

2022 City of Oakley Grant Program

“[PROJECT NAME]”

This Agreement ("Agreement") is made at Oakley, California, dated for reference this 1st of July 2022, by and between the City of Oakley, a municipal corporation and charter City ("CITY"), and [NONPROFIT LEGAL NAME] ("GRANTEE"), a non-profit organization:

RECITALS

WHEREAS, GRANTEE, as a non-profit organization that [NONPROFIT MISSION STATEMENT]; and

WHEREAS, GRANTEE's provision of such services [IMPACT/BENEFIT OF GRANT] the City of Oakley; and

WHEREAS, CITY wishes to award a grant to GRANTEE to support a program that provides [PROJECT/PROGRAM DESCRIPTION].

NOW, THEREFORE, the parties agree as follows:

SECTION 1. Status of GRANTEE. GRANTEE represents and warrants that it is a non-profit organization in good standing under the law and shall remain as such for the term of this Agreement. GRANTEE further represents and warrants that its signatory is authorized to bind GRANTEE and execute this Agreement on GRANTEE's behalf.

SECTION 2. Payment of Grant Award. CITY hereby agrees to pay GRANTEE an amount not to exceed [\$\$X,XXX] ("Grant Award") according to the schedule set forth in Exhibit A and subject to the terms and conditions of this Agreement. CITY may elect in its sole discretion to withhold payment of Grant Award if GRANTEE defaults under any of the provisions of this Agreement.

SECTION 3. Expenditure of Grant Award. GRANTEE shall expend the Grant Award solely on the programs and/or projects set forth in Exhibit A. An expenditure that does not comply with this Agreement shall constitute a disallowed cost ("disallowed cost") and be subject to reimbursement as specified in Section 15 of this Agreement. Under no circumstances shall GRANTEE expend any portion of the Grant Award for religious or political purposes or for any other purpose prohibited under law, including but not limited to promoting or inhibiting religion in general or any religion in particular, conveying a religious message, or advocating for or against a political candidate or ballot measure.

SECTION 4. Acknowledgment of Funding Source. Unless otherwise agreed upon in writing between the parties, the GRANTEE agrees that any publications, studies, or reports which are made possible by or derived, in whole or in part, from the Grant Award and any news articles, brochures, seminars, or other promotional materials or media or events through which GRANTEE publicizes the programs or projects funded in whole or in part by CITY will acknowledge the CITY's support in the following manner: "Funding for this project has been provided by/contributed by the City of Oakley."

SECTION 5. The Parties' Relationship. This Agreement shall not be construed as giving rise to any agency, partnership, joint venture, or employment relationship between CITY and GRANTEE. GRANTEE shall have no ability to bind the CITY and shall not hold itself out as having any such ability. Neither GRANTEE nor any of GRANTEE's officers, employees, agents, or subcontractors, if any, is an employee of CITY by virtue of this Agreement. GRANTEE's employees and agents shall not be entitled to any salary or benefits relating to CITY employment.

SECTION 6. No Assignment. GRANTEE shall not assign this Agreement without CITY's written authorization. Any unauthorized assignment shall be void and shall be considered a material breach of this Agreement.

SECTION 7. Indemnification. GRANTEE shall indemnify, hold harmless, and defend CITY, its City Council, boards and commissions, officers, officials, directors, employees, agents, volunteers and affiliates and each of them from any and all claims, demands, causes of action, damages, costs, expenses, attorney's fees, consultant's fees, expert fees, losses or liability, in law or in equity, of every kind and nature whatsoever arising out of or in connection with this Agreement, GRANTEE's performance hereunder, GRANTEE's or subcontractor's negligence including active or passive, or strict liability, including but not limited to personal injury including, but not limited to bodily injury, emotional injury, sickness or disease, or death to persons and/or damage to property of anyone, including loss of use thereof, caused or alleged to be caused by any act or omission of GRANTEE, or any subcontractor, or anyone directly or indirectly employed by any of them or anyone for the full period of time allowed by the law, regardless of any limitation of coverage by insurance, with the exception of the sole negligence or willful misconduct of the City.

The provisions of this section shall survive the expiration or termination of this Agreement.

SECTION 8. Insurance Requirements. GRANTEE agrees to comply with all of the Insurance Requirements set forth in Exhibit C, entitled "Insurance Requirements for GRANTEE." Failure to maintain the required insurance at all times shall constitute a default and material breach.

SECTION 9. Non-Discrimination. In performing this Agreement, GRANTEE, shall not, and shall ensure that any and all contractors or subcontractors, employees, agents, volunteers, officers, officials, directors, volunteers, and affiliates, also shall not discriminate, harass, or allow harassment against any person on the basis of sex, race, color, ancestry, religious creed, national origin, physical disability, mental disability, medical condition, age, marital status, sexual orientation, actual or perceived gender identity, or any other basis prohibited under law. GRANTEE shall include the nondiscrimination and compliance provisions of this clause in all subcontracts to perform work under this Agreement.

SECTION 10. Compliance with All Applicable Laws. In performing this Agreement,

GRANTEE warrants it shall comply with all applicable state and federal laws, rules, and regulations, whether now in force or hereinafter enacted.

SECTION 11. Accounting. For purposes of performance under this Agreement and receipt and expenditure of Grant Award, GRANTEE shall at all times maintain an accounting system that comports with generally accepted accounting principles.

SECTION 12. Financial Records and Financial Report. GRANTEE shall maintain satisfactory financial accounts, books, records, documents, and other evidence sufficient to properly reflect the amount, receipt, and expenditure of Grant Award.

Grantee shall submit to CITY a Final Report in the form identified in Exhibit B. The CITY reserves the right to request quarterly reports relating to the expenditure of the Grant Award or additional information as needed for American Rescue Plan Act reporting requirements. Said Quarterly Reports shall be in the form identified in Exhibit B. Said Final Report shall be submitted to CITY within fourteen (14) calendar days following the full expenditure of the grant award.

All financial records and financial reports shall be prepared in accordance with general accounting principles. The Annual and Quarterly Reports shall be public records and may be posted on the CITY's website. Failure to maintain proper financial records and submittal of timely financial reports shall be cause for termination as outlined in this agreement (See Section 17).

SECTION 13. Audit and Examination. Upon request, CITY's authorized representatives shall be provided with access and shall have the right to examine all financial records, documents, facilities, and activities related to GRANTEE's performance of this Agreement and to the receipt and expenditure of the Grant Award. Failure to comply with the request for audit, or a lack of documentation and records, may cause termination of this agreement (See Section 17). Termination of this agreement for failure to comply will require all unused or disallowed funds provided to GRANTEE to be refunded to the CITY.

SECTION 14. Preservation of Records. GRANTEE shall preserve and make available all records related to performance of this Agreement and related to the receipt and expenditure of the Grant Award until the expiration of [RETENTION PERIOD] from the date of final payment to GRANTEE or as required by applicable law, whichever is longer.

SECTION 15. Reimbursement of Disallowed Costs. Within ten (10) business days of the date of CITY's written notice to GRANTEE, GRANTEE agrees to reimburse to CITY any portion of the Grant Award paid by the CITY which CITY has in its sole discretion determined constitutes a disallowed cost.

SECTION 16. Term. This Agreement shall be for a term commencing on July 1, 2022, and expiring on June 30, 2023 unless terminated sooner per this Agreement.

SECTION 17. Termination. This Agreement may be terminated with or without cause by either CITY or GRANTEE with thirty (30) calendar days' written notice of termination. No

later than ten (10) calendar days of transmission of the termination notice from CITY, GRANTEE shall refund any unused or disallowed portion of the Grant Award. In the event of a breach of this Agreement, CITY may elect to provide written notice of such breach and a reasonable time period in which GRANTEE must cure the breach. If GRANTEE fails to cure the breach in accordance with said notice, CITY may terminate this Agreement for cause, and any unused or disallowed portions of the Grant Funds shall be returned to the City within ten (10) calendar days of said termination date.

SECTION 18. Notice. All notices or instruments required to be given or delivered by law or this Agreement shall be in writing and shall be effective five (5) calendar days from the date of mailing or if personally delivered, from the date of personal delivery. If notice is given by mail, it shall be delivered by depositing the same in any United States Post Office, registered or certified mail, postage prepaid, addressed to:

CITY: Felicia Escover
Assistant to the City Manager
City of Oakley
3231 Main Street
Oakley, CA 94561
(925) 625-7162
escover@ci.oakley.ca.us

GRANTEE: NAME
TITLE
ORGANIZATION
ADDRESS
PHONE NUMBER
EMAIL

SECTION 19. Severability. If any provision of this Agreement or the application thereof is held invalid, that invalidity shall not affect other provisions or applications of this Agreement which can be given effect without the invalid provision or application, and to this end the provisions of this Agreement are severable.

SECTION 20. Waiver. No term or provision hereof will be considered waived by either party, and no breach is excused or consented to by either party, unless such waiver or consent is in writing and signed on behalf of the party against whom the waiver is asserted. No express or implied consent by either party to, waiver of, or failure of a party to enforce its rights with respect to a breach by the other party shall constitute consent to or, waiver of any subsequent or other breach by the other party.

Section 21. Amendment. This Agreement may be amended by mutual agreement in writing between the GRANTEE and the CITY. Any request by the GRANTEE for amendments must be in writing stating the amendment request and reason for the request. The GRANTEE shall make requests in a timely manner and in no event less than thirty (30) calendar days before the effective date of the proposed amendment.

Section 22. List of Exhibits:

- Exhibit A - Scope of Work
- Exhibit B - Grant Agreement Report Exhibit
- Exhibit C - Insurance Requirements

Section 23. Entire Agreement. This Agreement and any attached Exhibits shall constitute the entire Agreement between the parties hereto relating to the Grant Award and may not be modified except by an instrument in writing signed by the parties hereto.

(signatures on next page)

IN WITNESS WHEREOF, the parties have entered into this Agreement on the day and year first hereinabove appearing.

[NONPROFIT NAME],
a non-profit organization

By: _____
NAME
TITLE

By: _____
Joshua McMurray
City Manager

DATE: _____

DATE: _____

(City Seal)

ATTEST:

By: _____
Libby Vreonis
City Clerk

APPROVED AS TO CONTENT:

Felicia Escover
Assistant to the City Manager

APPROVED AS TO FORM:

Derek Cole
City Attorney

EXHIBIT A
SCOPE OF WORK

Project Description:

Deliverables & Performance Measures:

Payment Schedule & Eligible Expenditures:

All expenditures must comply with the Coronavirus State and Local Recovery Funds Final Rule. Funding used for ineligible expenditures will require repayment to the City.

The grant funds will be used to support the [PROGRAM NAME]. Eligible expenditures under this grant agreement include:

-

The grant funds will be dispersed in a lump sum following the full execution of this agreement.

Exhibit B
Grant Agreement Report

Organization			Agreement No.	
Contact Person		Contact Title		
Phone Number		Email		
Report Type	<input type="checkbox"/> annual	Reporting Period		
	<input type="checkbox"/> quarterly			

Grantee Information

Grant Amount	
Funding expended during the reporting period	
Funding expended to date	
Remaining award amount	

Award Details

Receipts and thorough documentation of grant fund expenditures have been maintained and can be produced upon request yes no

Performance Measures & Outcomes

Please provide outcomes that were accomplished through the grant funds

Part I: Quantitative Outcomes

Number of Individuals Served	
Population(s) Served	
Performance Measures per Agreement	

Narrative – description of how the funds were used and what was accomplished.

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Grantee Representative Signature

I hereby declare under the penalty of perjury that the goods or materials covered by this report have been performed with the project specifications, are complete and accurate, and are eligible under the agreement.

Printed Name			
Title			
Signature		Date	

#

EXHIBIT C

INSURANCE REQUIREMENTS

Grantee shall procure and maintain for the duration of this Agreement, including any extensions thereto, insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of services hereunder by the Grantee, their agents, representatives, or employees or subcontractors. It shall be a requirement under this Agreement that any available insurance proceeds broader than or in excess of the specified minimum Insurance coverage requirements and/or limits shall be available to the Additional Insured. Furthermore, the requirements for coverage and limits shall be (1) the minimum coverage and limits specified in this Agreement; or (2) the broader coverage and maximum limits of coverage of any Insurance policy or proceeds available to the named Insured; whichever is greater. No representation is made that the minimum Insurance requirements of this agreement are sufficient to cover the obligations of the Grantee under this agreement.

MINIMUM SCOPE AND LIMIT OF INSURANCE

Coverage shall be at least as broad as:

1. **Commercial General Liability (CGL):** Insurance Services Office Form CG 00 01 covering CGL on an "occurrence" basis, including products and completed operations, property damage, bodily injury and personal & advertising injury with limits no less than **\$1,000,000** per occurrence. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit (i.e., \$2,000,000)
2. **Automobile Liability:** Insurance Services Office Form Number CA 0001 covering Code 1 (any auto), or if Grantee has no owned autos, Code 8 (hired) and 9 (non-owned), with limits no less than **\$1,000,000** per accident for bodily injury and property damage.
3. **Workers' Compensation** insurance as required by the State of California, with Statutory Limits, and Employers' Liability insurance with a limit of no less than \$1,000,000 per accident for bodily injury or disease. **(WC insurance is not required if the grantee provides written verification it has no employees)**
4. **Professional Liability (Errors and Omissions)** Insurance appropriate to the Grantee's profession, with limits no less than \$1,000,000 per occurrence or claim, \$2,000,000 policy aggregate.

Other Insurance Provisions

The insurance policies are to contain, or be endorsed to contain, the following provisions:

1. **The City, its officers, officials, employees, and volunteers are to be covered as additional insureds** on the CGL policy with respect to liability arising out of work or operations performed by or on behalf of the Grantee including materials, parts, or equipment furnished in connection with such work or operations. General liability coverage can be provided in the form of an endorsement to the Grantee's insurance (at least as broad as ISO Form CG 20 10 11 85 or both CG 20 10 10 01 and CG 20 37 10 01 forms if later revisions used).
2. For any claims related to this contract, the **Grantee's insurance coverage shall be primary** insurance as respects the City, its officers, officials, employees, and volunteers. Any insurance or self-insurance maintained by the City, its officers, officials, employees, or volunteers shall be in excess of the Grantee's insurance and shall not contribute with it.
3. Each insurance policy required by this clause shall provide that coverage shall not be canceled, except with thirty (30) days prior written notice to the City.

Waiver of Subrogation

Grantee hereby grants to City a waiver of any right to subrogation which any insurer of said Grantee may acquire against the City by virtue of the payment of any loss under such insurance. Grantee agrees to obtain any endorsement that may be necessary to affect this waiver of subrogation, but this provision applies regardless of whether or not the City has received a waiver of subrogation endorsement from the insurer.

Deductibles and Self-Insured Retentions

Any deductibles or self-insured retentions must be declared to and approved by the City. The City may require the Grantee to provide proof of ability to pay losses and related investigations, claim administration and defense expenses within the retention.

Acceptability of Insurers

Insurance is to be placed with insurers with a current A.M. Best rating of no less than A:VII, unless otherwise acceptable to the City.

Claims Made Policies

If any coverage required is written on a claims-made basis:

1. The retroactive date must be shown, and this date must be before the execution date of the contract or the beginning of contract work.
2. Insurance must be maintained and evidence of insurance must be provided for at least five (5) years after completion of contract work.
3. If coverage is canceled or non-renewed, and not replaced with another claims-made policy form with a retroactive date prior to the contract effective date, the

Grantee must purchase extended reporting period coverage for a minimum of five (5) years after completion of contract work.

Verification of Coverage

Grantee shall furnish the City with original certificates and amendatory endorsements or copies of the applicable insurance language, effecting coverage required by this contract. All certificates and endorsements are to be received and approved by the City before work commences. However, failure to obtain the required documents prior to the work beginning shall not waive the Grantee's obligation to provide them. The City reserves the right to require complete, certified copies of all required insurance policies, including endorsements, required by these specifications, at any time.

Subcontractors

Grantee shall require and verify that all subcontractors maintain insurance meeting all the requirements stated herein, and Grantee shall ensure that City is an additional insured on insurance required from subcontractors. For CGL coverage subcontractors shall provide coverage with a format least as broad as CG 20 10 10 01 and CG 20 37 10 01.

Special Risks or Circumstances

City reserves right to modify these requirements, including limits, based on the nature of the risk, prior experience, insurer, coverage, or other special circumstances.