

**CITY OF SHIVELY
EXTERNAL AGENCY GRANT AGREEMENT**

THIS EXTERNAL AGENCY GRANT AGREEMENT (this “Agreement”), is made and entered into by and between the **CITY OF SHIVELY, KENTUCKY**, herein referred to as “**GRANTOR**”, and Jefferson County Board of Education, herein referred to as “**JCPS**”, a political subdivision of the Commonwealth of Kentucky, with its principal place of business at 3332 Newburg Road, Louisville, Kentucky 40218, herein referred to as “**GRANTEE**”.

W I T N E S S E T H:

WHEREAS, Grantor is the recipient of funding pursuant to section 601(a) of the Social Security Act, as added by Section 5001 of the Coronavirus Aid, Relief, and Economic Security Act (“CARES”), which established the Coronavirus Relief Fund (the “Fund”), created, in part, for the provision of grants to assist small business for the costs of business interruption caused by required closures due to the Covid-19 Pandemic;

WHEREAS, the Grantor has received federal coronavirus relief funds and intends to utilize a portion of those funds to assist and support City of Shively organizations and businesses by providing grants to those organizations and businesses upon application and approval by the City of Shively;

WHEREAS, Butler Traditional High School is located in the City of Shively which may employ residents of the City of Shively and contribute to the unique character of the City of Shively;

WHEREAS, Grantee requires funds to cover the costs and expenses as set forth in its application to the City of Shively for covid funding relief and incorporated herein by reference;

WHEREAS, Grantor recognizes the importance of providing coronavirus relief funds for meeting the needs of its citizens;

NOW, THEREFORE, it is agreed by and between the parties hereto as follows:

I. GRANTEE’S SERVICES AND RESPONSIBILITIES

A. The above recitals are true and correct and are incorporated herein, in their entirety, by this reference.

B. Grantee agrees to utilize grant funds for costs and expenses as set forth in its application to the City of Shively for covid funding relief and according to the terms of this Agreement and to implement and administer expenditures in accordance with its application for covid funding relief to the City of Shively. Any changes to funding requests set forth in Grantee’s application for covid funding relief to the City of Shively must be approved in advance and in writing.

Grantee shall cooperate with any reasonable requests of the City of Shively related to compliance with the covid funding relief funds provided by the City of Shively.

C. Grantee shall maintain during the course of the work, and retain not less than five years from the date of final payment on this Agreement, complete and accurate records of all of Grantee's expenses related to this Grant and Agreement and Grantor shall have the right, at any reasonable time, to inspect and audit those records by authorized representatives of its own, Kentucky Auditor of Public Accounts or of any public accounting firm selected by it. The records thus to be maintained and retained by Grantee shall include, without limitation, invoices for purchases, receiving and issuing documents, paid invoices and canceled checks for materials purchased and for subcontractors and any other third-party charges. In addition, Grantee will retain all records pertinent to the use of funds provided through this Agreement pertaining to participant records, statistical records, and supporting documents for the same period of time.

D. Grantee agrees to submit a financial compliance report within 30 days of receipt of each payment of Grant Funds as provided in Section II below. The financial report shall account for all funds received and expended by Grantee and shall include, without limitation, copies of cancelled checks, invoices, and receipts. In addition, Grantee may be asked to provide documentation regarding funding from other sources.

All reports and correspondence shall be addressed to Mayor Beverly Chester-Burton, City of Shively, 3920 Dixie Highway, Shively, Kentucky 40216.

II. PAYMENTS

The total amount of such compensation payable under this Agreement shall not exceed the sum of **\$5,925.65** in CARES Program Funds for Butler Traditional High School, and shall cover those expenditures set forth in Grantee's application for covid relief funding. Grantor shall disburse the funds to the Grantee in in a lump sum payment and such disbursements shall be made in accordance with any procedures and policies established by the City of Shively.

III. DURATION

A. This Agreement shall become effective as of December 2, 2020 and shall continue through and including January 31, 2021. Any unspent Grant Funds held by Grantee shall be returned to Grantor, within thirty (30) days of January 31, 2021, along with copies of Grantee's cancelled checks and invoices pertaining to funds spent with Grant Funds.

B. This Agreement may be terminated by submitting thirty (30) days' written notice to the non-terminating party of such intent to terminate. This Agreement may also be terminated by any party, without notice to the non-terminating party, because of fraud, misappropriation, embezzlement or malfeasance or a party's failure to perform the duties required under this Agreement. A waiver by either party of a breach of this Agreement shall not operate or be construed as a waiver of any subsequent breach. Should Grantee terminate this Agreement, all unspent funds shall be returned to Grantor within thirty (30) days of such termination.

IV. ADDITIONAL COVENANTS AND REPRESENTATIONS OF GRANTEE

A. Grantee covenants that it has all necessary power, capacity, and authority to execute and to deliver this Agreement and to provide the services contemplated by this Agreement. Grantee further covenants that it is a duly organized and validly existing entity, is qualified to do business in the State of Kentucky, has full right, power and authority to enter into this Agreement, and that the person signing on behalf of Grantee is authorized to do so.

B. Grantee covenants that the person executing this Agreement has the full and requisite power to legally bind Grantee and no additional approvals are required.

C. Grantee agrees to spend all Grant Funds strictly in conformity with this Agreement and as set forth in Grantee's application to the City of Shively for covid funding relief, and agrees to not materially deviate from either during the term of this Agreement without the prior written agreement of Grantor.

D. Grantee agrees that it shall act in accordance with all applicable laws, regulations, and codes of the federal, state and consolidated local governments.

E. Grantee agrees that in the implementation and administration of actions made possible through this Agreement, it shall not unlawfully discriminate against any person by reason of race, religion, color, sex, national origin, because the person is a qualified individual with a disability, age 40 or over, familial status, sexual orientation, gender identity, is a smoker or non-smoker, or because of the person's Vietnam-era Veteran status.

F. Grantee covenants that this Agreement is in all respects the legal, valid and binding obligation of Grantee and the compliance with the terms of this Agreement does not and will not violate any of the existing provisions of Grantee's articles of incorporation, by-laws or other agreements of organization.

G. Grantee covenants that neither this Agreement, the grant application or any other document submitted to the City of Shively in support of this Agreement contains any untrue statement of any material fact or omits to state any material fact necessary to make the statements contained therein, and further that there is no fact known to Grantee that materially and adversely affects, or in the future could materially and adversely affect, the ability of Grantee to implement and to administer actions made possible through this Agreement.

H. Grantee shall materially comply with any applicable federal requirements in effect at the time of this Agreement or which may be enacted at a later date and time.

V. EMPLOYER/EMPLOYEE RELATIONSHIP

It is expressly understood that no employer/employee relationship is created by this Agreement nor does it cause Grantee to be an officer or official of the City of Shively. By executing this Agreement, the parties hereto certify that its performance will not constitute or establish a

violation of any statutory or common law principle pertaining to conflict of interest, nor will it cause unlawful benefit or gain to be derived by either party.

VI. HOLD HARMLESS AND INDEMNIFICATION CLAUSE

To the extent permitted by Kentucky law, grantee agrees to indemnify, hold harmless, and defend the City of Shively, its elected and appointed officials, employees, agents and successors in interest from all claims, damages, losses and expenses including attorneys' fees, arising out of or resulting, directly or indirectly, from Grantee's (or Grantee's subcontractors if any) performance or breach of the contract provided that such claim, damage, loss, or expense is (1) attributable to personal injury, bodily injury, sickness, death, or to injury to or destruction of property, including the loss of use resulting therefrom, or from negligent acts, errors or omissions and (2) not caused by the negligent act or omission of the City of Shively or its elected and appointed officials and employees acting within the scope of their employment. This Hold Harmless and Indemnification Clause shall in no way be limited by any financial responsibility or insurance requirements and shall survive the termination of this Agreement.

VII. EVENTS OF DEFAULT

Each of the following events or occurrences shall constitute an event of default under this Agreement:

A. Declaration of Bankruptcy of Grantee.

B. Failure to use the Grant Funds for their intended purposes and as set forth in Grantee's application for covid funding relief, or failure to administer and to implement the use of funds provided through this Agreement and in furtherance and in conformity with this Agreement.

C. Failure to file in a timely manner the financial reports required by Section I.C of this Agreement or to furnish to Grantor if required pursuant to Section I.C of this Agreement.

D. Falsification by Grantee of financial reports, or related invoices and documents, to substantiate expenses set forth in Grantee's application to the City of Shively for covid funding relief.

E. Disclosure or discovery that the covenants and representations made by Grantee in this Agreement, the application or other documents submitted in support of this Agreement is, was or shall be false or misleading in any material respect.

F. Disclosure or discovery that goods purchased with Grant Funds have not been used in accordance with Grantee's application for covid funding relief and this Agreement. In such cases, Grantee shall return the amount of the Grant Funds to the City of Shively.

VIII. REMEDIES OF CITY OF SHIVELY UPON EVENTS OF DEFAULT

Upon the occurrence of an event of default, the City of Shively, in its sole discretion and without notice to Grantee, may at any time exercise any one or more of the following rights:

- A.** Immediately terminate or suspend the Agreement, by written notice, after which the City of Shively shall be under no obligation to advance any undisbursed Grant Funds to Grantee.
- B.** Commence an appropriate legal or equitable action to enforce Grantee's performance of the terms, covenants and conditions of this Agreement or the Project.
- C.** Declare all Grant Funds previously disbursed to Grantee to be immediately due and payable in full, without any presentment, demand or notice of any kind, all of which are hereby waived by Grantee.
- D.** Commence appropriate legal or equitable action to enforce the rights and remedies of the City of Shively, or any one or more of them, pursuant to the terms, covenants, and conditions of this Agreement.
- E.** Exercise any other rights or remedies that may be available to the City of Shively pursuant to this Agreement or under applicable laws.

IX. REPORTING OF INCOME

The compensation payable under this Agreement may be subject to federal, state, and local taxation. Regulations of the Internal Revenue Service require the City of Shively to report all amounts in excess of \$600.00 paid to non-corporate contractors. Grantee agrees to furnish the City of Shively with its taxpayer identification number (TIN) prior to the effective date of this Agreement. Grantee further agrees to provide such other information to the City of Shively as may be required by the IRS or the State Department of Revenue.

X. GOVERNING LAW

This Agreement shall be governed by and construed in accordance with the laws of the State of Kentucky. In the event of any proceedings regarding this Agreement, the Parties agree that the venue shall be the state courts of Kentucky or the U.S. District Court for the Western District of Kentucky, Louisville Division. All parties expressly consent to personal jurisdiction and venue in such Court for the limited and sole purpose of proceedings relating to this Agreement or any rights or obligations arising thereunder. Service of process may be accomplished by following the procedures prescribed by law.

XI. ENTIRE AGREEMENT

This Agreement constitutes the entire agreement and understanding of the parties with respect to the subject matter set forth herein and this Agreement supersedes any and all prior and contemporaneous oral or written agreements or understandings between the parties relative

thereto. No representation, promise, inducement, or statement of intention has been made by the parties that are not embodied in this Agreement. This Agreement cannot be amended, modified, or supplemented in any respect except by a subsequent written agreement duly executed by all the parties hereto.

XII. SUCCESSORS

This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, successors, and assigns.

XIII. SEVERABILITY

If any court of competent jurisdiction holds any provision of this Agreement unenforceable, such provision shall be modified to the extent required to make it enforceable, consistent with the spirit and intent of this Agreement. If such a provision cannot be so modified, the provision shall be deemed separable from the remaining provisions of this Agreement and shall not affect any other provision hereunder.

XIV. COUNTERPARTS

This Agreement may be executed in counterparts, in which case each executed counterpart shall be deemed an original, and all executed counterparts shall constitute one and the same instrument.

XV. CALCULATION OF TIME

Unless otherwise indicated, when the performance or doing of any act, duty, matter, or payment is required hereunder and a period of time or duration for the fulfillment of doing thereof is prescribed and is fixed herein, the time shall be computed so as to exclude the first and include the last day of the prescribed or fixed period of time. For example, if on January 1, Grantee is directed to take action within ten (10) calendar days, the action must be completed no later than midnight, January 11.

XVI. CAPTIONS

The captions and headings of this Agreement are for convenience and reference purposes only and shall not affect in any way the meaning and interpretation of any provisions of this Agreement.

XVII. VIOLATIONS OF AND COMPLIANCE WITH KENTUCKY LAWS

Grantee shall reveal any final determination of a violation by Grantee or subcontractor within the previous five (5) year period pursuant to KRS Chapters 136, 139, 141, 337, 338, 341 and 342 that apply to Grantee or subcontractor. Grantee shall be in continuous compliance with the provisions of KRS Chapters 136, 139, 141, 337, 338, 341 and 342 that apply to Grantee or subcontractor for the duration of this Agreement.

WITNESS the agreement of the parties hereto by their signatures affixed hereon.

CITY OF SHIVELY

By: Beverly Chester-Burton

Title: Mayor

E-Signature: *Beverly Chester-Burton*

Date: October 19, 2020

By signing below the Grantee acknowledges and affirms that the information provided in the Grant, any supporting exhibits, and the Grant Application is true and correct.

By: Marty Pollio, Ed.D

Title: Superintendent

Printed name: Marty Pollio, Ed.D

Signature: _____

Date: _____

Taxpayer Identification No.

(TIN): 616001316