

**2020 GRANT AGREEMENT
BETWEEN THE CITY OF OAKLAND
AND CHABOT-LAS POSITAS COMMUNITY COLLEGE DISTRICT
dba TRI-VALLEY CAREER CENTER**

This Grant Agreement (the “Agreement”) dated _____ is made and entered into by and between the City of Oakland, a municipal corporation (the “City”), and **Chabot-Las Positas Community College District dba Tri-Valley Career Center**, a California nonprofit public benefit corporation, California Corporation No. G359235 (“Grantee”). The City and Grantee are hereinafter collectively referred to as the “Parties.”

RECITALS

- A. The City wishes to enter into this Agreement with Grantee to provide an Alameda County-Oakland Community Action Partnership Grant, with said funds from the U.S. Department of Health and Human Services’ Community Services Block Grant (Catalogue of Federal Assistance # 93.569) to be used by Grantee to provide job training and employment placement services.
- B. The City Council, pursuant to Resolution Nos. 87964 C.M.S. and 88089 C.M.S., has allocated grant funds to Grantee to fund its community-related programs and activities as specified herein.

Now, therefore, the Parties to this Agreement agree as follows:

1. Grant

Subject to the terms and conditions of this Agreement, the City agrees to provide a grant of funds to Grantee in an amount not to exceed twenty-five thousand dollars (\$25,000) (the “Grant”).

2. Scope of Work

As a condition of this Grant, Grantee must diligently and in good faith perform the community-related work, services, and activities (“Work”) specified in the **Scope of Work** attached to this Agreement as **Schedule A** and incorporated herein by reference.

Grantee shall designate an individual who shall be responsible for communications with the City for the duration of this Agreement. The Project Manager for the City shall be **Estelle Clemons**.

3. Agreement Documents and Provisions

Grantee shall perform or arrange for the performance of Work under this Agreement in accordance with the conditions of this Agreement, including the attached Scope of Work, in addition to City of Oakland rules, regulations and policies, and applicable federal and state laws.

4. Time of Performance

The Grant term shall begin on May 20, 2020, and shall end on December 31, 2020.

5. Method of Payment

Grantee shall be paid for the performance of the Work set forth in the Scope of Work in accordance with the Program Budget included in the Scope of Work. Payments shall be made in the amounts stated in the Scope of Work and shall be based on actual eligible costs, fees and expenses incurred by Grantee for services provided pursuant to the Scope of Work. Payments shall be due upon completion of the Work or as otherwise specified in the Scope of Work. Grantee shall submit a bi-monthly invoice accompanied by a description of the work performed during the two months and an itemization of expenditures submitted for reimbursement prepared on the City's expense forms. Grantee shall ensure that funds received under this Agreement shall not be used for the purchase or improvement of land or for the purchase, construction, or permanent improvement of any building.

The documents submitted shall be reviewed and approved for payment by the Project Manager. The City shall have sole and absolute discretion to determine the sufficiency of supporting documentation for payment. Determination of satisfactory completion of the Scope of Work will be based on an overall assessment of the progress Grantee has made towards achieving the goals of the Agreement and the performance measures.

All authorized obligations incurred in the performance of the terms of this Agreement must be reported to the City within 30 days following the completion or termination of this Agreement. No claims submitted after the 30-day period will be binding upon the City for payment. Any obligations and/or debts incurred by Grantee and not reported to the City within the 30-day period become the sole liability of Grantee, and the City shall be relieved of any and all responsibilities.

6. Prompt Payment

This Agreement is subject to the Prompt Payment Ordinance codified in Chapter 2.06 of the Oakland Municipal Code. Under said Ordinance, the City must disburse Grant funds to Grantee within 20 business days after receipt of an undisputed request for payment. An undisputed request for payment is a request for payment that is not a "disputed invoice" within the meaning of the Prompt Payment Ordinance. Under the Ordinance, a "disputed invoice" is an invoice or request for payment that is either (1) improperly executed by Grantee, (2) contains errors, (3) requires additional evidence to determine its validity, and/or (4) contains expenditures or proposed expenditures that are ineligible or that do not otherwise comply with reimbursement or disbursement requirements of the City or another grant funding source. If a request for payment is "disputed", the payment/disbursement shall not be subject to late penalties until the dispute is resolved. In the event a request for payment is disputed, the City shall notify Grantee and the City's Liaison (as defined in the Prompt Payment Ordinance) in writing within five business days of receiving the disputed request for payment that there is a bona fide

dispute, in which case the City shall withhold the disputed amount and may withhold the full amount if the funding source for the Grant requires that the disputed expenditures be fully resolved prior to any disbursement of Grant funds. If the funding source for the Grant requires its review and approval before payments are made to Grantee, this period shall be suspended for any period of review by said agency. If any amount due by the City to be disbursed to Grantee pursuant to this Agreement is not timely paid in accordance with the Prompt Payment Ordinance, Grantee is entitled to interest penalty in the amount of 10% of the improperly withheld amount per year for every month that payment is not made, provided that Grantee agrees to release the City from any and all further claims for interest penalties that may be claimed or collected on the amount due and paid. Grant recipients that receive interest penalties for late payment pursuant to the Prompt Payment Ordinance may not seek further interest penalties on the same late payment in law or equity.

The Prompt Payment Ordinance further requires that, unless specific exemptions apply, Grantee shall pay undisputed invoices of its subcontractors for goods and/or services within 20 business days of submission of invoices unless Grantee notifies the City's Liaison in writing within five business days that there is a bona fide dispute between Grantee and claimant, in which case Grantee may withhold the disputed amount but shall pay the undisputed amount. Disputed payments are subject to investigation by the City's Liaison and, and upon the filing of a compliant, Grantee, if opposing payment, shall provide security in the form of cash, certified check or bond to cover the disputed amount and penalty during the investigation. If Grantee fails or refuses to deposit security, the City will withhold an amount sufficient to cover the claim from the next Grant payment. The City, upon a determination that an undisputed invoice or payment is late, will release security deposits or withholds directly to claimants for valid claims. Grantee is not allowed to retain monies from subcontractor payments for goods as project retention, and is required to release subcontractor project retention in proportion to the subcontractor services rendered, for which payment is due and undisputed, within five business days of payment. For the purpose of posting on the City's website, Grantee is required to file notice with the City of release of retention and payment of mobilization fees, within five business days of such payment or release; and Grantee is required to file an affidavit, under penalty of perjury, that he or she has paid all subcontractors, within five business days following receipt of payment from the City. The affidavit shall provide the names and address of all subcontractors and the amount paid to each.

7. Evaluation, Monitoring and Reporting

Grantee shall be monitored and evaluated by the City in terms of its effectiveness and timely compliance with the provisions of this Agreement and the effective and efficient achievement of the Scope of Work. Grantee shall undertake continuous quantitative and qualitative evaluation of the Scope of Work as specified in this Agreement and shall make written reports on the results of such evaluation to the Project Manager as reasonably requested by the Project Manager.

In addition to the financial requirements described elsewhere in this Agreement, Grantee agrees that authorized representatives of the City may perform fiscal monitoring of Grantee's record-keeping and reporting to assure compliance with this Agreement.

Grantee is required to submit program data, invoices, and progress reports electronically on a regular basis.

Grantee agrees to comply with data requests from the Alameda County-Oakland Community Action Partnership's internal evaluator and to allow City staff and the Alameda County-Oakland Community Action Partnership evaluator to complete a site visit at least once annually to visually observe Alameda County-Oakland Community Action Partnership programs in operation (when appropriate); to review documentation related to the financial health of the overall organization and the appropriation of Alameda County-Oakland Community Action Partnership program funds; and to review documents related to the program management (such as case files) of the Alameda County-Oakland Community Action Partnership program and the overall organization.

8. Program Income

Any funds received as return of costs or as income generated from activities funded by this Agreement are the property of the City and must be transmitted to the City promptly.

9. Proprietary or Confidential Information of the City

Grantee understands and agrees that, in the performance of the work or services under this Agreement or in contemplation thereof, Grantee may have access to private or confidential information which may be owned or controlled by the City and that such information may contain proprietary or confidential details, the disclosure of which to third parties may be damaging to the City. Grantee agrees that all information disclosed by the City to Grantee shall be held in confidence and used only in performance of the Agreement. Grantee shall exercise the same standard of care to protect such information as a reasonably prudent Grantee would use to protect its own proprietary data, including but not limited to meeting all of the requirements set forth in Section 12, below.

10. Records and Audit

Grantee must maintain (a) a full set of accounting records in accordance with generally accepted accounting principles and procedures for all funds received under this Agreement, and (b) full and complete documentation of performance-related matters such as benchmarks and deliverables associated with this Agreement. Grantee agrees to comply with all audit, inspection, record-keeping and fiscal reporting requirements mandated by the City, and all state and/or federal audit requirements applicable to the funding sources of the Grant. The City shall notify the Grantee of any records it deems in its reasonable judgment to be insufficient. Grantee shall have 15 calendar days from such notice to correct any specified deficiency in the records, or, if more than 15 days shall be reasonably necessary to correct the deficiency, Grantee shall begin to correct the deficiency within 15 days and correct the deficiency as soon as reasonably possible. Grantee must maintain such records for a period of four years following the last fiscal year during which the City paid an invoice to Grantee under this Agreement.

Grantee must make available at Grantee's office for examination at reasonable intervals and during normal business hours to the City's representatives, as well as representatives of agencies providing funding for the Grant, all books, accounts, reports, files, financial records, and other papers or property with respect to all matters covered by this Agreement, as well as the financial condition of Grantee in general, and shall permit these representatives to audit, examine, and make copies, excerpts or transcripts from such records. The City's representatives may make audits of any conditions relating to this Agreement, as well as the financial condition of Grantee in general, throughout the term of this Agreement and for three years following the expiration of the term of this Agreement.

Grantee must submit a copy of the Grantee's audit to the City by the federal deadline, which is nine (9) months after Grantee's fiscal year end.

11. Fraud, Waste and Abuse

Grantee must immediately inform the City of any information or complaints involving criminal fraud, waste, abuse, or other criminal activity in connection with the Work or this Agreement.

Grantee shall make timely, a written report to the City of Oakland of incidents and activities, or suspected incidents and activities, involving fraud, waste and abuse of CSBG funds by Grantee's employees, subcontractors, clients, or other parties affiliated with Grantee. Incidents and activities subject to reporting under this section include, but are not limited to, criminal acts and other violations of law constituting a misuse of funds that could result in cost disallowance. Grantee shall, in a timely manner, inform the City of any reports or complaints submitted to law enforcement officials by Grantee, Grantee's employees, subcontractors, clients or other parties affiliated with Grantee, concerning the misuse of CSBG funds.

Grantee shall provide employees, subcontractors, clients and other parties affiliated with the Grantee the information necessary to report fraud, waste and abuse to the U.S. Department of Health and Human Services Office of Inspector General Fraud hotline: 1-00-HHS-TIPS (1-800-447-8477).

12. Compliance with Federal and State of California Standards

- a. Grantee shall be responsible for complying with all applicable federal, state, and local laws and regulations, as those laws and regulations may be amended from time to time, including but not limited to the Community Services Block Grant Act, as amended (42 U.S.C. § 9901 et. seq.; 45 CFR Part 96); the California Community Services Block Grant Program (Government Code § 12085 et seq., as amended; 22 CCR § 100601 et seq.); and the Single Audit Act (31 U.S.C. § 7301 et seq.).
- b. Grantee has submitted **Schedule Z**, Certification of Debarment and Suspension, attached hereto and incorporated by reference herein.
- c. Grantee shall institute measures, procedures, and protocols designed to ensure the security of data and to protect information in accordance with the Information Practices Act of

1977, as amended (Civ. Code §1798, et seq.), including the following systems security measures:

- (i) The physical location of the application systems (servers) shall be within controlled access facilities. Individual users may not have access to the data except through their systems that are specifically credentialed for Grantee business. All access will be controlled by authentication methods to validate the approved users.
 - (ii) Standards for secure transmission may be accomplished through such means as certificates, secure socket layer, etc., and storage of the data with encryption, if applicable.
 - (iii) Grantee shall maintain security patches and anti-virus software updates.
 - (iv) Data Sharing Responsibilities – Grantee shall ensure that all primary and delegated secondary organizations that share, exchange, or use personal, sensitive, or confidential data, pursuant to this Agreement and subcontracts issued by Grantee, shall adhere to these security requirements and applicable state and federal law. If data sharing is accomplished via interconnectivity of an application system, then data sharing must be certified to be secure by both parties.
- d. Grantee shall, as required by 42 U.S.C. § 9901 of the Community Services Block Grant Act, each fiscal year (1) inform custodial parents in single-parent families that participate in programs, activities, or services carried out or provided under this chapter about the availability of child support services and (2) refer eligible parents to the child support offices of California and local governments. Grantee and those persons it serves may find additional information regarding the foregoing services at www.childsupport.ca.gov or call 1-866-901-3212.

13. Assignment and Subcontracting

Grantee may not assign, subcontract, or otherwise transfer any rights, duties, obligations or interest in the Grant or this Agreement, or arising thereunder, to any person, persons, entity or entities whatsoever without the prior written consent of the City, and any attempt to assign, subcontract, or transfer without such prior written consent shall be void. Consent to any single assignment, subcontract, or transfer shall not constitute consent to any further assignment, subcontract or transfer.

14. Publicity

Any publicity generated by Grantee for the project funded pursuant to this Agreement, during the term of this Agreement or for one year thereafter, shall make reference to the contribution of the City of Oakland in making the project possible. The words “City of Oakland, Alameda County-Oakland Community Action Partnership” shall be explicitly stated and the Alameda County-Oakland Community Action Partnership logo included in all pieces of publicity, including but not limited to flyers, press releases, posters, brochures, public service announcements, interviews and

newspaper articles. An Alameda County-Oakland Community Action Partnership poster/decal, provided by the City of Oakland, shall be displayed at locations where services are provided.

City staff will be available whenever possible at the request of Grantee to assist Grantee in generating publicity for the program funded pursuant to this Agreement. Grantee further agrees to cooperate with authorized City officials and staff in any City-generated publicity or promotional activities undertaken with respect to this program.

15. Insurance

Unless a written waiver is obtained from the City's Risk Manager, Grantee must at all times during the term of this Agreement carry and provide the insurance listed in the City of Oakland **Insurance Requirements** attached hereto as **Schedule Q** and incorporated herein by reference.

16. Indemnification

- a. Notwithstanding any other provision of this Agreement, Grantee shall indemnify and hold harmless (and at City's request, defend) the City, and its Councilmembers, officers, partners, agents, and employees (each of which persons and organizations are referred to collectively herein as "Indemnitees" or individually as "Indemnitee") from and against any and all liabilities, claims, lawsuits, losses, damages, demands, debts, liens, costs, judgments, obligations, administrative or regulatory fines or penalties, actions or causes of action, and expenses (including reasonable attorneys' fees) caused by or arising out of any:
 - (i) Breach of Grantee's obligations, representations or warranties under this Agreement;
 - (ii) Act or failure to act in the course of performance by Grantee under this Agreement;
 - (iii) Negligent or willful acts or omissions in the course of performance by Grantee under this Agreement;
 - (iv) Claim for personal injury (including death) or property damage to the extent based on the strict liability or caused by any negligent or intentional act, error or omission of Grantee;
 - (v) Unauthorized use or disclosure by Grantee of confidential information; or
 - (vi) Claim of infringement or alleged violation of any United States patent right or copyright, trade secret, trade mark, or service mark or other proprietary or intellectual property rights of any third party.
- b. For purposes of the preceding subsections (i) through (vi), the term "Grantee" includes Grantee, its officers, directors, employees, representatives, agents, servants, subcontractors, sub-consultants and subgrantees.
- c. The City shall give Grantee prompt written notice of any such claim of loss or damage and shall cooperate with Grantee in the defense and all related settlement negotiations to the extent that cooperation does not conflict with City's interests.

- d. Notwithstanding the foregoing, the City shall have the right, if Grantee fails or refuses to defend the City with counsel acceptable to the City, to engage its own counsel for the purposes of participating in the defense. In addition, the City shall have the right to withhold any payments due Grantee in the amount of anticipated defense costs plus additional reasonable amounts as security for Grantee's obligations under this section. In no event shall Grantee agree to the settlement of any claim described herein without the prior written consent of the City.
- e. Grantee acknowledges and agrees that it has an immediate and independent obligation to indemnify and defend Indemnitees from any claim or action which potentially falls within this indemnification provision, which obligation shall arise at the time such claim is tendered to Grantee by the City and continues at all times thereafter, without regard to any alleged or actual comparative or contributory negligence of any Indemnitee. Notwithstanding anything to the contrary contained herein, Grantee's liability under this Agreement shall not apply to any action or claim arising from the sole negligence, active negligence, or willful misconduct of an Indemnitee.
- f. All of Grantee's obligations under this section are intended to apply to the fullest extent permitted by law (including without limitation, California Civil Code Section 2782) and shall survive the expiration or sooner termination of this Agreement.
- g. Grantee's indemnification obligations set forth in this section shall not be limited by the City's insurance requirements contained in Schedule Q hereof, or by any other provision of this Agreement. The City's liability under this Agreement shall be limited to payment to Grantee in accord with the terms and conditions under this Agreement and shall exclude any liability whatsoever for consequential or indirect damages even if such damages are foreseeable.

17. Non-Liability of City

No member, official, officer, director, employee, or agent of the City shall be liable to Grantee for any obligation created under the terms of this Agreement except in the case of actual fraud or willful misconduct by such person.

18. Right to Offset Claims for Money

All claims for money due or to become due from the City shall be subject to deduction or offset by the City from any monies due Grantee by reason of any claim or counterclaim arising out of this Agreement, any purchase order, or any other transaction with Grantee.

19. Events of Default and Remedies

The occurrence of any of the following shall constitute a material default and breach of this Agreement by Grantee:

- a. Failure to adequately perform the Work set forth in the Scope of Work;

- b. Improper use or reporting of funds provided under this Agreement by Grantee or its employees or agents;
- c. Substantial failure by Grantee to observe and perform any other provision of this Agreement; or
- d. Grantee's (1) filing for bankruptcy, dissolution, or reorganization, or failure to obtain a full dismissal of any such involuntary filing brought by another party before the earlier of final relief or 60 days after the filing; (2) making a general assignment for the benefit of creditors; (3) applying for the appointment of a receiver, trustee, custodian, or liquidator, or failure to obtain a full dismissal of any such involuntary application brought by another party before the earlier of final relief or 60 days after the filing; (4) insolvency; or (5) failure, inability or admission in writing of its inability to pay its debts as they become due.

The City shall give written notice to Grantee or Grantee's agent of any default by specifying (a) the nature of the event or deficiency giving rise to the default, (b) the action required to cure the deficiency, if an action to cure is possible, and (c) a date, which shall be not less than 30 calendar days from the mailing of the notice, by which such action to cure, if a cure is possible, must be undertaken. Grantee shall not be in default if Grantee cures such default within the specified cure period, or, if such default is not reasonably capable of cure within the specified period, Grantee begins to cure the default within the cure period and thereafter diligently pursues the cure to completion. Following any notice of an event of default, the City may suspend payments under this Agreement pending Grantee's cure of the specified breach. Upon an event of default that has not been cured by Grantee, the City, in its discretion, may take any of the following actions:

- (A) Terminate this Agreement in whole or in part;
- (B) Suspend payments under this Agreement;
- (C) Demand immediate reimbursement of any funds disbursed under this Agreement;
- (D) Bring an action for equitable relief (a) seeking the specific performance by Grantee of the terms and conditions of the Agreement, and/or (b) enjoining, abating, or preventing any violation of said terms and conditions, and/or (c) seeking declaratory relief;
- (E) Bar Grantee from future funding by the City; and/or
- (F) Pursue any other remedy allowed at law or in equity.

Unless otherwise terminated as provided in this Agreement, this Agreement will terminate on December 31, 2020.

20. Termination or Modification for Lack of Appropriation

The City's obligations under this Agreement are contingent upon the availability of funds from the funding source for this Grant. The City may terminate this Agreement on 30 days' written notice to Grantee without further obligation if said funding is withdrawn or otherwise becomes unavailable for continued funding of the Work.

21. Litigation and Pending Disputes

Grantee shall promptly give notice in writing to the City of any litigation pending or threatened against Grantee in which the amount claimed is in excess of \$50,000. Further, Grantee shall disclose, and represents that it has disclosed, any and all pending disputes with the City prior to execution of this Agreement on **Schedule K**, incorporated herein by reference. Failure to disclose pending disputes prior to execution of this Agreement shall be a basis for termination of this Agreement.

22. Conflict of Interest

- a. Grantee certifies that no member, officer, or employee of the City or its designees or agents, and no other public official of the City who exercises any functions or responsibilities with respect to the programs or projects covered by this Agreement, shall have any interest, direct or indirect, in this Agreement, or in its proceeds during his/her tenure or for one year thereafter.
- b. Grantee warrants and represents, to the best of its present knowledge, that no public official or employee of City who has been involved in the making of this Agreement, or who is a member of a City board or commission which has been involved in the making of this Agreement, whether in an advisory or decision-making capacity, has or will receive a direct or indirect financial interest in this Agreement in violation of the rules contained in California Government Code Section 1090 et seq., pertaining to conflicts of interest in public contracting. Grantee shall exercise due diligence to ensure that no such official will receive such an interest.
- c. Grantee further warrants and represents, to the best of its present knowledge and excepting any written disclosures as to these matters already made by Grantee to City, that (1) no public official of City who has participated in decision-making concerning this Agreement, or has used his or her official position to influence decisions regarding this Agreement, has an economic interest in Grantee or this Agreement, and (2) this Agreement will not have a direct or indirect financial effect on said official, the official's spouse or dependent children, or any of the official's economic interests. For purposes of this paragraph, an official is deemed to have an "economic interest" in (a) any for-profit business entity in which the official has a direct or indirect investment worth \$2,000 or more, (b) any real property in which the official has a direct or indirect interest worth \$2,000 or more, (c) any for-profit business entity in which the official is a director, officer, partner, trustee, employee or manager, or (d) any source of income or donors of gifts to the official (including nonprofit entities) if the income totaled more than \$500, or value of the gift totaled more than \$470 the previous year. Grantee agrees to promptly disclose to the City in writing any information it may receive concerning any such potential conflict of interest. Grantee's attention is directed to the conflict of interest rules applicable to governmental decision-making contained in the Political Reform Act (California

Government Code Section 87100 et seq.) and its implementing regulations (California Code of Regulations, Title 2, Section 18700 et seq.).

- d. Grantee shall incorporate or cause to be incorporated into all subcontracts for work to be performed under this Agreement a provision governing conflict of interest in substantially the same form set forth herein.
- e. Nothing herein is intended to waive any applicable federal, state or local conflict of interest law or regulation.
- f. In addition to the rights and remedies otherwise available to the City under this Agreement and under federal, state and local law, Grantee understands and agrees that, if the City reasonably determines that Grantee has failed to make a good faith effort to avoid an improper conflict of interest situation or is responsible for the conflict situation, the City may (1) suspend payments under this Agreement, (2) terminate this Agreement, and/or (3) require reimbursement by Grantee to the City of any amounts disbursed under this Agreement. In addition, the City may suspend payments or terminate this Agreement whether or not Grantee is responsible for the conflict of interest situation.

23. Non-Discrimination/Equal Employment Practices

Grantee shall not discriminate or permit discrimination against any person or group of persons in any manner prohibited by federal, state or local laws. During the performance of this Agreement, Grantee agrees as follows:

- a. Grantee and Grantee's subgrantees, if any, shall not discriminate against any employee or applicant for employment because of age, marital status, religion, gender, sexual preference, race, creed, color, genetic information, ancestry, national origin, physical or mental disability (including but not limited to Acquired-Immune Deficiency Syndrome (AIDS), AIDS-Related Complex (ARC)), military or military veteran status, or any other legally-protected class. This nondiscrimination policy shall apply, but not be limited, to the following: Employment, upgrading, promotion or failure to promote, demotion or transfer, recruitment advertising, layoff, termination, rate of pay or other forms of compensation, and selection for training, including apprenticeship.
- b. Grantee and Grantee's subgrantees shall state in all solicitations or advertisements for employees placed by or on behalf of Grantee that all qualified applicants will receive consideration for employment without regard to age, marital status, religion, gender, sexual preference, race, creed, color, genetic information, ancestry, national origin, physical or mental disability (including but not limited to Acquired-Immune Deficiency Syndrome (AIDS), AIDS-Related Complex (ARC)), military or military veteran status, or any other legally-protected class.

- c. Grantee shall make its goods, services, and facilities accessible to people with disabilities and shall verify compliance with the Americans with Disabilities Act by executing **Schedule C-1, Declaration of Compliance with the Americans with Disabilities Act**, attached hereto and incorporated herein.
- d. If applicable, Grantee will send to each labor union or representative of workers with whom Grantee has a collective bargaining agreement or contract or understanding, a notice advising the labor union or workers' representative of Grantee's commitments under this nondiscrimination clause and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
- e. Grantee and Grantee's subcontractors shall comply with the provisions of the Fair Employment and Housing Act (Gov. Code 12990 (a-f) et seq.) and the applicable regulations promulgated thereunder (California Code of Regulations, Title 2, Section 7285 et seq.). The applicable regulations of the Fair Employment and Housing Commission implementing Government Code Section 12990 (a-f), set forth in Chapter 5 of Division 4 of Title 2 of the California Code of Regulations, are incorporated into this Agreement by reference and made a part hereof as if set forth in full.

24. Local/Small Local Enterprise Participation

The City has established requirements for participation by local and small local enterprises, including local nonprofit organizations and small local nonprofit organizations, in publicly-supported projects. Unless otherwise indicated, the City acknowledges that Grantee complies with this requirement.

25. Living Wage Requirements

Grantee will be considered a City Financial Assistance Recipient ("CFAR") and must comply with the Oakland Living Wage Ordinance if it receives \$100,000 or more in financial assistance from the City during a 12-month period. The Living Wage Ordinance requires that nothing less than a prescribed minimum level of compensation (a living wage) be paid to employees of CFARs (Oakland Municipal Code, Ch. 2.28, Ord. 12050 § 1, 1998). **Grantee acknowledges that Oakland employers are also subject to the City of Oakland Minimum Wage law (see the Section entitled, "Minimum Wage Ordinance," below), and Grantee agrees to pay its employees wages and to provide benefits consistent with the Oakland Minimum Wage law and Oakland Living Wage Ordinance, whichever are greater.**

The Living Wage Ordinance also requires Grantee's submission of the Declaration of Compliance attached and incorporated herein as **Schedule N** and made part of this Agreement, and, unless specific exemptions apply or a waiver is granted, Grantee agrees to provide the following to its employees who perform services under or related to this Agreement:

- a. Minimum compensation – Said employees shall be paid an initial hourly wage rate of **\$14.35 with health benefits** and **\$16.47 without health benefits**. These initial rates shall be upwardly adjusted each year no later than April 1 in proportion to the increase at the immediately preceding December 31 over the year earlier level of the Bay Region Consumer Price Index as published by the Bureau of Labor Statistics, U.S. Department of Labor. Effective July 1st of each year, Grantee shall pay adjusted wage rates.
- b. Health benefits – Those full-time and part-time employees paid at the lower living wage rate shall be provided health benefits of at least **\$2.12 per hour**. Grantee shall provide proof that health benefits are in effect for those employees no later than 30 days after execution of this Agreement or receipt of City financial assistance, whichever is earlier.
- c. Compensated days off – Grantee’s employees shall be entitled to twelve compensated days off per year for sick leave, vacation or personal necessity at the employee’s request, and ten uncompensated days off per year for sick leave. Employees shall accrue one compensated day off per month of full time employment. Part-time employees shall accrue compensated days off in increments proportional to that accrued by full-time employees. The employees shall be eligible to use accrued days off after the first six months of employment or consistent with company policy, whichever is sooner. Paid holidays, consistent with established employer policy, may be counted toward provision of the required 12 compensated days off. Ten uncompensated days off shall be made available, as needed, for personal or immediate family illness after the employee has exhausted his or her accrued compensated days off for that year.
- d. Federal Earned Income Credit (“EIC”) – Grantee shall inform all employees that they may be eligible for EIC and shall provide forms to apply for advance EIC payments to eligible employees.
- e. Grantee shall provide to all employees and to the City’s Office of Contract Compliance written notice of its obligation to eligible employees under the City’s Living Wage requirements. Said notice shall be posted prominently in communal areas of Grantee’s work site(s) and shall include the above-referenced information.
- f. Grantee shall provide, within 30 days of each employee beginning employment under this Agreement, all of the above required written notices and forms required in English, Spanish or other languages spoken by a significant number of employees applicable to said employee.
- g. Reporting – Grantee shall maintain a list of the name, address, hire date, occupation classification, rate of pay and benefits for each of its employees. Grantee shall provide a copy of said list to the Office of Contract Compliance, on a quarterly basis, by March 31, June 30, September 30 and December 31 for the applicable compliance period. Grantee’s failure to provide said list within five days of the due

date will result in liquidated damages of five hundred dollars (\$500.00) for each day that the list remains outstanding. Grantee shall maintain employee payroll and related records for a period of four (4) years after expiration of the compliance period.

- h. Grantee shall require subgrantees that provide services under or related to this Agreement to comply with the above Living Wage Ordinance provisions. Grantee shall include the above-referenced provisions in its subcontracts. Copies of said subcontracts shall be submitted to the Office of Contract Compliance.

26. Equal Benefits Ordinance

This Agreement is subject to the Equal Benefits Ordinance codified in Chapter 2.32 of the Oakland Municipal Code and its implementing regulations. The purpose of this Ordinance is to protect and further the public health, safety, convenience, comfort, property and general welfare by requiring that public funds be expended in a manner so as to prohibit discrimination in the provision of employee benefits by City grantees between employees with spouses and employees with domestic partners, and/or between domestic partners and spouses of such employees. (Ord. 12394 (part), 2001).

The Ordinance shall only apply to those portions of a Grantee's operations that occur (1) within the City of Oakland; (2) on real property outside the City of Oakland if the property is owned by the City or if the City has a right to occupy the property, and if the contract's presence at that location is connected to a contract with the City; or (3) elsewhere in the United States where work related to a City contract is being performed. The requirements of this chapter shall not apply to subcontracts or subgrantees of Grantee.

The Equal Benefits Ordinance requires, among other things, Grantee's submission of the Equal Benefits Declaration of Nondiscrimination attached hereto as **Schedule N-1** and incorporated herein by reference.

27. Minimum Wage Ordinance

Oakland employers are subject to Oakland's Minimum Wage law, whereby Oakland employees must be paid the current Minimum Wage rate. Such employers must notify employees of the annually adjusted rates by each December 15th and prominently display notices at the job site. The law requires paid sick leave for employees and payment of service charges collected for their services. **This Agreement is also subject to Oakland's Living Wage Ordinance (see the Section entitled, "Living Wage Requirements," above), and Grantee agrees to pay its employees wages and to provide benefits consistent with the Oakland Minimum Wage law and Oakland Living Wage Ordinance, whichever are greater.**

28. Political Prohibition

Subject to applicable State and Federal laws, moneys paid pursuant to this Agreement shall not be used for political purposes, sponsoring or conducting candidate's meetings, engaging in voter registration activity, nor for publicity or propaganda purposes designed to support or defeat legislation pending before federal, state or local government.

29. Religious Prohibition

There shall be no religious worship, instruction, or proselytization as part of, or in connection with the performance of the Agreement.

30. Business Tax Certificate or Exemption

Grantee shall obtain and provide proof of a valid City business tax certificate or business tax exemption certificate. Said certificate must remain valid during the duration of this Agreement.

31. Abandonment of Grant

The City may abandon or indefinitely postpone the Grant at any time. Should the Grant be abandoned, the City shall pay Grantee for all services performed up to the date of abandonment in accordance with the terms of this Agreement.

32. Relationship of Parties

The relationship of the City and Grantee is solely that of a grantor and grantee of funds, and should not be construed as a joint venture, equity venture, partnership, or any other relationship. The City does not undertake or assume any responsibility or duty to Grantee (except as provided for herein) or to any third party with respect to the Work performed under this Agreement. Except as the City may specify in writing, Grantee has no authority to act as an agent of the City or to bind the City to any obligation.

33. Warranties

Grantee represents and warrants: (1) that it has access to professional advice and support to the extent necessary to enable Grantee to fully comply with the terms of this Agreement and to carry out the Work; (2) that it is duly organized, validly existing and in good standing under the laws of the State of California; (3) that it has the full power and authority to undertake the Work; (4) that there are no pending or threatened actions or proceedings before any court or administrative agency which may substantially affect Grantee's financial condition or operations, other than those already disclosed to the City; and (5) that the persons executing and delivering this Agreement are authorized to execute and deliver such document on behalf of Grantee.

34. Unavoidable Delay in Performance

The time for performance under this Agreement by either party shall be extended for a period equal to the period of any delay directly affecting this Agreement which is caused by: War; insurrection; strikes; lock-outs; riots; floods; earthquakes; fires; casualties; acts of God; acts of a public enemy; epidemics; quarantine restrictions; freight embargoes; lack of transportation; suits filed by third parties concerning or arising out of this Agreement; or unseasonable weather conditions. An extension of time for any of the above-specified causes will be deemed granted only if written notice by the party claiming such extension is sent to the other party within ten (10) calendar days from the commencement of the cause. Times of performance under this Agreement may also be extended for any cause for any period of time by the mutual written agreement of the City and Grantee.

35. Validity of Contracts

This Agreement shall not be binding or of any force or effect until it is approved for form and legality by the Office of the City Attorney and signed by the City Administrator or his or her designee.

36. Governing Law

This Agreement shall be interpreted under and be governed by the laws of the State of California, except for those provisions relating to choice of law or those provisions preempted by federal law or expressly governed by federal law.

37. Notice

If either party shall desire or be required to give notice to the other, such notice shall be given in writing, via facsimile and concurrently by prepaid U.S. certified or registered postage, addressed to recipient as follows:

City
City of Oakland
Human Services Department
150 Frank H. Ogawa Plaza, Suite 4340
Oakland, CA 94612-2092
Attn: Estelle Clemons, AC-OCAP Director

Grantee
Chabot-Las Positas Community College District dba Tri-Valley Career Center
6300 Village Parkway Suite #100
Dublin, CA 94568
Attn: Ronald Gerhard, Chancellor

Any party to this Agreement may change the name or address of representatives for purpose of this Notice paragraph by providing written notice to all other parties ten (10) business days before the change is effective.

38. Entire Agreement of the Parties

This Agreement supersedes any and all agreements, either oral or written, between the parties with respect to this Grant and contains all of the representations, covenants and agreements between the parties with respect to the Grant. Each party to this Agreement acknowledges that no representations, inducements, promises or agreements, oral or otherwise, have been made by any party, or anyone acting on behalf of any party, which are not contained in this Agreement, and that no other agreement, statement or promise not contained in this Agreement will be valid or binding.

39. Amendments and Modifications

Any amendment to or modification of this Agreement will be effective only if it is in a writing signed by all parties to this Agreement.

40. Waiver

Any waiver by the City of an obligation in this Agreement must be in writing and must be executed by an authorized agent of the City. No waiver shall be implied from any delay or failure by the City to take action on any breach or event of default of Grantee or to pursue any remedy allowed under this Agreement or applicable law. Any extension of time granted to Grantee to perform any obligation under this Agreement will not operate as a waiver or release from any of its obligations under this Agreement. Consent by the City to any act or omission by Grantee shall not be construed as consent to any other act or omission or to waive the requirement for the City's written consent to any other waiver.

41. Other Agreements

Grantee represents that it has not entered into any agreements that are inconsistent with the terms of this Agreement. Grantee may not enter into any agreements that are inconsistent with the terms of this Agreement without an express written waiver by the City.

42. Severability/Partial Invalidity

If any term or provision of this Agreement, or the application of any term or provision of this Agreement to a particular situation, shall be finally found to be void, invalid, illegal or unenforceable by a court of competent jurisdiction, then notwithstanding such determination, such term or provision shall remain in force and effect to the extent allowed by such ruling and all other terms and provisions of this Agreement or the application of this Agreement to other situation shall remain in full force and effect.

Notwithstanding the foregoing, if any material term or provision of this Agreement or the application of such material term or condition to a particular situation is finally found to be void, invalid, illegal or unenforceable by a court of competent jurisdiction, then the parties hereto agree to work in good faith and fully cooperate with each other to amend this Agreement to carry out its intent.

43. Commencement, Completion and Close-out

It shall be Grantee's responsibility to coordinate and schedule the Work to be performed so that commencement and completion take place in accordance with the provisions of this Agreement. Any time extension granted by City to Grantee to enable Grantee to complete the Work must be in writing and shall not constitute a waiver of rights the City may have under this Agreement. Should Grantee not complete the Work by the scheduled date or by an extended date, the City shall be released from all of its obligations under this Agreement.

Within thirty (30) days of completion of the performance under this Agreement, Grantee shall make a determination of any and all final costs due under this Agreement and shall submit a requisition for such final and complete payment (including without limitations any and all claims relating to or arising from this Agreement) to the City. Failure of Grantee to timely submit a complete and accurate requisition for final payment shall relieve the City of any further obligations under this Agreement, including without limitation any obligation for payment of work performed or payment of claims by Grantee.

44. Consents and Approvals

Any consent or approval required under this Agreement may not be unreasonably withheld, delayed, or conditioned.

45. Inconsistency

If there is any inconsistency between this main Agreement and the attachments/exhibits referenced or attached hereto, the text of the main Agreement shall prevail.

46. Counterparts

This Agreement may be signed in multiple counterparts, which, when signed by all parties, will constitute a binding agreement.

47. Incorporated Documents

The following schedules and certifications are attached to this Agreement and are incorporated herein by reference:

- Schedule A: Scope of Work (and Budget, if included therein)
- Schedule B: Budget (if not included within Schedule A – Scope of Work)
- Combined Grant Schedules:
 - Schedule C-1: Compliance with ADA
 - Schedule K: Pending Dispute Disclosure Form
 - Schedule N: Declaration of Compliance with Living Wage
 - Schedule N-1: Equal Benefits, Declaration of Nondiscrimination
 - Schedule P: Nuclear Free Zone

- Schedule V: Non-Disciplinary or Investigatory Action
- Oakland's Minimum Wage Law Certification
- Affirmative Action Certification
- Schedule O: Oakland Campaign Contribution Limits
- Schedule Q: Insurance Requirements
- Schedule Z: Debarment and Suspension/Ineligibility

48. Approval

If the terms of this Agreement are acceptable to Grantee and the City, sign and date below.

[SIGNATURES ON NEXT PAGE]

“CITY”

CITY OF OAKLAND, a municipal corporation

By: _____
City Administrator (date)

Approved for forwarding:

By: _____
Department Head (date)

87964 C.M.S. and 88089 C.M.S.
Resolution Numbers

Approved as to form and legality:

By: _____
Deputy City Attorney (date)

“GRANTEE”

Chabot-Las Positas Community College District dba Tri-Valley Career Center, a California nonprofit public benefit corporation, California Corporation No. G359235.

By: _____
(date)

Name: Doug Roberts

Title: Vice Chancellor, Business Services

GRANT AGREEMENT

SCHEDULE A

SCOPE OF WORK (AND BUDGET, IF INCLUDED HEREIN)

[attached]