

GRANT AGREEMENT NO.

This is Grant Agreement between the CITY OF PORTLAND, OREGON ("CITY" OR "GRANTOR" and Mt. Hood Community College ("MHCC" OR "GRANTEE") to implement the Future Connect Scholarship Program (the "Program") in an amount not to exceed \$38,000 as described below.

RECITALS:

Whereas, City Council approved the City of Portland Adopted Budget 2010-2011, which included ongoing funds to institute a scholarship program for academically at-risk students; and

Whereas, on April 6, 2011, Council unanimously approved Ordinance # 184503 authorizing agreements and \$360,000 in funding to implement the Future Connect Scholarship Program at Portland Community College beginning in September 2011; and

Whereas, CITY has approved Ordinance # 185375, executing a Grant Agreement with MHCC Foundation providing ongoing funds for the Program, and an Intergovernmental Agreement with MHCC to execute the Program; and

Whereas, to best serve incoming Future Connect Scholars at MHCC, CITY has agreed to provide MHCC with start-up funds for the Program.

AGREED:**I. ACTIONS TO BE TAKEN BY GRANTEE**

In consideration of the grant funds provided by CITY, GRANTEE agrees to perform the following actions and/or spend grant funds in the following way:

- Work with CITY and MHCC to implement the scholarship program as described in the Grant Agreement and Intergovernmental Agreement as passed by Ordinance # 185375.
- Manage Program funds consistent with program goals and funding restrictions.
- Provide funds raised for the Program to MHCC for program operation.
- Support MHCC and the CITY's efforts to present an annual report to Portland City Council and the MHCC Board of Education, highlighting program activities and outcomes.

II. SPECIFIC CONDITIONS OF THE GRANT

- A. Publicity: GRANTEE will acknowledge CITY support in all Program materials, on GRANTEE'S website and in other venues as appropriate. GRANTEE will utilize the Future Connect logo in all Program materials.
- B. Records: Grantee will maintain all financial records for the program for at least three (3) years following completion of work with each cohort under this Agreement. MHCC will maintain all other programmatic records, as outlined in

the corresponding intergovernmental agreement between CITY and MHCC.

C. Grant Manager: The Grant Manager for this grant is

Kali Thorne Ladd
Education Strategies Director
City of Portland – Office of the Mayor
1221 SW Fourth Avenue, Suite 340
Portland, OR 97204
P: 503-823-1123
E: kali.ladd@portlandoregon.gov

- D. Amendment. The Grant Manager is authorized to amend the terms and conditions of the grant provided such changes do not increase the CITY's financial risk. If approved by CITY and GRANTEE, such changes shall be incorporated into a formal grant amendment and signed by the Grantee and the Grant Manager before such changes are effective. Any change to the amount of the Grant must be approved by the City Council unless the City Council delegated authority to amend the amount of the grant to a specific individual in the ordinance authorizing the grant.
- E. Billings/invoices/Payment: The CITY Grant Manager is authorized to approve work and billings and invoices submitted pursuant to this grant and to carry out all other CITY actions referred to herein in accordance with this Agreement.
- F. Reports: GRANTEE will submit to the Grant Manager a report at the conclusion of the project. The Report will include:
1. A summary and description of grant expenditures.

III. PAYMENTS

- A. Upon presentation of an invoice, GRANTEE will receive its funding as follows: \$38,000 in one lump sum. Payment will be made to MHCC within 30 days of approval of the annual budget by City Council.
- B. If Program expenditures are less than forecasted, GRANTEE may carry ending fund balances forward and apply these funds toward Program expenditures for future cohorts.
- C. If for any reason GRANTEE receives a grant payment under this Grant Agreement and does not use grant funds, provide required services or take any actions required by the Grant Agreement the CITY may, at its option terminate, reduce or suspend any grant funds that have not been paid and may, at its option, require GRANTEE to immediately refund to the CITY the amount improperly expended or received by GRANTEE.
- D. Grant payments under this Agreement may be used only to provide the services or take the actions listed previously in this Grant Agreement and shall not be used for any other purpose.
- E. If, for any reason, GRANTEE's anticipated services or actions are terminated, discontinued or interrupted, the CITY's payment of funds under this grant may be

terminated, suspended or reduced.

GENERAL GRANT PROVISIONS

- A. **TERMINATION FOR CAUSE.** If, through any cause, GRANTEE shall fail to fulfill in timely and proper manner his/her obligations under this Grant Agreement, or if GRANTEE shall violate any of the covenants, agreements, or stipulations of this Grant Agreement, the CITY shall have the right to terminate this Grant Agreement by giving written notice to GRANTEE of such termination and specifying the effective date thereof at least thirty (30) days before the effective date of such termination.
1. During the 30 day period CITY is under no obligation to continue providing Grant Funds and Grantee is not authorized to perform services or take actions that would require the City to pay additional grant funds to Grantee.
 2. During the 30 day period, GRANTEE shall not spend unused grant funds.
 3. In the event of a termination for cause, all finished or unfinished documents, data, studies, and reports prepared by GRANTEE under this Grant Agreement shall, at the option of the CITY, become the property of the CITY and GRANTEE shall be entitled to receive just and equitable compensation for any satisfactory work completed on such documents up until the time of notice of termination.
- B. **TERMINATION BY AGREEMENT OR FOR CONVENIENCE.** The CITY and GRANTEE may terminate this Grant Agreement at any time by mutual written agreement. Alternatively, the CITY may, upon thirty (30) days written notice, terminate this agreement for any reason deemed appropriate in its sole discretion. If the Grant Agreement is terminated as provided in this paragraph GRANTEE shall return any Grant funds that would have been used to provide services after the effective date of termination.
- C. **TERMINATION OF IGA BETWEEN THE CITY AND MHCC.** In the IGA between the City and MHCC, there is a provision to terminate the agreement by either party upon a thirty (30) day written notice. Upon the termination of the IGA, the GRANTEE may have outstanding commitments made related to this grant for the students or MHCC. Also, the GRANTEE and the CITY will deem the grant agreement terminated. The GRANTEE is only obligated to refund the remainder of the grant funds, if any, net of any outstanding commitments made at the time of termination.
- D. **CHANGES.** The CITY or GRANTEE may request changes in the scope of the services or terms and conditions hereunder. Such changes, including any increase or decrease in the amount of GRANTEE's award, shall be incorporated in written amendments to this Grant Agreement before they become effective. The CITY Grant Manager is authorized to execute amendments to the scope of the services or the terms and conditions of this Agreement, provided the changes do not increase CITY's financial risk. Increases to the grant amount must be approved by the City Council unless the City Council delegated authority to amend the grant amount in the ordinance authorizing this Agreement. Amendments to this Agreement, including any increase or decrease in the grant amount, must be in writing and executed by the authorized representatives of the Parties and approved to form by the City Attorney.

- E. **NON-DISCRIMINATION.** In carrying out activities under this Grant Agreement, GRANTEE shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, age, handicap, familial status, sexual orientation or national origin. GRANTEE shall take actions to insure that applicants for employment are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, age, handicap, familial status, sexual orientation or national origin. Such action shall include but not be limited to, the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. GRANTEE shall post in conspicuous places, available to employees and applicants for employment, notices provided by the CITY setting for the provisions of this nondiscrimination clause. GRANTEE shall state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, or national origin. GRANTEE shall incorporate the foregoing requirements of this paragraph in all of its Grant Agreements for work funded under this Grant Agreement, except Grant Agreements governed by Section 104 of Executive Order 11246.
- F. **ACCESS TO RECORDS.** GRANTEE shall provide the CITY, or its duly authorized representatives, prompt access to any and all books, general organizational and administrative information, documents, papers, and records of GRANTEE that are related to this Grant Agreement or GRANTEE's performance of services, for the purpose of making audit examination, copies, excerpts, and transcriptions. All required records must be maintained by GRANTEE for four years after the CITY makes final payment and all other pending matters are closed.
- G. **MAINTENANCE OF RECORDS.** GRANTEE shall maintain records on a current basis to support any billings or invoices submitted by GRANTEE to CITY. The CITY, or its authorized representative, shall have the authority to inspect, audit, and copy on reasonable notice, and from time to time may examine any records of GRANTEE regarding its billings or its work hereunder. GRANTEE shall retain these records for inspection, audit, and copying for three years from the date of completion or termination of this Grant Agreement.
- H. **AUDIT.** The CITY, either directly or through a designated representative, may audit the records of GRANTEE at any time during the four year period established by Section G above. If an audit discloses that payments to GRANTEE were in excess of the amount to which GRANTEE was entitled, then GRANTEE shall repay the amount of the excess to the CITY.
- I. **INDEMNIFICATION.**

Subject to the Oregon Tort Claims Act (ORS 30.260 through 30.300 and the Oregon Constitution, Article XI, Section 9), MHCC shall hold harmless, defend, and indemnify CITY, and its officers, agents and employees against all claims, demands, actions, and suits (including all attorney fees and costs) brought against any of them arising from actions or omissions of MHCC and/or its contractors in the performance of this Agreement. This duty shall survive the expiration or termination of this Agreement.

Subject to the Oregon Tort Claims Act (ORS 30.260 through 30.300 and the Oregon Constitution, Article XI, Section 9), City shall hold harmless, defend, and indemnify MHCC, and its officers, agents and employees against all claims, demands, actions, and suits (including all attorney fees and costs) brought against any of them arising

from actions or omissions of City and/or its contractors in the performance of this Agreement. This duty shall survive the expiration or termination of this Agreement

J. WORKERS' COMPENSATION INSURANCE

MHCC, its contractors, if any, and all employers working under this Agreement, are subject employers under the Oregon Worker's Compensation law and shall comply with ORS 656.017, which requires them to provide workers' compensation coverage for all their subject workers. MHCC agrees to require all employers working under this agreement to maintain worker's compensation insurance coverage for the duration of this Agreement.

In the event worker's compensation insurance coverage is due to expire during the term of this Agreement for any employers working under this agreement, MHCC agrees to require timely renewal of that insurance, either as a carrier-insured employer or a self-insured employer as provided by Chapter 656 of the Oregon Revised Statutes, before its expiration, and MHCC agrees to provide the CITY such further certification of worker's compensation insurance a renewals of said insurance occur.

K. LIABILITY INSURANCE

MHCC shall maintain public liability and property damage insurance that protects MHCC and the CITY and its officers, agents, and employees from any and all claims, demands, actions, and suits for damage to property or personal injury, including death, arising from MHCC's work under the accompanying Grant Agreement. The insurance shall provide coverage for not less than \$1,000,000 per occurrence. The insurance shall be without prejudice to coverage otherwise existing and shall name as additional insureds the CITY and its officers, agents, and employees. Notwithstanding the naming of additional insureds, the insurance shall protect each insured in the same manner as though a separate policy had been issued to each, but nothing herein shall operate to increase the insurer's liability as set forth elsewhere in the policy beyond the amount or amounts for which the insurer would have been liable if only one person or interest had been named as insured. The coverage must apply as to claims between insureds on the policy. The insurance shall provide that it shall not terminate or be canceled without 30 days written notice first being given to the CITY Auditor. If the insurance is canceled or terminated prior to completion of the Grant Agreement, MHCC shall provide a new policy with the same terms. MHCC agrees to maintain continuous, uninterrupted coverage for the duration of the Grant Agreement. The insurance shall include coverage for any damages or injuries arising out of the use of automobiles or other motor vehicles by MHCC.

MHCC shall maintain on file with the CITY Auditor a certificate of insurance certifying the coverage required under subsection (1). The adequacy of the insurance shall be subject to the approval of the CITY Attorney. Failure to maintain liability insurance shall be cause for immediate termination of this agreement by the CITY. In lieu of filing the certificate of insurance required herein, if MHCC is a public body, MHCC may furnish a declaration that MHCC is self-insured for public liability and property damage for a minimum of the amounts set forth in ORS 30.270.

L. GRANTEE'S CONTRACTORS AND ASSIGNMENT.

If MHCC utilizes contractors to complete its work under the accompanying Grant Agreement, in whole or in part, MHCC shall require any of its contractors to agree, as to the portion contracted, to fulfill all obligations of the Grant Agreement as specified in the accompanying Grant Agreement. However, MHCC shall remain obligated for full performance hereunder, and the CITY shall incur no obligation other than its obligations to MHCC hereunder. MHCC agrees that if MHCC's contractors are employed in the performance of the accompanying Grant Agreement, MHCC and its contractors are subject to the requirements and sanctions of ORS Chapter 656, Workers' Compensation. MHCC shall not assign the accompanying Grant Agreement in whole or in part or any right or obligation hereunder, without prior written approval of the CITY. MHCC's contractors shall be responsible for adhering to all local, state and federal laws and regulations.

M. INDEPENDENT STATUS OF GRANTEE.

MHCC is independent of the CITY and MHCC and will be responsible for any federal, state, or local taxes and fees applicable to payments hereunder. MHCC and its contractors and employees are not employees of the CITY and are not eligible for any benefits through the CITY, including without limitation, federal social security, health benefits, workers' compensation, unemployment compensation, and retirement benefits.

N. CONFLICTS OF INTEREST. No CITY officer or employee, during his or her tenure or for one year thereafter, shall have any interest, direct or indirect, in this Grant Agreement or the proceeds thereof. No CITY officer or employees who participated in the award of this Grant Agreement shall be employed by GRANTEE during the period of the Grant Agreement.

O. OREGON LAWS AND FORUM. This Grant Agreement shall be construed according to the laws of the State of Oregon, without regard to its provisions regarding conflict of laws. Any litigation between the CITY and GRANTEE arising under this Grant Agreement or out of work performed under this Grant Agreement shall occur, if in the state courts, in the Multnomah County court having jurisdiction thereof, and if in the federal courts, in the United States District Court for the State of Oregon.

P. COMPLIANCE WITH LAWS. In connection with its activities under this Grant Agreement, GRANTEE shall comply with all applicable federal, state, and local laws and regulations.

Q. INDEPENDENT FINANCIAL AUDITS/REVIEWS. Any Grantee receiving \$300,000 or more in CITY funding, in any program year, is required to obtain an independent audit of the CITY-funded program(s). Any Grantee receiving between \$25,000 and \$300,000 in CITY funds, in any program year, is required to obtain an independent financial review. Two copies of all required financial audits or reviews shall be submitted to the Grant Manager within thirty days of their completion.

R. SEVERABILITY. If any clause, sentence or portion of the terms and conditions this agreement becomes or is found to be illegal, null or void for any reason, or unenforceable, this agreement nevertheless shall remain in full force and effect and the provision shall be stricken.

- S. **INTEGRATION.** This agreement and Amendments contains the entire agreement between the CITY and GRANTEE and supersedes all prior written or oral discussions or agreements. There are no oral or written understandings that vary or supplement the conditions of this Grant that are not contained herein.
- T. **PROGRAM AND FISCAL MONITORING.** The CITY shall monitor on an as needed basis to assure Grant Agreement compliance. Such monitoring may include, but are not limited to, on site visits, telephone interviews, and review of required reports and will cover both programmatic and fiscal aspects of the Grant Agreement. The frequency and level of monitoring will be determined by the Program Manager. Notwithstanding such monitoring or lack thereof, GRANTEE remains fully responsible for performing the services required by this Grant in accordance with its terms and conditions.
- U. **THIRD PARTY BENEFICIARIES:** There are no third party beneficiaries to this grant agreement. The agreement may only be enforced by the parties.
- V. **ASSIGNMENT:** This agreement cannot be assigned or transferred by GRANTEE without the prior written permission of CITY.
- W. **ELECTRONIC MEANS:** The parties agree the CITY and GRANTEE may conduct this transaction, including any contract amendments, by electronic means, including the use of electronic signatures.

X. TERM OF GRANT

The terms of this Grant Agreement shall be effective when an ordinance is passed by City Council and the Grant Agreement is executed by all the parties, as shown by their signatures below, and shall remain in effect through June 30, 2013, unless subsequent time extension, supplement, addition, continuation, or renewal is mutually agreed upon in writing between the parties, or terminated earlier in accordance with the provisions hereof.

CITY OF PORTLAND

GRANTEE

Name: Sam Adams
Title: Mayor

Name: Bill Farver
Title: VP Administrative Services

APPROVED AS TO FORM:

James H. Van Dyke, City Attorney