

# STATE OF OREGON GRANT AGREEMENT

Grant No. 35678

This Grant Agreement (“Grant”) is between the State of Oregon acting by and through its Department of Education (“Agency”) and Sunny Wolf Charter School (“Grantee”), each a “Party” and, together, the “Parties”.

## SECTION 1: AUTHORITY

Pursuant to the “Early Literacy Success Initiative”, codified under ORS 327.825-327.845 and as amended from time to time (the “Act”), Early Literacy Success School District Grant funds are appropriated to the Department of Education through the Statewide Education Initiatives Account established under ORS 327.250 for the purposes of distributing Early Literacy Success School Grants under the Act.”

## SECTION 2: PURPOSE

The purpose of this grant is to provide funding to assist in increasing early literacy from birth to grade three, reduce literacy academic disparities for student groups who have historically experienced academic disparities, increase support to parents and guardians to enable them to be partners in the development of their children’s literacy skills and knowledge, and increase access to early literacy learning through support that is research-aligned, culturally responsible, student-centered, and family-centered.

## SECTION 3: EFFECTIVE DATE AND DURATION

When all Parties have executed this Grant, and all necessary approvals have been obtained (“Executed Date”), this Grant is effective and has a Grant funding start date as of October 1, 2023 (“Effective Date”), and, unless extended or terminated earlier in accordance with its terms, will expire on September 30, 2025.

## SECTION 4: GRANT MANAGERS

### 4.1 Agency’s Grant Manager is:

Cassie Medina  
Office of Education Innovation & Improvement  
255 Capitol St NE  
Salem, OR 97310-0203  
[cassie.medina@ode.oregon.gov](mailto:cassie.medina@ode.oregon.gov)

- 4.1 Grantee's Grant Manager is:  
Sunny Wolf Charter School  
PO Box 438  
Wolf Creek, OR 97497-0438  
541-866-2735  
ron.donoho@sunnywolfcharterschool.com
- 4.2 A Party may designate a new Grant Manager by written notice to the other Party.

## **SECTION 5: PROJECT ACTIVITIES**

Grantee must perform the project activities set forth in Exhibit A (the "Project"), attached hereto and incorporated in this Grant by this reference, for the period beginning on the Effective Date and ending on the expiration date set forth in Section 3 (the "Performance Period").

## **SECTION 6: GRANT FUNDS**

In accordance with the terms and conditions of this Grant, Agency will provide Grantee up to \$41,690.33 ("Grant Funds") for the Project. Agency will pay the Grant Funds from monies available through its Statewide Education Initiatives Account ("Funding Source").

## **SECTION 7: DISBURSEMENT GENERALLY**

### **7.1 Disbursement.**

- 7.1.1 Subject to the availability of sufficient moneys in and from the Funding Source based on Agency's reasonable projections of moneys accruing to the Funding Source, Agency will disburse Grant Funds to Grantee for the allowable Project activities described in Exhibit A that are undertaken during the Performance Period.
- 7.1.2 Grantee must provide to Agency any information or detail regarding the expenditure of Grant Funds required under Exhibit A prior to disbursement or as Agency may request.
- 7.1.3 Agency will only disburse Grant Funds to Grantee in accordance with Exhibit A. Grantee shall use Grant Funds only for the Allowable Costs of the Project activities that occur, including expenses incurred, during the Performance Period and in accordance with Grantee's Early Literacy Success Plan, as those terms are defined in this Grant and Exhibit A of this Grant. If Agency determines any completed Project activities are not acceptable or any expenses are not allowable and any deficiencies are the responsibility of Grantee, Agency will prepare a detailed written description of the deficiencies within 15 days of receipt of the materials or performance of the activity, and will deliver such notice to Grantee. Grantee must correct any deficiencies at no additional cost to Agency within 15 days. Grantee may resubmit a request for disbursement that includes evidence satisfactory to Agency demonstrating deficiencies were corrected.
- 7.2 **Conditions Precedent to Disbursement.** Agency's obligation to disburse Grant Funds to Grantee under this Grant is subject to satisfaction of each of the following conditions precedent:
- 7.2.1 Agency has received sufficient funding, appropriations, expenditure limitation, allotments or

other necessary expenditure authorizations to allow Agency, in the exercise of its reasonable administrative discretion, to make the disbursement from the Funding Source;

- 7.2.1 No default as described in Section 15 has occurred; and
- 7.2.2 Grantee’s representations and warranties set forth in Section 8 are true and correct on the date of disbursement(s) with the same effect as though made on the date of disbursement.
- 7.3 **No Duplicate Payment.** Grantee may use other funds in addition to the Grant Funds to complete the Project; provided, however, the Grantee may not credit or pay any Grant Funds for Project costs that are paid for with other funds and would result in duplicate funding.
- 7.4 **Suspension of Funding and Project.** Agency may by written notice to Grantee, temporarily cease funding and require Grantee to stop all, or any part, of the Project dependent upon Grant Funds for a period of up to 180 days after the date of the notice, if Agency has or reasonably projects that it will have insufficient funds from the Funding Source to disburse the full amount of the Grant Funds. Upon receipt of the notice, Grantee must immediately cease all Project activities dependent on Grant Funds, or if that is impossible, must take all necessary steps to minimize the Project activities allocable to Grant Funds.

If Agency subsequently projects that it will have sufficient funds, Agency will notify Grantee that it may resume activities. If sufficient funds do not become available, Grantee and Agency will work together to amend this Grant to revise the amount of Grant Funds and Project activities to reflect the available funds. If sufficient funding does not become available or an amendment is not agreed to within a period of 180 days after issuance of the notice, Agency will either (i) cancel or modify its cessation order by a supplemental written notice or (ii) terminate this Grant as permitted by either the termination at Agency’s discretion or for cause provisions of this Grant.

## SECTION 8: REPRESENTATIONS AND WARRANTIES

- 8.1 **Organization/Authority.** Grantee represents and warrants to Agency that:
  - 8.1.1 Grantee is a Charter duly organized and validly existing;
  - 8.1.2 Grantee has all necessary rights, powers and authority under any organizational documents and under Oregon Law to (i) execute this Grant, (ii) incur and perform its obligations under this Grant, and (iii) receive financing, including the Grant Funds, for the Project;
  - 8.1.3 This Grant has been duly executed by Grantee and when executed by Agency, constitutes a legal, valid and binding obligation of Grantee enforceable in accordance with its terms;
  - 8.1.4 If applicable and necessary, the execution and delivery of this Grant by Grantee has been authorized by an ordinance, order or resolution of its governing body, or voter approval, that was adopted in accordance with applicable law and requirements for filing public notices and holding public meetings; and
  - 8.1.5 There is no proceeding pending or threatened against Grantee before any court or governmental authority that if adversely determined would materially adversely affect the

Project or the ability of Grantee to carry out the Project.

- 8.1 False Claims Act.** Grantee acknowledges the Oregon False Claims Act, ORS 180.750 to 180.785, applies to any “claim” (as defined by ORS 180.750) made by (or caused by) Grantee that pertains to this Grant or to the Project. Grantee certifies that no claim described in the previous sentence is or will be a “false claim” (as defined by ORS 180.750) or an act prohibited by ORS 180.755. Grantee further acknowledges in addition to the remedies under Section 16, if it makes (or causes to be made) a false claim or performs (or causes to be performed) an act prohibited under the Oregon False Claims Act, the Oregon Attorney General may enforce the liabilities and penalties provided by the Oregon False Claims Act against the Grantee.
- 8.2 No limitation.** The representations and warranties set forth in this Section are in addition to, and not in lieu of, any other representations or warranties provided by Grantee.

## SECTION 9: OWNERSHIP

- 9.1 Intellectual Property Definitions.** As used in this Section and elsewhere in this Grant, the following terms have the meanings set forth below:

“Third Party Intellectual Property” means any intellectual property owned by parties other than Grantee or Agency.

“Work Product” means every invention, discovery, work of authorship, trade secret or other tangible or intangible item Grantee is required to create or deliver as part of the Project, and all intellectual property rights therein.

- 9.2 Grantee Ownership.** Grantee must deliver copies of all Work Product as directed in Exhibit A. Grantee retains ownership of all Work Product, and grants Agency an irrevocable, non-exclusive, perpetual, royalty-free license to use, to reproduce, to prepare derivative works based upon, to distribute, to perform and to display the Work Product, to authorize others to do the same on Agency’s behalf, and to sublicense the Work Product to other entities without restriction.
- 9.3 Third Party Ownership.** If the Work Product created by Grantee under this Grant is a derivative work based on Third Party Intellectual Property, or is a compilation that includes Third Party Intellectual Property, Grantee must secure an irrevocable, non-exclusive, perpetual, royalty-free license allowing Agency and other entities the same rights listed above for the pre-existing element of the Third party Intellectual Property employed in the Work Product. If state or federal law requires that Agency or Grantee grant to the United States a license to any intellectual property in the Work Product, or if state or federal law requires Agency or the United States to own the intellectual property in the Work Product, then Grantee must execute such further documents and instruments as Agency may reasonably request in order to make any such grant or to assign ownership in such intellectual property to the United States or Agency.

## SECTION 10: CONFIDENTIAL INFORMATION

- 10.1 Confidential Information Definition.** Grantee acknowledges it and its employees or agents may, in the course of performing its responsibilities, be exposed to or acquire information that is: (i) confidential to Agency or Project participants or (ii) the disclosure of which is restricted under federal or state law, including without limitation: (a) personal information, as that term is used in ORS 646A.602(12), (b) social security numbers, and (c) information protected by the federal

Family Educational Rights and Privacy Act under 20 USC § 1232g (items (i) and (ii) separately and collectively “Confidential Information”).

- 10.1 Nondisclosure.** Grantee agrees to hold Confidential Information as required by any applicable law and in all cases in strict confidence, using at least the same degree of care Grantee uses in maintaining the confidentiality of its own confidential information. Grantee may not copy, reproduce, sell, assign, license, market, transfer or otherwise dispose of, give, or disclose Confidential Information to third parties, or use Confidential Information except as is allowed by law and for the Project activities and Grantee must advise each of its employees and agents of these restrictions. Grantee must assist Agency in identifying and preventing any unauthorized use or disclosure of Confidential Information. Grantee must advise Agency immediately if Grantee learns or has reason to believe any Confidential Information has been, or may be, used or disclosed in violation of the restrictions in this Section. Grantee must, at its expense, cooperate with Agency in seeking injunctive or other equitable relief, in the name of Agency or Grantee, to stop or prevent any use or disclosure of Confidential Information. At Agency’s request, Grantee must return or destroy any Confidential Information. If Agency requests Grantee to destroy any Confidential Information, Grantee must provide Agency with written assurance indicating how, when and what information was destroyed.
- 10.2 Identity Protection Law.** Grantee must have and maintain a formal written information security program that provides safeguards to protect Confidential Information from loss, theft, and disclosure to unauthorized persons, as required by the Oregon Consumer Information Protection Act, ORS 646A.600-646A.628. If Grantee or its agents discover or are notified of a potential or actual “Breach of Security”, as defined by ORS 646A.602(1)(a), or a failure to comply with the requirements of ORS 646A.600-628, (collectively, “Breach”) with respect to Confidential Information, Grantee must promptly but in any event within one calendar day (i) notify the Agency Grant Manager of such Breach and (ii) if the applicable Confidential Information was in the possession of Grantee or its agents at the time of such Breach, Grantee must (a) investigate and remedy the technical causes and technical effects of the Breach and (b) provide Agency with a written root cause analysis of the Breach and the specific steps Grantee will take to prevent the recurrence of the Breach or to ensure the potential Breach will not recur. For the avoidance of doubt, if Agency determines notice is required of any such Breach to any individual(s) or entity(ies), Agency will have sole control over the timing, content, and method of such notice, subject to Grantee’s obligations under applicable law.
- 10.3 Subgrants/Contracts.** Grantee must require any subgrantees, contractors or subcontractors under this Grant who are exposed to or acquire Confidential Information to treat and maintain such information in the same manner as is required of Grantee under subsections 10.1 and 10.2 of this Section.
- 10.4 Background Check.** If requested by Agency and permitted by law, Grantee’s employees, agents, contractors, subcontractors, and volunteers that perform Project activities must agree to submit to a criminal background check prior to performance of any Project activities or receipt of Confidential Information. Background checks will be performed at Grantee’s expense. Based on the results of the background check, Grantee or Agency may refuse or limit (i) the participation of any Grantee employee, agent, contractor, subgrantee, or volunteer, in Project activities or (ii) access to Agency Personal Information or Grantee premises.

## SECTION 11: INDEMNITY/LIABILITY

- 11.1 Indemnity.** Grantee must defend, save, hold harmless, and indemnify the State of Oregon and Agency and their officers, employees and agents from and against all claims, suits, actions, losses, damages, liabilities, costs, and expenses of any nature whatsoever, including attorneys' fees, resulting from, arising out of, or relating to the activities of Grantee or its officers, employees, subgrantees, contractors, subcontractors, or agents under this Grant (each of the foregoing individually or collectively a "Claim" for purposes of this Section). If legal limitations apply to the indemnification ability of Grantee, this indemnification must be for the maximum amount of funds available for expenditure, including any available contingency funds, insurance, funds available under ORS 30.260 to 30.300 or other available non-appropriated funds.
- 11.2 Defense.** Grantee may have control of the defense and settlement of any Claim subject to this Section. But neither Grantee nor any attorney engaged by Grantee may defend the Claim in the name of the State of Oregon, nor purport to act as legal representative of the State of Oregon or any of its agencies, without first receiving from the Attorney General, in a form and manner determined appropriate by the Attorney General, authority to act as legal counsel for the State of Oregon. Nor may Grantee settle any Claim on behalf of the State of Oregon without the approval of the Attorney General. The State of Oregon may, at its election and expense, assume its own defense and settlement in the event the State of Oregon determines Grantee is prohibited from defending the State of Oregon, or is not adequately defending the State of Oregon's interests, or an important governmental principle is at issue and the State of Oregon desires to assume its own defense. Grantee may not use any Grant Funds to reimburse itself for the defense of or settlement of any Claim.
- 11.3 Limitation.** Except as provided in this Section, neither Party will be liable for incidental, consequential, or other indirect damages arising out of or related to this Grant, regardless of whether the damages or other liability is based in contract, tort (including negligence), strict liability, product liability or otherwise. Neither Party will be liable for any damages of any sort arising solely from the termination of this Grant in accordance with its terms.

## SECTION 12: INSURANCE

- 12.1 Private Insurance.** If Grantee is a private entity, or if any contractors, subcontractors, or subgrantees used to carry out the Project are private entities, Grantee and any private contractors, subcontractors or subgrantees must obtain and maintain insurance covering Agency in the types and amounts indicated in Exhibit B.
- 12.2 Public Body Insurance.** If Grantee is a "public body" as defined in ORS 30.260, Grantee agrees to insure any obligations that may arise for Grantee under this Grant, including any indemnity obligations, through (i) the purchase of insurance as indicated in Exhibit B or (ii) the use of self-insurance or assessments paid under ORS 30.282 that is substantially similar to the types and amounts of insurance coverage indicated on Exhibit B, or (iii) a combination of any or all of the foregoing.

## SECTION 13: GOVERNING LAW, JURISDICTION

This Grant is governed by and construed in accordance with the laws of the State of Oregon without regard to principles of conflicts of law. Any claim, action, suit or proceeding (collectively "Claim")

between Agency or any other agency or department of the State of Oregon, or both, and Grantee that arises from or relates to this Grant must be brought and conducted solely and exclusively within the Circuit Court of Marion County for the State of Oregon; provided, however, if a Claim must be brought in a federal forum, then it will be brought and conducted solely and exclusively within the United States District Court for the District of Oregon. In no event may this Section be construed as a waiver by the State of Oregon of any form of defense or immunity, whether sovereign immunity, governmental immunity, immunity based on the eleventh amendment to the Constitution of the United States or otherwise, to or from any Claim or from the jurisdiction of any court. GRANTEE, BY EXECUTION OF THIS GRANT, HEREBY CONSENTS TO THE PERSONAL JURISDICTION OF SUCH COURTS.

## SECTION 14: ALTERNATIVE DISPUTE RESOLUTION

The Parties should attempt in good faith to resolve any dispute arising out of this Grant. This may be done at any management level, including at a level higher than persons directly responsible for administration of the Grant. In addition, the Parties may agree to utilize a jointly selected mediator or arbitrator (for non-binding arbitration) to resolve the dispute short of litigation. Each Party will bear its own costs incurred for any mediation or non-binding arbitration.

## SECTION 15: DEFAULT

**15.1 Grantee.** Grantee will be in default under this Grant upon the occurrence of any of the following events:

**15.1.1** Grantee fails to use the Grant Funds for the intended purpose described in Exhibit A or otherwise fails to perform, observe or discharge any of its covenants, agreements or obligations under this Grant;

**15.1.2** Any representation, warranty or statement made by Grantee in this Grant or in any documents or reports relied upon by Agency to measure the Project, the expenditure of Grant Funds or the performance by Grantee is untrue in any material respect when made; or

**15.1.3** A petition, proceeding or case is filed by or against Grantee under any federal or state bankruptcy, insolvency, receivership or other law relating to reorganization, liquidation, dissolution, winding-up or adjustment of debts; in the case of a petition filed against Grantee, Grantee acquiesces to such petition or such petition is not dismissed within 20 calendar days after such filing, or such dismissal is not final or is subject to appeal; or Grantee becomes insolvent or admits its inability to pay its debts as they become due, or Grantee makes an assignment for the benefit of its creditors.

**15.2 Agency.** Agency will be in default under this Grant if, after 15 days written notice specifying the nature of the default, Agency fails to perform, observe or discharge any of its covenants, agreements, or obligations under this Grant; provided, however, Agency will not be in default if Agency fails to disburse Grant Funds because there is insufficient expenditure authority for, or moneys available from, the Funding Source.

## SECTION 16: REMEDIES

**16.1 Agency Remedies.** In the event Grantee is in default under Section 15.1, Agency may, at its option,

pursue any or all of the remedies available to it under this Grant and at law or in equity, including, but not limited to: (i) termination of this Grant under Section 18.2, (ii) reducing or withholding payment for Project activities or materials that are deficient or Grantee has failed to complete by any scheduled deadlines, (iii) requiring Grantee to complete, at Grantee's expense, additional activities necessary to satisfy its obligations or meet performance standards under this Grant, (iv) initiation of an action or proceeding for damages, specific performance, or declaratory or injunctive relief, (v) exercise of its right of recovery of overpayments under Section 17 of this Grant or setoff, or both, or (vi) declaring Grantee ineligible for the receipt of future awards from Agency. These remedies are cumulative to the extent the remedies are not inconsistent, and Agency may pursue any remedy or remedies singly, collectively, successively or in any order whatsoever.

- 16.1 Grantee Remedies.** In the event Agency is in default under Section 15.2 and whether or not Grantee elects to terminate this Grant, Grantee's sole monetary remedy will be, within any limits set forth in this Grant, reimbursement of Project activities completed and accepted by Agency and authorized expenses incurred, less any claims Agency has against Grantee. In no event will Agency be liable to Grantee for any expenses related to termination of this Grant or for anticipated profits.

## **SECTION 17: WITHHOLDING FUNDS, RECOVERY**

Agency may withhold from disbursements of Grant Funds due to Grantee, or Grantee must return to Agency within 30 days of Agency's written demand:

- 17.1** Any Grant Funds paid to Grantee under this Grant, or payments made under any other agreement between Agency and Grantee, that exceed the amount to which Grantee is entitled;
- 17.2** Any Grant Funds received by Grantee that remain unexpended or contractually committed for payment of the Project at the end of the Performance Period;
- 17.3** Any Grant Funds determined by Agency to be spent for purposes other than allowable Project activities or Allowable Costs of the Project activities, as that term is defined in Exhibit A; or
- 17.4** Any Grant Funds requested by Grantee as payment for deficient activities or materials.

## **SECTION 18: TERMINATION**

- 18.1 Mutual.** This Grant may be terminated at any time by mutual written consent of the Parties.
- 18.2 By Agency.** Agency may terminate this Grant as follows:
- 18.2.1** At Agency's discretion, upon 30 days advance written notice to Grantee;
- 18.2.2** Immediately upon written notice to Grantee, if Agency fails to receive funding, or appropriations, limitations or other expenditure authority at levels sufficient in Agency's reasonable administrative discretion, to perform its obligations under this Grant;
- 18.2.3** Immediately upon written notice to Grantee, if federal or state laws, rules, regulations or guidelines are modified or interpreted in such a way that Agency's performance under this Grant is prohibited or Agency is prohibited from funding the Grant from the Funding Source; or
- 18.2.4** Immediately upon written notice to Grantee, if Grantee is in default under this Grant and such



default remains uncured 15 days after written notice thereof to Grantee.

**18.1 By Grantee.** Grantee may terminate this Grant as follows:

- 18.1.1** If Grantee is a governmental entity, immediately upon written notice to Agency, if Grantee fails to receive funding, or appropriations, limitations or other expenditure authority at levels sufficient to perform its obligations under this Grant.
  - 18.1.2** If Grantee is a governmental entity, immediately upon written notice to Agency, if applicable laws, rules, regulations or guidelines are modified or interpreted in such a way that the Project activities contemplated under this Grant are prohibited by law or Grantee is prohibited from paying for the Project from the Grant Funds or other planned Project funding; or
  - 18.1.3** Immediately upon written notice to Agency, if Agency is in default under this Grant and such default remains uncured 15 days after written notice thereof to Agency.
- 18.2 Cease Activities.** Upon receiving a notice of termination of this Grant, Grantee must immediately cease all activities under this Grant, unless Agency expressly directs otherwise in such notice. Upon termination, Grantee must deliver to Agency all materials or other property that are or would be required to be provided to Agency under this Grant or that are needed to complete the Project activities that would have been performed by Grantee.

## SECTION 19: MISCELLANEOUS

- 19.1 Conflict of Interest.** Grantee by signature to this Grant declares and certifies the award of this Grant and the Project activities to be funded by this Grant, create no potential or actual conflict of interest, as defined by ORS Chapter 244, for a director, officer or employee of Grantee.
- 19.2 Nonappropriation.** Agency's obligation to pay any amounts and otherwise perform its duties under this Grant is conditioned upon Agency receiving funding, appropriations, limitations, allotments, or other expenditure authority sufficient to allow Agency, in the exercise of its reasonable administrative discretion, to meet its obligations under this Grant. Nothing in this Grant may be construed as permitting any violation of Article XI, Section 7 of the Oregon Constitution or any other law limiting the activities, liabilities or monetary obligations of Agency.
- 19.3 Amendments.** The terms of this Grant may not be altered, modified, supplemented or otherwise amended, except by written agreement of the Parties.
- 19.4 Notice.** Except as otherwise expressly provided in this Grant, any notices to be given under this Grant must be given in writing by email, personal delivery, or postage prepaid mail, to a Party's Grant Manager at the physical address or email address set forth in this Grant, or to such other addresses as either Party may indicate pursuant to this Section. Any notice so addressed and mailed becomes effective five (5) days after mailing. Any notice given by personal delivery becomes effective when actually delivered. Any notice given by email becomes effective upon the sender's receipt of confirmation generated by the recipient's email system that the notice has been received by the recipient's email system.
- 19.5 Survival.** All rights and obligations of the Parties under this Grant will cease upon termination of this Grant, other than the rights and obligations arising under Sections 11, 13, 14, 16, 17 and subsection 19.5 hereof and those rights and obligations that by their express terms survive

termination of this Grant; provided, however, termination of this Grant will not prejudice any rights or obligations accrued to the Parties under this Grant prior to termination.

- 19.1 Severability.** The Parties agree if any term or provision of this Grant is declared by a court of competent jurisdiction to be illegal or in conflict with any law, the validity of the remaining terms and provisions will not be affected, and the rights and obligations of the Parties will be construed and enforced as if the Grant did not contain the particular term or provision held to be invalid.
- 19.2 Counterparts.** This Grant may be executed in several counterparts, all of which when taken together constitute one agreement, notwithstanding that all Parties are not signatories to the same counterpart. Each copy of the Grant so executed constitutes an original.
- 19.3 Compliance with Law.** In connection with their activities under this Grant, the Parties must comply with all applicable federal, state and local laws.
- 19.4 Intended Beneficiaries.** Agency and Grantee are the only parties to this Grant and are the only parties entitled to enforce its terms. Nothing in this Grant provides, is intended to provide, or may be construed to provide any direct or indirect benefit or right to third persons unless such third persons are individually identified by name herein and expressly described as intended beneficiaries of this Grant.
- 19.5 Assignment and Successors.** Grantee may not assign or transfer its interest in this Grant without the prior written consent of Agency and any attempt by Grantee to assign or transfer its interest in this Grant without such consent will be void and of no force or effect. Agency's consent to Grantee's assignment or transfer of its interest in this Grant will not relieve Grantee of any of its duties or obligations under this Grant. The provisions of this Grant will be binding upon and inure to the benefit of the Parties hereto, and their respective successors and permitted assigns.
- 19.6 Contracts and Subgrants.** Grantee may not, without Agency's prior written consent, enter into any contracts or subgrants for any of the Project activities required of Grantee under this Grant. Agency's consent to any contract or subgrant will not relieve Grantee of any of its duties or obligations under this Grant.
- 19.7 Time of the Essence.** Time is of the essence in Grantee's performance of the Project activities under this Grant.
- 19.8 Records Maintenance and Access.** Grantee must maintain all financial records relating to this Grant in accordance with generally accepted accounting principles. In addition, Grantee must maintain any other records, whether in paper, electronic or other form, pertinent to this Grant in such a manner as to clearly document Grantee's performance. All financial records and other records, whether in paper, electronic or other form, that are pertinent to this Grant, are collectively referred to as "Records." Grantee acknowledges and agrees Agency and the Oregon Secretary of State's Office and the federal government and their duly authorized representatives will have access to all Records to perform examinations and audits and make excerpts and transcripts. Grantee must retain and keep accessible all Records for a minimum of six (6) years, or such longer period as may be required by applicable law, following termination of this Grant, or until the conclusion of any audit, controversy or litigation arising out of or related to this Grant, whichever date is later.
- 19.9 Headings.** The headings and captions to sections of this Grant have been inserted for identification and reference purposes only and may not be used to construe the meaning or to interpret this

Grant.

19.1 **Grant Documents.** This Grant consists of the following documents, which are incorporated by this reference and listed in descending order of precedence:

- This Grant less all exhibits
- Exhibit A (the "Project")
- Exhibit B (Insurance)

19.2 **Merger, Waiver.** This Grant and all exhibits and attachments, if any, constitute the entire agreement between the Parties on the subject matter hereof. There are no understandings, agreements, or representations, oral or written, not specified herein regarding this Grant. No waiver or consent under this Grant binds either Party unless in writing and signed by both Parties. Such waiver or consent, if made, is effective only in the specific instance and for the specific purpose given.

## SECTION 20: SIGNATURES

EACH PARTY, BY SIGNATURE OF ITS AUTHORIZED REPRESENTATIVE, HEREBY ACKNOWLEDGES IT HAS READ THIS GRANT, UNDERSTANDS IT, AND AGREES TO BE BOUND BY ITS TERMS AND CONDITIONS. The Parties further agree that by the exchange of this Grant electronically, each has agreed to the use of electronic means, if applicable, instead of the exchange of physical documents and manual signatures. By inserting an electronic or manual signature below, each authorized representative acknowledges that it is their signature, that each intends to execute this Grant, and that their electronic or manual signature should be given full force and effect to create a valid and legally binding agreement.

IN WITNESS WHEREOF, the Parties have executed this Grant as of the dates set forth below.

### STATE OF OREGON acting by and through its Department of Education

By: Philip Hofmann  
Contracting Officer

2/26/2024  
Date

**Sunny Wolf Charter School**  
By: Ron Donoho  
Authorized Signature

04.29.24  
Date

Ron Donoho  
Printed Name

Interim Director  
Title

27-1714059  
Federal Tax ID Number

### Approved for Legal Sufficiency in accordance with ORS 291.047

By: Via email located at agency  
Kevin Gleim, Assistant Attorney General

February 16, 2024  
Date

## EXHIBIT A THE PROJECT

### SECTION I. BACKGROUND AND GOALS

Signed into law in August of 2023, the Early Literacy Success Initiative established early literacy as a top priority. In creating the Early Literacy Success Initiative, the Oregon Legislature identified four goals:

- 1) Increase early literacy for children from birth to third grade;
- 2) Reduce literacy academic disparities for student groups that have historically experienced academic disparities;
- 3) Increase support to parents and guardians to enable them to be partners in the development of their children’s literacy skills and knowledge; and
- 4) Increase access to early literacy learning through support that is research-aligned, culturally responsible, students-centered and family-centered.

### SECTION II. PROJECT DEFINITIONS

The terms and definitions contained in the Act and in OAR 581-017-0800 *et seq.* shall apply to this Grant and shall be incorporated herein. The following terms have the meanings assigned below for purposes of Exhibit A.

**“Act”** means the “Early Literacy Success Initiative” codified in Oregon Revised Statute (ORS) 327.825-327.845, as amended from time to time, inclusive.

**“Allowable Costs of the Project”** means Grantee’s actual costs that are reasonable, necessary and directly related to the implementation of the Early Literacy Success Plan and are allowable uses of the Grant Funds under the Act, including those listed in ORS 327.829(2) pursuant to ORS 327.829(3), and under the Early Literacy Rules, including OAR 581-017-0813 through OAR 581-017-0816. Pursuant to ORS 327.829(3), all Allowable Costs of the Project must be for the benefit of children and students in prekindergarten through grade three.

**“Early Literacy Success Plan”** means the plan as defined in the Act and in the Early Literacy Success Rules.

**“Early Literacy Success Rules”** means those administrative rules promulgated under the Act at OAR 581-017-0800 *et seq.*, as amended from time to time.

**“Early Literacy School Grant”** means the grant awarded to Grantee, through this Grant, by Agency under its Early Literacy Success School Grant program, established in ORS 327.829, to implement the purposes of the Early Literacy Success Initiative, as identified in ORS 327.827. This term may also be referred to as “Early Literacy Success School Grants.”

**“Extended Learning Programs”** as defined in ORS 327.829(2)(b) and the Early Literacy Success Rules are programs that use research-aligned literacy strategies and that are made available to students in early elementary grades by licensed teachers or qualified tutors.

**“High Dosage Tutoring”** has the meaning contained in ORS 327.825(3) and the Early Literacy Success

Rules.

**“Research-aligned Literacy Strategy”** as defined in ORS 327.825(8), and the Early Literacy Success Rules, means strategies that:

- (a) Are literacy focused;
- (b) Are culturally responsive and relevant to diverse learners;
- (c) Are based on long-term research derived from the Science of Reading and Writing; and
- (d) Apply instructional practices that are developmentally appropriate and specifically designed for students with disabilities and students who are English language learners.

**“Science of Reading and Writing”** as defined in ORS 327.825(9), and the Early Literacy Success Rules, means:

- (a) The convergence of findings from research on reading and writing processes, development and instruction; and
- (b) The teaching of phonemic awareness, phonics, fluency, vocabulary and comprehension through explicit and systematic instruction that can be differentiated to meet the needs of individual learners through developmentally appropriate practices.

## SECTION III. PROJECT ACTIVITIES, SCHEDULE, AND BUDGET

### Early Literacy Plan Implementation

Grantee submitted an Early Literacy Success Plan, as that term is defined in the Early Literacy Success Rules, which was accepted by Agency. Grantee shall implement and adhere to the terms of the Early Literacy Success Plan, which shall be incorporated herein to this Grant by reference. In carrying out these Project activities, and without limiting the foregoing requirements of this Grant, Grantee shall at all times comply with the Act and any rules adopted thereunder, including the Early Literacy Success Rules.

Agency will disburse Grant Funds in accordance with this Exhibit A and the Grant. In accordance with ORS 327.829(3), Grantee shall use Grant Funds only for the Allowable Costs of the Project activities that occur, including expenses incurred, during the Performance Period and in accordance with Grantee’s Early Literacy Success Plan. If Grantee does not use the Grant Funds for Allowable Project Costs of the Project, Agency may exercise any of the remedies provided in this Grant.

**Indirect/Administrative Costs.** Grantee may be reimbursed for indirect or administrative costs, directly related to allowed expenditures, as a percentage of the Grant Funds disbursed under this Grant, in an amount that does not exceed 5% per the Early Literacy Success Rules. The rates described in this paragraph override any other verbal or written rate(s) provided by Agency, including in any notice of award provided by Agency’s Electronic Grants Management System (“EGMS”).

## SECTION IV. ACCESSIBILITY

**Worldwide Web Accessibility.** If, as part of the Project, Grantee develops data or information that will be displayed or accessed through an Agency public website or world-wide web application (the “Content”), Grantee must comply with Section 508 of the Rehabilitation Act of 1973 (29 U.S.C. 794d), as amended by the Workforce Investment Act of 1998 (P.L. 105-220), and provide individuals with disabilities access to and use of the Content in the website or application that is comparable to the access

provided to individuals without disabilities. Grantee must design and format Content that meets at least the following standards, including as the standards are updated or replaced by subsequent versions (collectively, “Mandatory Standard”):

- The Web Accessibility Initiative Accessible Rich Internet Applications Suite (WAI-ARIA) 1.0;
- The World Wide Web Consortium’s (W3C’s) Web Content Accessibility Guidelines (WCAG) 2.0 Level AA for web content, including as each is updated (Mandatory Standard);
- The web accessibility evaluation tool (WAVE), found at: <http://wave.webaim.org/extension/>
- Content to be posted on the web must be checked and made compliant using the tool available at <https://www.webaccessibility.com/>
- PDF files must comply with: <http://webaim.org/techniques/acrobat/>
- Word files must comply with: <http://webaim.org/techniques/word/>
- PPT files must comply with: <http://webaim.org/techniques/powerpoint/>
- Excel files must comply with: <https://webaim.org/techniques/excel/>

**Testing.** Grantee must test all Content prior to submission to Agency to ensure it meets the Mandatory Standard. Agency will test the web or application to validate the Content meets the Mandatory Standards, including a manual validation review of the Content against the current W3 Checklist for Web Content Accessibility (link included for reference: <https://www.w3.org/TR/1999/WAI-WEBCONTENT-19990505/full-checklist.pdf>). If the Content fails the testing, Agency will notify Grantee and Grantee must remedy any deficiencies as provided in Section 7.1.3 of this Grant. If Agency determines that previously accepted Content does not meet the Mandatory Standard, Agency may issue a written notice to Grantee to remove the Content. Grantee shall remove Content identified in any such notice within 3 calendar days and take other corrective action specified in the notice.

## SECTION V. PROJECT EVALUATION/REPORTING REQUIREMENTS

If the Performance Period begins prior to the Executed Date, any reports for Project activities shown in this Exhibit A as due prior to the Executed Date must be provided to Agency within 30 days of the Executed Date, if not already provided to Agency despite the lack of an executed Grant. Grantee will not be in default for failure to perform any reporting requirements prior to the Executed Date.

Grantee must submit quarterly financial and performance progress reports as well as a final yearly report on the dates set forth in Section V. This reporting requirement shall survive termination of this Agreement.

### Financial Reports

Beginning in April of 2024 and continuing each quarter thereafter, Grantee must submit a financial report detailing its expenditure of Grant Funds to the Agency using the form provided by the Agency.

Grantee must submit its quarterly report within the Reporting Window indicated in the table below.

#### Year 1

Quarter 3 (Reporting Expenditures between October 1, 2023-March 30, 2024)	Reporting Window (due between April 1, 2024 – April 30, 2024)
Quarter 4 (Reporting Expenditures between April 1,	Reporting Window (due between November

2023 - September 30, 2024)	1, 2024 - November 30, 2024)
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**Year 2**

Quarter 1 (Reporting Expenditures between July 1, 2024 - September 30, 2024)	Reporting Window (due between October 1, 2024 - October 31, 2024)
Quarter 2 (Reporting Expenditures between October 1, 2024 - December 31, 2024)	Reporting Window (due between January 1, 2025 - January 31, 2025)
Quarter 3 (Reporting Expenditures between January 1, 2025 - March 31, 2025)	Reporting Window (due between April 1, 2025 - April 30, 2025)
Quarter 4 (Reporting Expenditures between April 1, 2025 - September 30, 2025)	Reporting Window (due between November 1, 2025 - November 30, 2025)

If Grantee does not use the Grant Funds for Allowable Costs of the Project, Agency may exercise the remedies provided in Section 17 of this Grant, including without limitation deducting amounts from future disbursements of Grant Funds.

Any Grant Funds that are not used by Grantee by September 30 of each grant year must be returned to Agency for deposit in the Statewide Education Initiatives Account.

**Annual Reports**

In addition to the quarterly financial report, Grantees shall submit an annual report as defined in ORS 327.835. The annual report shall include:

- 1) Grantee’s progress toward achieving the goals established in the Early Literacy Success Plan;
- 2) An inventory of literacy assessments, tools, curricula and digital resources used by Grantee;
  - a) Evidence that the literacy assessments, tools, curricula, and digital resources in the inventory are used with fidelity to research-aligned literacy strategies;
  - b) Evidence that teachers and administrators are provided with professional development for using and implementing (with fidelity and research-aligned strategies) the literacy assessments, tools, curricula, and digital resources in the inventory;
- 3) The number and percentage of teachers for early elementary grades receiving professional development and coaching disaggregated by grade level;
- 4) The number and percentage of students participating in early literacy Extended Learning Programs and their outcomes disaggregated by student group and by grade level;
- 5) The number and percentage of students participating in high-dosage tutoring and their outcomes disaggregated by student group and by grade level; and
- 6) The curricula being used by Grantee.

Grantee must submit its annual report by **November 30** of each fiscal grant year.

**Early Literacy Success School District Grant Monitoring**

In accordance with ORS 327.835, the Agency will monitor Grantee’s performance under this Grant in person, video conferencing or by phone. Agency will provide written notice to Grantee, as provided in

Section 19.4 of the Grant, at least 15 days in advance of Agency’s monitoring activities and will schedule in person visits, video conferencing and phone calls.

A Grant monitoring visit or call may cover a variety of topics at Agency’s discretion including but not limited to: Grantee’s compliance with the Early Literacy Success School District Grant purposes; challenges faced by the Grantee in implementing its Plan; Plan outcomes; its budget and expenditure of moneys received for the purposes of the Grant; financial reporting, any expenditure changes, and reconciliation of Grant Funds; or Grantee’s training and technical assistance needs.

Before an on-site visit, the Agency will advise Grantee on how to prepare for the monitoring visit and financial reconciliation, the format for the visit, and which Grantee organizational leaders, staff or others should be involved in the visit. Once a date and time are confirmed, the Grantee should send a notification to its organizational leaders, staff, students and community partners who are expected to participate; identify a meeting location and prepare all necessary monitoring documents and data.

## SECTION VI. DISBURSEMENT PROVISIONS

Grantee will have access to the Grant Funds using EGMS, as outlined below:

Funding Period	Grant Amount
Year 1	\$41,690.33
Year 2	TBD

Disbursement Date	Quarterly Amount
March 1, 2024*	65% of Year 1 Grant Funds
April 1, 2024*	35% of Year 1 Grant Funds
July 1, 2024	25% of Year 2 Grant Funds
October 1, 2024	25% of Year 2 Grant Funds
January 1, 2025	25% of Year 2 Grant Funds
April 1, 2025	25% of Year 2 Grant Funds

\*Grant Funds will be released and available to claim as soon as this Grant is fully executed.

Agency will disburse the Grant Funds in quarterly disbursements, when possible, in advance of expenditures, not on a reimbursement basis. 100% of the Grant Funds for the respective grant year must be drawn down by June 30th, each year.



## **EXHIBIT B INSURANCE**

### **INSURANCE REQUIREMENTS**

Grantee must obtain at Grantee's expense, and require its first tier contractors and subgrantees, if any, to obtain the insurance specified in this exhibit prior to performing under this Grant, and must maintain it in full force and at its own expense throughout the duration of this Grant, as required by any extended reporting period or continuous claims made coverage requirements, and all warranty periods that apply. Grantee must obtain and require its first tier contractors and subgrantees, if any, to obtain the following insurance from insurance companies or entities acceptable to Agency and authorized to transact the business of insurance and issue coverage in Oregon. Coverage must be primary and non-contributory with any other insurance and self-insurance, with the exception of professional liability and workers' compensation. Grantee must pay and require its first tier contractors and subgrantees to pay, if any, for all deductibles, self-insured retention and self-insurance, if any.

### **WORKERS' COMPENSATION & EMPLOYERS' LIABILITY**

All employers, including Grantee, that employ subject workers, as defined in ORS 656.027, shall comply with ORS 656.017 and provide workers' compensation insurance coverage for those workers, unless they meet the requirement for an exemption under ORS 656.126(2). Grantee shall require and ensure that each of its subgrantees, contractors, and subcontractors complies with these requirements. If Grantee is a subject employer, as defined in ORS 656.023, Grantee shall also obtain employers' liability insurance coverage with limits not less than \$500,000 each accident. If Grantee is an employer subject to any other state's workers' compensation law, Grantee shall provide workers' compensation insurance coverage for its employees as required by applicable workers' compensation laws including employers' liability insurance coverage with limits not less than \$500,000, and shall require and ensure that each of its out-of-state subgrantees, contractors, and subcontractors complies with these requirements.

### **COMMERCIAL GENERAL LIABILITY**

**Required**  **Not required**

Commercial general liability insurance covering bodily injury and property damage in a form and with coverage that are satisfactory to Agency. This insurance must include personal and advertising injury liability, products and completed operations, contractual liability coverage for the indemnity provided under this Grant, and have no limitation of coverage to designated premises, project or operation. Coverage must be written on an occurrence basis in an amount of not less than \$1,000,000 per occurrence. Annual aggregate limit may not be less than \$2,000,000.

### **AUTOMOBILE LIABILITY INSURANCE**

**Required**  **Not required**

Automobile liability insurance covering Grantee's business use including coverage for all owned, non-owned, or hired vehicles with a combined single limit of not less than \$1,000.00 for bodily injury and property damage. This coverage may be written in combination with the commercial general liability insurance (with separate limits for commercial general liability and automobile liability). Use of personal automobile liability insurance coverage may be acceptable if evidence that the policy includes a business use endorsement is provided.

**PROFESSIONAL LIABILITY**

Required  Not required

Professional liability insurance covering any damages caused by an error, omission or any negligent acts related to the activities performed under this Grant by the Grantee and Grantee’s contractors, subgrantees, agents, officers or employees in an amount not less than \$1,000,000 per claim. Annual aggregate limit may not be less than \$2,000,000. If coverage is on a claims made basis, then either an extended reporting period of not less than 24 months must be included in the professional liability insurance coverage, or the Grantee must provide continuous claims made coverage as stated below.

**DIRECTORS, OFFICERS AND ORGANIZATION LIABILITY**

Required  Not required

Directors, officers and organization liability insurance covering the Grantee’s organization, directors, officers, and trustees actual or alleged errors, omissions, negligent, or wrongful acts, including improper governance, employment practices and financial oversight - including improper oversight and/or use of Grant Funds and donor contributions - with a combined single limit of no less than \$1,000,000 per claim.

**PHYSICAL ABUSE AND MOLESTATION INSURANCE COVERAGE**

Required  Not required

Abuse and molestation insurance in a form and with coverage satisfactory to the State covering damages arising out of actual or threatened physical abuse, mental injury, sexual molestation, negligent: hiring, employment, supervision, investigation, reporting to proper authorities, and retention of any person for whom the Grantee, its contractors, subcontractors or subgrantees (“Covered Entity”) is responsible including but not limited to any Covered Entity’s employees and volunteers. Policy endorsement’s definition of an insured must include the Covered Entity and its employees and volunteers. Coverage must be written on an occurrence basis in an amount of not less than \$1,000,000 per occurrence. Any annual aggregate limit may not be less than \$3,000,000. Coverage can be provided by a separate policy or as an endorsement to the commercial general liability or professional liability policies. The limits must be exclusive to this required coverage. Incidents related to or arising out of physical abuse, mental injury, or sexual molestation, whether committed by one or more individuals, and irrespective of the number of incidents or injuries or the time period or area over which the incidents or injuries occur, must be treated as a separate occurrence for each victim. Coverage must include the cost of defense and the cost of defense must be provided outside the coverage limit.

**EXCESS/UMBRELLA INSURANCE**

A combination of primary and excess/umbrella insurance may be used to meet the required limits of insurance.

**ADDITIONAL INSURED**

All liability insurance, except for workers’ compensation, professional liability, and network security and privacy liability (if applicable), required under this Grant must include an additional insured endorsement specifying the State of Oregon, its officers, employees and agents as Additional Insureds, including additional insured status with respect to liability arising out of ongoing operations and completed operations, but only with respect to Grantee’s activities to be performed under this Grant. Coverage must be primary and non-contributory with any other insurance and self-insurance. The Additional Insured endorsement with respect to liability arising out of Grantee’s ongoing operations must be on ISO Form CG 20 10 07 04 or equivalent and the Additional Insured endorsement with respect to completed operations must be on ISO form CG 20 37 07 04 or equivalent.

## **WAIVER OF SUBROGATION**

Grantee waives, and must require its first tier contractors and subgrantees waive, rights of subrogation which Grantee, Grantee's first tier contractors and subgrantees, if any, or any insurer of Grantee may acquire against the Agency or State of Oregon by virtue of the payment of any loss. Grantee must obtain, and require its first tier contractors and subgrantees to obtain, any endorsement that may be necessary to affect this waiver of subrogation, but this provision applies regardless of whether or not the Agency has received a waiver of subrogation endorsement from the Grantee or the Grantee's insurer(s).

## **CONTINUOUS CLAIMS MADE COVERAGE**

If any of the required liability insurance is on a claims made basis and does not include an extended reporting period of at least 24 months, then Grantee shall maintain continuous claims made liability coverage, provided the effective date of the continuous claims made coverage is on or before the effective date of the Grant, for a minimum of 24 months following the later of:

- (i) Grantee's completion and Agency's acceptance of all Services required under the Grant, or
- (ii) Agency or Grantee termination of the Grant, or
- (iii) The expiration of all warranty periods provided under the Grant.

## **CERTIFICATE(S) AND PROOF OF INSURANCE**

Grantee must provide to Agency a Certificate(s) of Insurance for all required insurance before performing any Project activities required under this Grant. The Certificate(s) must list the State of Oregon, its officers, employees and agents as a Certificate holder and as an endorsed Additional Insured. The Certificate(s) must also include all required endorsements or copies of the applicable policy language effecting coverage required by this Grant. If excess/umbrella insurance is used to meet the minimum insurance requirement, the Certificate of Insurance must include a list of all policies that fall under the excess/umbrella insurance. As proof of insurance, Agency has the right to request copies of insurance policies and endorsements relating to the insurance requirements in this Grant. Grantee must furnish acceptable insurance certificates to: [ode.insurance@ode.state.or.us](mailto:ode.insurance@ode.state.or.us) or by mail to: Attention Procurement Services, Oregon Department of Education, 255 Capitol St NE, Salem OR, 97310 prior to commencing the work.

## **NOTICE OF CHANGE OR CANCELLATION**

Grantee or its insurer must provide at least 30 days' written notice to Agency before cancellation of, material change to, potential exhaustion of aggregate limits of, or non-renewal of the required insurance coverage(s).

## **INSURANCE REQUIREMENT REVIEW**

Grantee agrees to periodic review of insurance requirements by Agency under this Grant, and to provide updated requirements as mutually agreed upon by Grantee and Agency.

## **STATE ACCEPTANCE**

All insurance providers are subject to Agency acceptance. If requested by Agency, Grantee must provide complete copies of insurance policies, endorsements, self-insurance documents and related insurance documents to Agency's representatives responsible for verification of the insurance coverages required under this exhibit.

