

**ORANGE COUNTY POWER AUTHORITY
BRIGHT FUTURES OUTREACH GRANT PROGRAM**

**AGREEMENT FOR GRANT FUNDS
BETWEEN ORANGE COUNTY POWER AUTHORITY
AND [ORGANIZATION NAME]**

THIS AGREEMENT FOR GRANT FUNDS (“Agreement”), made and entered into this [date], 20____ by and between the **ORANGE COUNTY POWER AUTHORITY**, a California joint powers agency (herein referred to as “OCPA”), and **[ORGANIZATION NAME]**, a [state and type of incorporation/organization] (herein referred to as “Grantee”).

WHEREAS, Grantee is a [state and type of organization] supporting [identify target audience]; and

WHEREAS, Grantee is providing, or intends to provide, education and outreach to disadvantaged, multi-lingual, and other communities about utility bill discounts, programs, and a range of other clean energy program benefits; and

WHEREAS, OCPA chooses to provide a grant for the above-described services, which benefit OCPA and its customers;

WHEREAS, it is beneficial to OCPA and its customers that these services be provided;

WHEREAS, Grantee desires to provide to OCPA and its customers said services and is qualified by reason of experience, organization, preparation, staffing, and facilities to provide such services; and

WHEREAS, the OCPA Board of Directors approved the grant program and authorized the OCPA Chief Executive Officer to execute the Agreement on May 17, 2023.

NOW, THEREFORE, in consideration of the foregoing and the promises herein contained, OCPA and Grantee agree as follows:

1. DESCRIPTION OF SERVICES AND GRANT CONDITIONS

(a) The services to be performed by Grantee are as follows:

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(b) Grantee shall provide financial statements documenting use of the funds for the services outlined in subsection (a) every [insert] months and within 30 days of the expiration or early termination of this Agreement.

(c) Grantee shall provide regular written progress reports, including representative samples of education and outreach materials and activities (if available), no less than every [insert] months and a final written evaluation of the project.

(d) Grantee warrants that funds granted by this Agreement shall be used solely for the purpose described above and on the application form submitted by Grantee, attached hereto and incorporated herein as Exhibit A. If the activity that is to be funded under this Agreement is canceled or substantially altered, Grantee agrees to notify OCPA and to refund the grant amount in full or in part as directed by OCPA. Within 30 days of the expiration or early termination of this Agreement, Grantee shall return any funds not used for the services by the effective date of expiration or termination.

(e) Grantee shall comply with all applicable laws and regulations in receiving the grant and performing the services.

(f) Grantee shall ensure that any publicity prepared, sponsored, or promoted by Grantee regarding the grant acknowledges OCPA as the funding source.

(g) No part of funds provided pursuant to this Agreement shall be used for public works projects or maintenance work as defined in California Labor Code Section 1720 and 1771, *et seq.* or any regulations or administrative or judicial authorities interpreting such provisions.

2. GRANT PAYMENT

(a) **Maximum and Rate.** The total grant payable to Grantee by OCPA for services under this Agreement shall be \$[amount].

(b) **Payment Schedule.** OCPA shall fund Grantee with grant funds no later than [date], [year].

(c) **Limitation on Use of OCPA Funds.** Grant funds provided by OCPA under this Agreement shall not be used for any purpose other than those described above and in Grantee's application. Prohibited uses include, but are not limited to, using grant funds to support or oppose candidates for public office or to support or oppose a ballot measure, as well as any similar activities or uses.

3. TERM.

The term of this Agreement shall commence on the date first set forth above and continue until [date], [year].

4. OCPA PROJECT MANAGER AND SERVICES BY OCPA

OCPA's "Project Manager," as that staff person is designated by OCPA from time to time, is _____.

5. PROGRESS AND COMPLETION; EARLY TERMINATION UPON DEFAULT.

Grantee shall commence work on the services to be performed upon receiving written authorization to proceed with the work provided by OCPA's Project Manager and receipt of an executed Agreement. All services shall be completed within the term of this Agreement. If the services shall be incomplete in any way or Grantee fails to comply with the terms and conditions

of this Agreement, the Project Manager may take appropriate action under this Agreement, at law or in equity, including without limitation early termination of this Agreement upon 15 days' prior written notice and opportunity to cure, in which case Grantee shall be required to repay to OCPA any funds received for services or projects hereunder.

6. PREVAILING WAGES

To the extent any work performed by or for the Grantee pursuant to this Agreement requires that the payment and reporting of payment of prevailing wages pursuant to State law, such obligation is the responsibility of Grantee.

7. OWNERSHIP OF DOCUMENTS

OCPA may request any drawings, designs, data, photographs, reports and other documentation directly related to the project (other than Grantee's drafts, notes and internal memoranda), including duplication of same, prepared by Grantee in the performance of these services.

8. PERSONAL SERVICES/NO ASSIGNMENT/SUBCONTRACTOR

Grantee's Project Manager shall be [Name]. Such Grantee Project Manager or other OCPA-approved representative, is deemed to be specially experienced and is a key member of the project team of Grantee, and shall be directly involved in performing, supervising or assisting in the performance of this work. Grantee's Project Manager shall communicate with, and periodically report to, OCPA's Project Manager on the progress of the work. No work shall be assigned to a subcontractor without OCPA's written consent.

9. HOLD HARMLESS AND INDEMNITY

(a) Hold Harmless for Grantee's Damages. Grantee holds OCPA, its elected officials, officers, and employees, harmless from all Grantee's claims, demands, lawsuits, judgments, damages, losses, injuries or liability to Grantee, to Grantee's employees, to Grantee's volunteers, contractors or subcontractors, or to the owners of Grantee's firm, whether damages, losses, injuries or liability occur during the work required under this Agreement, or occur while Grantee is on OCPA property, or which are connected, directly or indirectly, with Grantee's performance of any activity or work required under this Agreement.

(b) Defense and Indemnity of Third Party Claims/Liability. Grantee shall investigate, defend, and indemnify OCPA, its officials, officers, employees, agents, and volunteers from any claims, lawsuits, demands, judgments, and all liability including, but not limited to, monetary or property damage, lost profit, personal injury, wrongful death, general liability, automobile, infringement of copyright/patent/trademark, or professional errors and omissions arising out of, directly or indirectly, an error, negligence, or omission of Grantee or Grantee's volunteers, contractors, subcontractors, or the willful misconduct of Grantee or Grantee's volunteers, contractors, subcontractors, in performing the services under this Agreement, except to the extent caused by the negligence or willful misconduct of OCPA, its officials, officers, employees, agents, and volunteers. The duty to defend shall include any suits or actions in law or equity concerning any activity, product or work required under this

Agreement, and also include the payment of all court costs, attorney fees, expert witness costs, investigation costs, claims adjusting costs and any other costs required for and related to such litigation.

(c) **No Waiver.** OCPA does not waive, nor shall be deemed to have waived, any indemnity, defense or hold harmless rights under this section because of the acceptance by OCPA, or the deposit with OCPA, of any insurance certificates or policies described in Section 9.

(d) **Survival.** Notwithstanding any other provision of this Agreement, obligations arising out of this Section 9 shall survive any expiration or termination of this Agreement.

10. INSURANCE

Without limiting Grantee's indemnification of OCPA, and prior to commencement of services, Grantee shall obtain, provide and maintain at its own expense during the term of this Agreement, policies of insurance of the type and amounts described below and in a form satisfactory to OCPA.

General liability insurance. Grantee shall maintain commercial general liability insurance with coverage at least as broad as Insurance Services Office form CG 00 01, in an amount not less than \$1,000,000 per occurrence, \$2,000,000 general aggregate, for bodily injury, personal injury, and property damage. The policy must include contractual liability that has not been amended. Any endorsement restricting standard ISO "insured contract" language will not be accepted.

Automobile liability insurance. Grantee shall maintain automobile insurance at least as broad as Insurance Services Office form CA 00 01 covering bodily injury and property damage for all activities of the Grantee arising out of or in connection with services to be performed under this Agreement, including coverage for any owned, hired, non-owned or rented vehicles, in an amount not less than \$1,000,000 combined single limit for each accident.

Workers' compensation insurance. Grantee shall maintain Workers' Compensation Insurance (Statutory Limits) and Employer's Liability Insurance (with limits of at least \$1,000,000). Consultant shall submit to OCPA, along with the certificate of insurance, a Waiver of Subrogation endorsement in favor of OCPA, its officers, agents, employees and volunteers.

Primary/noncontributing. Coverage provided by Grantee shall be primary and any insurance or self-insurance procured or maintained by OCPA shall not be required to contribute with it. The limits of insurance required herein may be satisfied by a combination of primary and umbrella or excess insurance. Any umbrella or excess insurance shall contain or be endorsed to contain a provision that such coverage shall also apply on a primary and non-contributory basis for the benefit of OCPA before OCPA's own insurance or self-insurance shall be called upon to protect it as a named insured.

Requirements not limiting. Requirements of specific coverage features or limits contained in this section are not intended as a limitation on coverage, limits or other requirements, or a waiver of any coverage normally provided by any insurance. If the Grantee

maintains higher limits than the minimums shown above, OCPA requires and shall be entitled to coverage for the higher limits maintained by the Grantee. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to OCPA.

All insurance policies shall be issued by a financially responsible company or companies authorized to do business in the State of California. OCPA, its officers and employees, shall be named as additional insureds. Grantee shall provide OCPA with copies of certificates and endorsements for all policies, in a format acceptable to OCPA, with the appropriate named additional insured coverage and an endorsement that they are not subject to cancellation without 30 days prior written notice to OCPA. Insurance certificates must be submitted by Grantee and approved by OCPA before grant work commences.

11. RELATION OF THE PARTIES

The relationship of the parties to this Agreement shall be that of independent contractors and that in no event shall Grantee be considered an officer, agent, servant or employee of OCPA. Grantee shall be solely responsible for any workers compensation insurance, withholding taxes, unemployment insurance, and any other employer obligations associated with the described work.

12. CORRECTIONS

In addition to the above indemnification obligations, Grantee shall correct, at its expense, all errors in the work, which may be disclosed during OCPA's review of Grantee's work activities, report or plans as described in the scope of services. Should Grantee fail to make such correction in a reasonably timely manner, such correction shall be made by OCPA, and the cost thereof shall be charged to Grantee or withheld from any funds due Grantee hereunder.

13. AUDIT OF RECORDS

At any time during normal business hours and as often as it may deem necessary, Grantee shall make available to a representative of OCPA for examination of all its records with respect to all matters covered by this Agreement and will permit OCPA to audit, examine and/or reproduce such records. Grantee will retain such financial records, time sheets, work progress reports, invoices, bills and project records for at least three years after termination or final payment under this Agreement.

14. WAIVER; REMEDIES CUMULATIVE

Failure by a party to insist upon the strict performance of any of the provisions of this Agreement by the other party, irrespective of the length of time for which such failure continues, shall not constitute a waiver of such party's right to demand strict compliance by such other party in the future. No waiver by a party of a default or breach of the other party shall be effective or binding upon such party unless made in writing by such party, and no such waiver shall be implied from any omissions by a party to take any action with respect to such default or breach. No express written waiver of a specified default or breach shall affect any other default or breach, or cover any other period of time, other than any default or breach and/or period of time specified. All of the remedies permitted or available to a party under this Agreement, or at

law or in equity, shall be cumulative and alternative, and invocation of any such right or remedy shall not constitute a waiver or election of remedies with respect to any other permitted or available right of remedy.

15. CONSTRUCTION OF LANGUAGE OF AGREEMENT

The provisions of this Agreement shall be construed as a whole according to its common meaning of purpose of providing a public benefit and not strictly for or against any party. It shall be construed consistent with the provisions hereof, in order to achieve the objectives and purposes of the parties. Wherever required by the context, the singular shall include the plural and vice versa.

16. MITIGATION OF DAMAGES

In all situations arising out of this Agreement, the parties shall attempt to avoid and minimize the damages resulting from the conduct of the other party.

17. GOVERNING LAW; VENUE; ATTORNEYS FEES.

This Agreement, and the rights and obligations of the parties, shall be governed and interpreted in accordance with the laws of the State of California. Should litigation occur, venue shall be in the Superior Court of Orange County. If either Party commences an action against the other Party, either legal, administrative or otherwise, arising out of or in connection with this Agreement, the prevailing party in such litigation shall be entitled to have and recover from the losing party reasonable attorney's fees and all other costs of such action.

18. NONDISCRIMINATION

Grantee shall comply with the federal Americans with Disability Act, Public Law 101-336, and observe the disability discrimination prohibitions of such laws in the performance of the work required under this Agreement. Grantee also represents that it is an equal opportunity employer and it shall not discriminate on the basis of race, gender, gender expression, gender identity, religion, national origin, ethnicity, sexual orientation, age, or disability in the solicitation, selection, hiring, or treatment of applicants, employees, subcontractors, vendors, or suppliers. Such non-discrimination shall include, but not be limited to, all activities related to initial employment, upgrading, demotion, transfer, recruitment or recruitment advertising, layoff or termination. Further, Grantee shall provide equal opportunity for subcontractors to participate in subcontracting opportunities to the extent approved in accordance with this Agreement.

19. CAPTIONS

The captions or headings in this Agreement are for convenience only and in no other way define, limit or describe the scope or intent of any provision or section of the Agreement.

20. AUTHORIZATION

Each party has expressly authorized the execution of this Agreement on its behalf and bind said party and its respective administrators, officers, directors, shareholders, divisions,

subsidiaries, agents, employees, successors, assigns, principals, partners, joint venturers, insurance carriers and any others who may claim through it to this Agreement.

21. ENTIRE AGREEMENT BETWEEN PARTIES

Except for Grantee's proposals and submitted representations for obtaining this Agreement, this Agreement supersedes any other agreements, either oral or in writing, between the parties hereto with respect to the rendering of services, and contains all of the covenants and agreements between the parties with respect to said services. Any modifications of this Agreement will be effective only if it is in writing and signed by the party to be charged.

22. PARTIAL INVALIDITY

If any provision in this Agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remaining provisions will nevertheless continue in full force without being impaired or invalidated in any way.

23. TIME OF ESSENCE.

Time is of the essence for each and every provision of this Agreement.

24. COUNTERPARTS.

This Agreement may be signed in counterparts, each of which shall constitute an original and may be signed using electronic signatures acceptable to both Parties.

25. NOTICES

Any notice required to be given hereunder shall be deemed to have been given by depositing said notice in the United States mail, postage prepaid, and addressed as follows:

TO OCPA:

TO GRANTEE:

SIGNATURES ON FOLLOWING PAGE(S)

IN WITNESS WHEREOF, this Agreement has been executed by the parties effective on the date and year first above written.

ORANGE COUNTY POWER AUTHORITY

GRANTEE

OCPA Chief Executive Officer

APPROVED TO FORM

OCPA General Counsel

EXHIBIT A
GRANTEE'S APPLICATION