

**CITY OF BOSTON
COMMUNITY PRESERVATION COMMITTEE**



GRANT AGREEMENT

PROJECT NAME: _____
PROJECT LOCATION: _____
DATE OF APPROPRIATION: _____
PROJECT DESCRIPTION: _____

PROJECT SPONSOR/APPLICANT: _____
GRANT RECIPIENT: _____
GRANT RECIPIENT VENDOR #: _____
CONTRACT NUMBER: _____
BEGIN DATE: _____ **END DATE:** _____

ACCOUNT	FUND	DEPT ID	PROGRAM	CLASS	PROJECT	BUD REF	FUNCTION	AMOUNT

This Grant Agreement (the “Agreement”) is made and entered into this **first day of**

July 2020, by and between the City of Boston, a municipal corporation duly organized under the laws of the Commonwealth of Massachusetts and having its usual place of business at One City Hall Square, Boston, Massachusetts 02201 (the “City”), and **RECIPIENT NAME** (the “Recipient”), with an address of **RECIPIENT ADDRESS**. Hereinafter, the City and Recipient may be referred to collectively as the “Parties,” and each, individually, as a “Party.”

RECITALS

Whereas, the City of Boston Community Preservation Committee (the “CPC”) invited the submission of proposals for grants of funds for purposes consistent with the Community Preservation Act, Mass. Gen. Laws ch. 44B (the “CPA”); and,

Whereas, in response thereto, a proposal was submitted for funding (the “Project Application”) consistent with the purposes described above; and,

Whereas, the CPC reviewed the Project Application, and on **January 27, 2020**, recommended that funding for the Project Application be approved by appropriation and order of the Boston City Council; and,

Whereas, the Boston City Council thereafter appropriated the funds recommended by the CPC for the Project Application on **May 13, 2020**.

Now, therefore, the Parties agree as follows:

1. Grant. Subject to the terms of this Agreement, the City agrees to grant the Recipient the amount of **AMOUNT IN WORDS (AMOUNT IN NUMBERS)** for the purposes set forth in the Project Application, as amended by this Agreement and additional conditions or restrictions of the CPC or CPC staff upon award which are identified in Exhibit A, (the “Project”).
2. Project Application. The Project Application submitted to the CPC is incorporated into this Agreement by reference.
3. Term. The term of this Agreement shall be no longer than two (2) years from July 1, 2020 (the “Effective Date”) unless otherwise stated in Exhibit A of this Agreement or otherwise agreed upon by the Parties by a subsequent written amendment to this Agreement. All of the work described in this Agreement must be completed no later than two (2) years after the Effective Date, unless the CPC or CPC staff grants an extension for good cause shown. Grant funds not utilized on the Project must be returned to the Community Preservation Fund (the “Fund”) and will be made available for future appropriation to other grantees.
4. Budget; Source of Funding. Prior to commencement of the work for the Project (the “Work”), the Recipient must submit an updated, complete, and accurate budget that accounts for (1) the expenditure of all funds granted under this Agreement; and (2) all other sources of funding, if necessary, to complete the Project as described herein (the “Project Budget”). Recipient shall not expend any Grant funds unless sufficient sources of funding have been secured to complete the Project and the Project Budget has been approved by CPC staff. If CPC

staff determines that funds have been spent on goods, services, or work not included in the Project Budget approved by CPC staff or otherwise not authorized under the CPA, the Recipient shall be responsible for repayment of such funds to the Fund.

5. Disbursement of Funds. The Recipient hereby acknowledges and expressly agrees that all disbursements of Grant funds to the Recipient shall be according to the Grant Fund Disbursement Terms and Schedule attached hereto as Exhibit B. If the Project requires a permit or similar approval from a City of Boston board or commission, the Recipient must provide to CPC staff a copy of all required permits obtained by the Recipient prior to any disbursement of Grant funds under this Agreement unless otherwise agreed upon by the Parties.

6. Reporting Requirements. The Recipient shall provide CPC staff with a pre-construction report (the "Pre-Construction Report") prior to commencing Work and a progress report regarding Work completed ("Mid-Construction Report") upon request by CPC staff. The Recipient shall also file a final report (the "Closeout Report"), including digital photo documentation of the Project where appropriate, after fully completing the Project. The Closeout Report must be approved by CPC staff, which approval shall not be unreasonably withheld. Requirements for Pre-Construction Report, Mid-Construction Report, and Closeout Report shall be provided to Recipient by CPC staff.

7. Ownership of Documents. All documents prepared for or submitted to the City related to this Agreement shall become the property of the City and shall be available for use by the City and made available to the public under the Massachusetts Public Records Law, Mass. Gen. Laws ch. 66, § 10. This Section 7 shall survive termination of this Agreement.

8. Project Liaison. The CPC may at its sole discretion designate a Project Liaison for the Project. The Project Liaison may be either a municipal employee or a consultant retained by the CPC for that purpose. The Recipient shall cooperate with the Project Liaison, including providing access to the Project locus at reasonable times and with reasonable notice. The Project Liaison shall serve as the agent of the City for the purpose of monitoring the Project's compliance with the terms of this Agreement and shall periodically report to the CPC and CPC staff regarding the progress of the Project funded by this Grant and the Recipient's compliance with the terms of this Agreement.

9. Records and Inspection. The Recipient agrees to maintain all books, records, documents, and data related to the Project and such additional records as may be required by the City during the Term of this Agreement and for a period of fifteen (15) years after the Final Completion Date. The Recipient shall, at any time during normal business hours, allow representatives of the City to make periodic inspections and site visits to the Recipient's office or the Project Location to inspect the work performed, books, records, documents, and data described herein for the purpose of ascertaining that the Recipient is in compliance with the terms of this Agreement. The City shall be entitled to request copies of any record so kept provided said record does not contain proprietary information of the Recipient. This Section 9 shall survive termination of this Agreement.

10. Deed Restrictions. The Recipient hereby acknowledges and expressly agrees to the imposition of a deed restriction on the Project locus when specified in Exhibit A in a form acceptable to the City. All costs and fees incurred for the application, execution, and recording of such deed restriction shall be borne by the Recipient. This Section 10 shall survive termination of this Agreement. Final Completion for the purposes of this Agreement and the exhibits attached hereto shall include the execution and recording of any deed restriction imposed pursuant to this Agreement.

11. Compliance with Laws. Recipient understands and agrees that the Project funded through this Grant is made pursuant to and must comply with the requirements of the CPA. Recipient further agrees to comply with all other applicable local, state, and federal laws, rules, and regulations.

12. Permits and Licenses. Recipient shall obtain all permits and licenses necessary for implementation of the Project at Recipient's cost and expense. No local permit or license is waived by the award of this Grant.

13. Release of Liability. Recipient acknowledges that by making this Grant, the City does not accept any liability whatsoever for any acts, omissions, or errors associated with the Project. Recipient hereby waives, releases, and discharges the City, any of its board or commission members, or any elected official or appointed official or employee of the City, from any and all liability, including, but not limited to, liability arising from the negligence or fault of the Recipient and its directors, officers, employees, volunteers, representatives, or agents, for any personal or property injury arising from this Agreement and the implementation of the Project. This Section 13 shall survive termination of this Agreement.

14. Attribution. Upon commencement of the Project, Recipient agrees to post, in an appropriate location and in a form mutually acceptable to the Parties, a temporary sign stating that the Project is funded by the "City of Boston Community Preservation Act Fund". Recipient shall also identify that the Project was funded by the "City of Boston Community Preservation Act Fund" in all written materials about the Project, including, but not limited to, press releases, brochures, and online media. Upon completion of the Project, Recipient shall post, in an appropriate location and in a form mutually acceptable to the Parties, a permanent fixture or sign stating that the Project was funded through the "City of Boston Community Preservation Act Fund". The sign shall also identify the individual serving in the office of mayor of the City of Boston during the Effective Date of this Agreement and include the Seal of the City of Boston.

15. Assignment. This Agreement may not be assigned by Recipient without the prior written consent of the City.

16. Default and Termination. If the City determines that the Recipient has failed to fulfill all obligations set forth under the terms of this Agreement and so defaulted in said obligations or has expended Grant funds inconsistent with the CPA, the City may terminate this Agreement upon 14 days' written notice.

17. Return of Funds.

- a. Upon completion of the Project, any Grant funds not yet expended shall be returned forthwith to the Fund without further expenditure thereof.
- b. In the event this Agreement is terminated pursuant to the provisions of Section 16 hereof, any Grant funds granted to the Recipient under this Agreement, including Grant funds expended under this Agreement, shall be returned forthwith to the Fund without further expenditure thereof.
- c. In the event Recipient sells the Project locus within fifteen (15) years of the Final Completion Date, Grant funds granted to the Recipient under this Agreement, including Grant funds expended under this Agreement, shall be returned forthwith to the Fund on the following schedule.

<u>If sold within:</u>	<u>Amount of Grant to be reimbursed to the City:</u>
Five (5) years	100%
Ten (10) years	75%
Fifteen (15) years	50%

This Section 17(c) shall survive termination of this Agreement.

18. Commitment to Maintain Improvements. Recipient, and its successors and assigns, shall not change or alter the improvements made in connection with this Grant (apart from ordinary maintenance and repairs) without prior written approval by the City for a period of fifteen (15) years from the Final Completion Date. Violation of this Section 18 shall entitle the City to payment equal to the full amount of Grant funds awarded pursuant to this Agreement, regardless of any prior repayment of Grant funds that may have occurred pursuant to Section 17(c) or otherwise. This Section 18 shall survive termination of this Agreement.

19. Attorneys' Fees and Costs. In the event the City is required to take legal action under this Agreement, the Recipient shall be liable for all of the City's costs expended for the enforcement of this Agreement, including, but not limited to, reasonable attorneys' fees and court costs.

20. Notice. Any and all notices or other communications required under this Agreement shall be in writing and delivered in hand or mailed by certified mail, return receipt requested, or by other reputable delivery services to the City at the following addresses:

City of Boston
 Community Preservation Committee
 26 Court Street
 Boston, MA 02108
 Attn: Community Preservation Director

With a copy to:

City of Boston
Administration and Finance
1 City Hall Square, Room 608
Boston, MA 02201
Attn: Chief Financial Officer

21. Severability. If any term or condition of this Agreement or any application thereof shall to any extent be held invalid, illegal, or unenforceable by a court of competent jurisdiction, the validity, legality, and enforceability of the remaining terms and conditions of this Agreement shall not be deemed affected thereby.
22. Entire Agreement. This Agreement, and all documents incorporated by reference herein, constitute the entire agreement between the parties hereto and may be amended only in writing executed by both the City and the Recipient. The Recipient's signatory acknowledges and attests that she or he or they has the authority to execute this Agreement on behalf of the Recipient.
23. Indemnification. To the fullest extent permitted by law, the Recipient shall indemnify and hold harmless the City, its officers, agents, or employees from all liabilities, suits, claims, losses, and costs or any other damages against them or any of them arising from any act or omission of the Recipient, its agents, officers, employees, or subcontractors in any way connected with performance under this Agreement. This Section 23 shall survive the termination of this Agreement.
24. Governing Law. This Agreement and any actions arising out of this Agreement shall be governed by the laws of the Commonwealth of Massachusetts, and any such actions shall be brought and maintained in a state or federal court in Boston, Massachusetts, which shall have exclusive jurisdiction thereof.
25. Certification. Signature of this Agreement by the City's representative shall serve as certification that said representative has reviewed this Grant Agreement and that it is the representative's belief that there is little or no risk of default or unsatisfactory performance by the Recipient.

Signed by:

NAME OF RECIPIENT ORGANIZATION

Date _____

First and Last Name of Authorized Signatory (from CM06)
Title of Authorized Signatory

COMMUNITY PRESERVATION COMMITTEE:

Electronic Approval on File

Emme Handy
Chief, Administration & Finance Cabinet

APPROVED AS TO THE AVAILABILITY OF AN APPROPRIATION IN THE AMOUNT SPECIFIED IN SECTION 1 OF THIS AGREEMENT:

Electronic Approval on File

Maureen Joyce
City Auditor

APPROVED AS TO FORM:

Electronic Approval on File

Eugene O’Flaherty
Corporation Counsel

APPROVED:

Electronic Approval on File

Martin J. Walsh
Mayor of Boston

EXHIBIT A

Project Application and Statement of Grant Award

PURPOSE OF CPA GRANT: Open Space, Historic Preservation, or Affordable Housing

PROJECT DESCRIPTION: The Recipient's Project Application is incorporated by reference and made a part of this Agreement subject to the conditions, restrictions, and further terms described herein. The Grant Funds shall be used only for the work described in the Project Application as amended by this Agreement.

Description of project work:

GRANT CONDITIONS:

1. Deed Restriction:

[Include the following language for projects where CPA funds were used to purchase a real property interest and we need to require a restriction in perpetuity per state law, OR when it is decided that the project should be bound by such a perpetual restriction]

The Project locus shall be bound by a permanent deed restriction pursuant to and consistent with the provisions of Mass. Gen. Laws ch. 184, §§ 31-33, limiting the use of the interest in real property to the purpose for which the Grant was awarded in perpetuity. Recipient agrees to the imposition of such deed restriction in a form acceptable to the City. All costs and fees incurred for the application, execution and recording of such deed restriction shall be borne by the Recipient. This paragraph shall survive termination of this Agreement. Final Completion for the purposes of this Agreement and the exhibits attached hereto shall include the execution and recording of any deed restriction imposed pursuant to this Agreement.

2. Public Access: (for open space projects only)

The Project locus must be publicly accessible from sunset to sundown year-round, and a permanent fixture or sign shall be posted describing such public access.

EXHIBIT B
Grant Fund Disbursement Terms and Schedule

The Grant Funds awarded to the Recipient pursuant to the foregoing Agreement shall be disbursed to the Recipient pursuant to the following terms and conditions:

B.1 Disbursement.

B.1.1 The City shall disburse to the Recipient the maximum fixed amount described in Section 1 of the foregoing Agreement.

B.1.2 Initial Disbursement. Upon execution of the Agreement, the delivery of the Pre-Construction Report and the final Project Budget to CPC staff, subsequent approval of the Project Budget by CPC staff, adequate certification by the Recipient that all funds to complete the Project have been secured, and submission of the completed form provided by CPC staff for the first grant payment, the City shall disburse an initial payment equal to one-third (1/3) of the Grant (the “Initial Disbursement”).

B.1.3 Progress Payments. Following Initial Disbursement, the Recipient shall request disbursement of Grant funds using a form provided or approved by CPC staff (the “Payment Application”). All Payment Applications must include documentation, to the satisfaction of CPC staff, of how the previous disbursement of Grant funds was spent. CPC staff will review and approve or reject the Payment Application within ten (10) business days. Payment Applications may be made at the Recipient’s discretion but in no event more than once per calendar month.

B.2 Retainage. The City shall retain ten (10) percent of the Grant in order to cover the full costs of the Recipient’s failure to comply with any provision of this Agreement. Recipients shall be entitled to the Retainage at the time of Final Payment.

B.3 Final Payment. The entire unpaid balance of the Grant shall be made upon the occurrence of the following: (a) a determination by CPC staff that, upon the Recipient’s submission of the Closeout Report and any further site inspection to be conducted at the sole discretion of CPC staff, the Project has been fully completed and that the Recipient has complied with all applicable terms of the Agreement, or, where Final Completion before Final Payment is impracticable, a determination by CPC staff that the Recipient has demonstrated in writing a specific and sufficient plan for fully completing the Project and for compliance with all applicable terms of the Agreement; (b) a Payment Application for Final Payment has been issued and approved; and (c) the attribution requirements of Section 14 of the Agreement have been executed to the satisfaction of CPC staff.

B.3.1 The City will make Final Payment not more than thirty (30) days after the requirements of Paragraph B.3 have been satisfied by the Recipient.

B.4 Additional Terms Governing Payment. If CPC staff question any amount included in a Payment Application, the City may, in its discretion, pay only the undisputed amount and provide written notice to the Recipient requesting additional supporting information and data for the questioned amount. If the Recipient fails to document the eligibility of the questioned amount, as the case may require, the City may withhold the disputed amount of the Grant.