet the minimum insurance requirements, the Certificate of Insurance must include a list of all policies that fall under the excess/umbrella insurance. As proof of insurance, Agency has the right to request copies of insurance policies and endorsements relating to the insurance requirements in this Grant. Grantee must furnish acceptable insurance certificates to: ode.insurance@ode.state.or.us or by mail to: Attention Procurement Services, Oregon Department of Education, 255 Capitol St NE, Salem OR, 97310 prior to commencing the work.

### NOTICE OF CHANGE OR CANCELLATION

Grantee or its insurer must provide at least 30 days’ written notice to Agency before cancellation of, material change to, potential exhaustion of aggregate limits of, or non-renewal of the required insurance coverage(s).

### INSURANCE REQUIREMENT REVIEW

Grantee agrees to periodic review of insurance requirements by Agency under this Grant, and to provide updated requirements as mutually agreed upon by Grantee and Agency.

### STATE ACCEPTANCE

All insurance providers are subject to Agency acceptance. If requested by Agency, Grantee must provide complete copies of insurance policies, endorsements, self-insurance documents, and related insurance documents to Agency’s representatives responsible for verification of the insurance coverages required under this exhibit.

**EXHIBIT C**

**FEDERAL TERMS AND CONDITIONS**

### 1. FEDERAL FUNDS

1.1. If specified below, Agency’s payments to Grantee under this Grant will be paid in whole or in part by funds received by Agency from the United States Federal Government. If so specified then Grantee, by signing this Grant, certifies neither it nor its employees, contractors, subcontractors or subgrantees who will perform the Project activities are currently employed by an agency or department of the federal government.

Payments will will not be made in whole or in part with federal funds.

1.2. In accordance with the State Controller’s Oregon Accounting Manual, policy

30.40.00.104, Agency has determined:

Grantee is a subrecipient Grantee is a contractor Not applicable

1.3. Catalog of Federal Domestic Assistance (CFDA) #(s) of federal funds to be paid through this Grant: 84.425U

### 2. FEDERAL PROVISIONS

2.1. The use of all federal funds paid under this Grant are subject to all applicable federal regulations, including the provisions described below.

2.2. Grantee must ensure that any further distribution or payment of the federal funds paid under this Grant by means of any contract, subgrant, or other agreement between Grantee and another party for the performance of any of the activities of this Grant, includes the requirement that such funds may be used solely in a manner that complies with the provisions of this Grant.

2.3. Grantee must include and incorporate the provisions described below in all contracts and subgrants that may use, in whole or in part, the funds provided by this Grant.

2.4. Grantee must comply, and ensure the compliance by subcontractors or subgrantees, with 41 U.S.C. 4712, Program for Enhancement of Employee Whistleblower Protection. Grantee must inform subrecipients, contractors and employees, in writing, in the predominant language of the workforce, of the employee whistleblower rights and protections under 41 USC § 4712.

**In accordance with Appendix II to 2 CFR Part 200 – Grantee is subject to the following provisions, as applicable.**

For purposes of these provisions, the following definitions apply:

**“Contract”** means this Grant or any contract or subgrant funded by this Grant. **“Contractor”** and **“Subrecipient”** and **“Non-Federal entity”** mean Grantee or Grantee’s contractors or subgrantees, if any.

1. Contracts for more than the simplified acquisition threshold currently set at $250,000, which is the inflation adjusted amount determined by the Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) as authorized by 41 U.S.C. 1908, must address administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as appropriate.
2. All contracts in excess of $10,000 must address termination for cause and for convenience by the non-Federal entity including the manner by which it will be effected and the basis for settlement.
3. Equal Employment Opportunity. Except as otherwise provided under 41 CFR Part 60, all contracts that meet the definition of “federally assisted construction contract” in 41 CFR Part 601.3 must include the equal opportunity clause provided under 41 CFR 60-1.4(b), in accordance with Executive Order 11246, “Equal Employment Opportunity” (30 FR 12319, 12935, 3 CFR Part, 1964-1965 Comp., p. 339), as amended by Executive Order 11375, “Amending Executive Order 11246 Relating to Equal Employment Opportunity,” and implementing regulations at 41 CFR part 60, “Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor.”
4. Davis-Bacon Act, as amended (40 U.S.C. 3141-3148). When required by Federal program legislation, all prime construction contracts in excess of $2,000 awarded by non-Federal entities must include a provision for compliance with the Davis-Bacon Act (40 U.S.C. 3141-3144, and 3146-3148) as supplemented by Department of Labor regulations (29 CFR Part 5, “Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction”). In accordance with the statute, contractors must be required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, contractors must be required to pay wages not less than once a week. The non-Federal entity must place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation. The decision to award a contract or subcontract must be conditioned upon the acceptance of the wage determination. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency. The contracts must also include a provision for compliance with the Copeland “Anti-Kickback” Act (40 U.S.C. 3145), as supplemented by Department of Labor regulations (29 CFR Part 3, “Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States”). The Act provides that each contractor or subrecipient must be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency.
5. Contract Work Hours and Safety Standards Act (40 U.S.C. 3701-3708). Where applicable, all contracts awarded by the non-Federal entity in excess of $100,000 that involve the employment of mechanics or laborers must include a provision for compliance with 40 U.S.C. 3702 and 3704, as supplemented by Department of Labor regulations (29 CFR Part 5). Under 40 U.S.C. 3702 of the Act, each contractor must be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of 40 U.S.C. 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.
6. Rights to Inventions Made Under a Contract or Agreement. If the Federal award meets the definition of “funding agreement” under 37 CFR §401.2 (a) and the recipient or subrecipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that “funding agreement,” the recipient or subrecipient must comply with the requirements of 37 CFR Part 401, “Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements,” and any implementing regulations issued by the awarding agency.
7. Clean Air Act (42 U.S.C. 7401-7671q.) and the Federal Water Pollution Control Act (33 U.S.C. 1251-1387), as amended—Contracts and subgrants of amounts in excess of $150,000 must contain a provision that requires the non-Federal award to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251-1387). Violations must be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).
8. Debarment and Suspension (Executive Orders 12549 and 12689)—A contract award (see 2 CFR 180.220) must not be made to parties listed on the government wide exclusions in the System for Award Management (SAM), in accordance with the OMB guidelines at 2 CFR 180 that implement Executive Orders 12549 (3 CFR part 1986 Comp., p. 189) and 12689 (3 CFR part 1989 Comp., p. 235), “Debarment and Suspension.” SAM Exclusions contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549.
9. Byrd Anti-Lobbying Amendment (31 U.S.C. 1352)—Contractors that apply or bid for an award exceeding $100,000 must file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier must also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the nonFederal award.
10. See §200.323 Procurement of recovered materials: [https://www.ecfr.gov/current/title2/subtitle-A/chapter-II/part-200/subpart-D/subject-group-ECFR45ddd4419ad436d/section200.323](https://www.ecfr.gov/current/title-2/subtitle-A/chapter-II/part-200/subpart-D/subject-group-ECFR45ddd4419ad436d/section-200.323)
11. See §200.216 Prohibition on certain telecommunications and video surveillance services or equipment: [https://www.ecfr.gov/current/title-2/subtitle-A/chapter-II/part-200/subpartC/section-200.216](https://www.ecfr.gov/current/title-2/subtitle-A/chapter-II/part-200/subpart-C/section-200.216)
12. See §200.322 Domestic preferences for procurements: [https://www.ecfr.gov/current/title-](https://www.ecfr.gov/current/title-2/subtitle-A/chapter-II/part-200/subpart-D/subject-group-ECFR45ddd4419ad436d/section-200.322)

[2/subtitle-A/chapter-II/part-200/subpart-D/subject-group-ECFR45ddd4419ad436d/section200.322](https://www.ecfr.gov/current/title-2/subtitle-A/chapter-II/part-200/subpart-D/subject-group-ECFR45ddd4419ad436d/section-200.322) Audits.

1. Contractor must comply, and require any subcontractor to comply, with applicable audit requirements and responsibilities set forth in this Contract and applicable state or federal law.
2. If Contractor receives federal awards in excess of $750,000 in a fiscal year, Contractor is subject to audit conducted in accordance with the provisions of 2 CFR part 200, subpart F. Copies of all audits must be submitted to Agency within 30 days of completion.
3. Contractor must save, protect and hold harmless Agency from the cost of any audits or special investigations performed by the Secretary of State with respect to the funds expended under this Contract. Contractor acknowledges and agrees that any audit costs incurred by Contractor as a result of allegations of fraud, waste or abuse are ineligible for reimbursement under this or any other agreement between Contractor and State.

System for Award Management. Grantee must comply with applicable requirements regarding the System for Award Management (SAM), currently accessible at [https://www.sam.gov.](https://www.sam.gov/) This includes applicable requirements regarding registration with SAM, as well as maintaining current information in SAM. The Grantee also must comply with applicable restrictions on subawards ("subgrants") to first-tier subrecipients (first-tier "subgrantees"), including restrictions on subawards to entities that do not acquire and provide (to the Grantee) the unique entity identifier required for SAM registration.

### 3. ADDITIONAL FEDERAL REQUIREMENTS

**Trafficking in Persons.**

The Code of Federal Regulations 2 CFR 175 is hereby incorporated into this Grant with the following changes:

a.2ii.B. Imputed to the Grantee using the standards and due process for imputing the conduct of an individual to an organization that are provided in 34 CFR part 85.”

“b.2.ii. Imputed to the Grantee using the standards and due process for imputing the conduct of an individual to an organization that are provided in 34 CFR part 85.”

Under this condition, the Secretary may terminate this Grant without penalty for any violation of these provisions by the Grantee or its employees.

**Specific Conditions for Disclosing Federal Funding in Public Announcements.**

When issuing statements, press releases, requests for proposals, bid solicitations and other documents describing projects or programs funded in whole or in part with the Grant Funds, Grantee must clearly state:

1. The percentage of the total costs of the Project which will be financed with Federal money;
2. The dollar amount of Federal funds for the Project or program; and
3. The percentage and dollar amount of the total costs of the Project or program that will be financed by non-governmental sources.

Grantee must comply with these conditions under Division B, Title V, Section 505 of Public Law 115-141, Consolidated Appropriations Act, 2019.

**Prohibition of Text Messaging and Emailing While Driving During Official Grant Business.**

Grantee and their grant personnel are prohibited from text messaging while driving a government owned vehicle, or while driving their own privately-owned vehicle during official Grant business, or from using government supplied electronic equipment to text message or email when driving. Grantee must comply with these conditions under Executive Order 13513, “Federal Leadership on Reducing Text Messaging While Driving” October 1, 2009.

**Conferences and Meetings.**

Grantee must take into account the following factors when considering the use of Grant Funds for conferences and meetings:

1. Before deciding to use Grant Funds to attend or host a meeting or conference, Grantee must:
   * Ensure that attending or hosting a conference or meeting is reasonable and necessary to achieve the goals and objectives of this Grant;
   * Ensure the primary purpose of the meeting or conference is to disseminate technical information, (e.g., provide information on specific programmatic requirements, best practices in a particular field, or theoretical, empirical, or methodological advances made in a particular field; conduct training or professional development; plan/ coordinate the work being done under the Grant); and
   * Consider whether there are more effective or efficient alternatives that can accomplish the desired results at a lower cost, for example, using webinars or video conferencing.
2. Grantee must follow all applicable statutory and regulatory requirements in determining whether costs are reasonable and necessary, especially the Cost Principles for Federal grants set out at 2 CFR Part 200 Subpart E of the, “Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards”. In particular, remember that:

* Grant Funds cannot be used to pay for alcoholic beverages; and
* Grant Funds cannot be used to pay for entertainment, which includes costs for amusement, diversion, and social activities.

1. Grant Funds may be used to pay for the costs of attending a conference. Specifically, Grant Funds may be used to pay for conference fees and travel expenses (transportation, per diem, and lodging) of Grantee employees, consultants, or experts to attend a conference or meeting if those expenses are reasonable and necessary to achieve the purposes of the Grant. When planning to use Grant Funds for attending a meeting or conference, Grantee must consider how many people should attend the meeting or conference on its behalf. The number of attendees should be reasonable and necessary to accomplish the goals and objectives of the Grant.
2. Grantee may not use Grant Funds to pay for food for conference attendees unless doing so is necessary to accomplish legitimate meeting or conference business. A working lunch is an example of a cost for food that might be allowable if attendance at the lunch is needed to ensure the full participation by conference attendees in essential discussions and speeches concerning the purpose of the conference to achieve the goals and objectives of this Grant
3. A meeting or conference hosted by Grantee and charged to this Grant may not be promoted as a U.S. Department of Education conference. This means the seal of the U.S. Department of Education must not be used on conference materials or signage without Agency approval.

All meeting or conference materials paid for with Grant Funds must include appropriate disclaimers, such as the following:

*The contents of this (insert type of publication; e.g., book, report, film) were developed under a grant from the U.S. Department of Education. However, those contents do not necessarily represent the policy of the U.S. Department of Education, and you should not assume endorsement by the Federal Government.*

1. Grantee is strongly encouraged to contact Agency Grant Manager with any questions or concerns about whether using Grant Funds for a meeting or conference is allowable prior to committing Grant Funds for such purposes.
2. Grantee is responsible for the proper use of Grant Funds and may have to repay Grant Funds if Grantee violates the terms of this Grant, including the provided guidance for meeting and conference related expenses.

**EXHIBIT D**

**FEDERAL AWARD IDENTIFICATION (REQUIRED BY 2 CFR 200.332(a)(1))**

|  |  |  |  |
| --- | --- | --- | --- |
| (i) Grantee name:  *(must match name associated with UEI)* | xxxxxx | | |
| (ii) Grantee’s Unique Entity Identifier (UEI): |  | xxxxxx |  |
|  |
| (iii) Federal Award Identification Number (FAIN): | S425U210049 | | |
| (iv) Federal award date:  *(date of award to state by federal agency)* | March 24, 2021 | | |
| (v) Grant period of performance start and end dates: | Start: 5/1/2022 End: 9/30/2024 | | |
| (vi) Grant budget period start and end dates: | Start: 5/1/2022 End: 9/30/2024 | | |
| (vii) Amount of federal funds obligated by this Grant: | $xxxxxxxxxxxxx | | |
| (viii) Total\* amount of federal funds obligated to Grantee by pass-through entity\*\*, including this Grant: | Detail at Agency | | |
| (ix) Total\* amount of the federal award committed to Grantee by pass-through entity: *(amount of federal funds from this FAIN committed to Grantee)* | Detail at Agency | | |
| (x) Federal award project description: | American Rescue Plan –  Elementary and Secondary Schools  Emergency Relief Fund (ARPESSER) | | |
| (xi) a. Federal awarding agency: | U.S. Department of Education | | |
| b. Name of pass-through entity: | Oregon Department of Education | | |
| c. Contact information for awarding official of passthrough entity: | Name: DeAndra Brooks Email:  deandra.brooks@ode.oregon.gov | | |
| (xii) Assistance listings number, title, and amount: | Number: 84.425U  Title: Education Stabilization Fund Amount: $747,352,489.00 | | |
| (xiii) Is federal award research and development: | Yes No | | |
| (xiv) a. Indirect cost rate for the federal award: | Federally-approved rate at the time the cost occurred | | |
| b. Is the de minimis rate being used per §200.414? | Yes No | | |

\*The total amount is limited to the current state fiscal year (July 1 to June 30).

\*\*The term “pass-through entity” refers to the State of Oregon, acting through its Department of Education.