

# CITY OF BOSTON COMMUNITY PRESERVATION COMMITTEE



## GRANT AGREEMENT

**PROJECT NAME:**

**PROJECT LOCATION:**

**DATE OF APPROPRIATION:** March 31, 2021

**PROJECT DESCRIPTION:** *description with smaller font:* the project description; no longer than a couple of sentences to match that of the City Council. If necessary, a more detailed description can be added in the *Project Application and Statement of Grant Award* page.)

**PROJECT SPONSOR/APPLICANT:**

**GRANT RECIPIENT:**

**GRANT RECIPIENT VENDOR:**

**CONTRACT NUMBER:**

**ASSESSOR'S NUMBER:**

**BEGIN DATE:**

**END DATE:**

ACCOUNT	FUND	DEPT ID	PROGRAM	CLASS	PROJECT	BUD REF	FUNCTION	AMOUNT
52925	204	138710	0000	0000		2021	N/A	

This Grant Agreement (the “Agreement”) is made and entered into this **thirty first day of March, 2021**, 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 the Recipient may be referred to collectively as the “Parties,” and each, individually, as a “Party.”

### **RECITALS**

**Whereas**, the City invited the submission of proposals for grants of funds for purposes consistent with the Community Preservation Act, Mass. Gen. Laws c. 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 City acting by and through the Community Preservation Committee (CPC) reviewed the Project Application, and on **February 11, 2021**, 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 City acting by and through the CPC for the Project Application on **March 31, 2021**.

**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 as defined in Exhibit A, (the “Project”).
2. **Project Application.** The Project Application submitted to the City acting by and through 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 March 31, 2021 (the “Effective Date”) unless 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 City grants a one-year extension for good cause shown. Grant funds not utilized for the project purposes approved cannot be assigned to project costs beyond the scope of this Grant and must be returned to the Community Preservation Fund (the “Fund”) as soon as possible.
4. **Project Budget.** Prior to commencement of the work for the Project (the “Work”), the Recipient must submit an updated, complete, and accurate Project Budget that accounts for the expenditure of all funds granted under this Agreement in writing to the City at the address identified in Section 20. If the City determines that funds have been spent on goods, services, or

work not included in the Project Budget approved by the City 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.

6. Reporting Requirements. The Recipient hereby acknowledges and expressly agrees that all reporting requirements of Grant funds to the Recipient shall be according to the Reporting Requirements attached hereto as Exhibit B.

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 c. 66, § 10. This Section 7 shall survive termination of this Agreement.

8. Project Liaison. The City at its sole discretion may designate a Project Liaison for the Project. The Recipient shall cooperate with the Project Liaison, including providing access to the Project Location at reasonable times and with reasonable notice, and as further specified in Section 9.

9. Compliance

- a. Inspection. With the consent of the Recipient the Project Liaison shall be permitted at reasonable times and with reasonable notice to inspect the Project Location throughout the construction phase and on an annual basis for a period of fifteen (15) years from the Final Completion Date. The Recipient covenants not to withhold unreasonably its consent in determining dates and time for such inspection.
- b. Commitment to Maintain Improvements. The Recipient, and its successors and assigns, shall not change or alter the Work described in Exhibit A (apart from ordinary maintenance and repairs) for a period of fifteen (15) years from the Final Completion Date.
- c. Records. The Recipient shall, at any time during normal business hours, allow the City to inspect the Recipient's records and the Work performed as described in Exhibit A, related to the Project, for compliance with the terms of this Agreement. The City, upon its request, shall be provided copies of such documentation. The Recipient shall 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.
- d. Violation. Violation of this Section 9 shall entitle the City to payment equal to the full amount of Grant funds awarded pursuant to this Agreement but in no case shall such amount be more than the original grant amount awarded to 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. The Recipient understands and agrees that the Project funded through this Grant is made pursuant to and must comply with the requirements of the CPA. Grantee further agrees to comply with all federal, state, and local laws, regulations, ordinances and licensing requirements.

The City of Boston is subject to Section 49A of Chapter 62C of the Massachusetts General Laws which, in subsection (b), “that no contract or other agreement for the purposes of providing goods, services or real estate space...shall be entered into, renewed or extended with any person unless such person certifies in writing, under the penalties of perjury, that such person is in compliance with the tax laws of the Commonwealth of Massachusetts.

Pursuant to M.G.L. c.62C, §49A, by signing this Agreement, you certify under the penalties of perjury, that to the best of your knowledge and belief, all state tax returns have been filed and state taxes have been paid in accordance with law

12. Permits and Licenses. The Recipient shall ensure that all permits and licenses necessary for implementation of the Project have been obtained by the Recipient’s contractors prior to commencement of the Project.

13. Release of Liability. The 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. The 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.  
a. Upon commencement of the Project, Recipient agrees to post, in an appropriate location, a temporary sign, which will be provided by the City, stating that the Project is funded by the “City of Boston Community Preservation Act Fund”.

- b. The 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.
- c. Upon completion of the Project, Recipient shall post, in an appropriate location mutually acceptable to the Parties, a permanent fixture or sign as further defined in the approved budget.

15. Assignment. This Agreement may not be assigned by the Recipient without the prior written consent of the City, which shall only be given following (a) submission of required information regarding the entity to which the Recipient proposes the Agreement be assigned on a form provided by the City, and (b) a further majority vote of the Community Preservation Committee consenting to the Assignment. Requirements for information that must be provided shall be provided by the City.

Subsequent to the Recipient meeting the aforementioned conditions for assignment, the Assignment shall not be deemed complete and in effect, and Grant funds shall not be disbursed, unless and until the City has received documentation of the Assignment from the Recipient and a new Grant Agreement has been executed by and between the City and the Assignee.

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. Notice of Proposed Sale. Recipient shall promptly notify the City in writing at the address described in Section 20 of any proposed sale of the Property and provide the opportunity for the City to explain the terms of the Grant Agreement to potential new buyers prior to sale closing. This Section 17 shall survive termination of this Agreement.

18. Return of Funds.

- a. Upon completion of the Project, any Grant funds not yet expended shall be returned forthwith within 30 days 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 disbursed to the Recipient under this Agreement, including Grant funds expended under this Agreement, shall be returned forthwith within 30 days to the Fund without further expenditure thereof.
- c. In the case of a violation of Section 9 above, grant funds shall be returned forthwith within 30 days to the Fund without further expenditure thereof.
- d. In the event the Recipient sells the Project Location within fifteen (15) years of the Final Completion Date, Grant funds disbursed 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 18(c) 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  
 City of Boston Treasury Department  
 City Hall  
 Room M-5  
 Boston, MA 02201

With a copy to:

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

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 signature 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  
Title of Authorized Signatory

**Community Preservation Committee**

*Electronic Approval on File*  
\_\_\_\_\_ Date \_\_\_\_\_  
Justin Sterritt  
Chief of Administration & Finance

**City Auditor**

*Electronic Approval on File*  
\_\_\_\_\_ Date \_\_\_\_\_  
Maureen Joyce  
City Auditor

**APPROVED AS TO FORM:**

*Electronic Approval on File*

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Henry C. Luthin  
Corporation Counsel

**APPROVED:**

*Electronic Approval on File*

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Kim Janey  
Acting Mayor of Boston



**EXHIBIT A**  
**Project Application and Statement of Grant Award**

**PURPOSE OF CPA GRANT:** Open Space & Recreation, 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.

Detailed description of the project should go here.

**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 Location shall be bound by a permanent deed restriction pursuant to and consistent with the provisions of Mass. Gen. Laws c.184, §§ 31-33, limiting the use of the interest in real property to the purpose for which the Grant was awarded in perpetuity.

The 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, including the revision of an existing or the completion of a new Massachusetts Historical Commission B-form (building inventory form) for the property, 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 Location must be publicly accessible from sunrise to sundown year-round, and a permanent fixture or sign shall be posted describing such public access.

**3. Protected Features: (for open space acquisition only) (standardized description needed here) (do we want to require submission of a conservation standard like survey plan or plot plan with the application)**

- 4. Protected Features: (for historic preservation acquisition only) (standardized description needed here) (do we want to require submission of a B Form with the application?)**

**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:

Disbursement.

1. The City shall disburse to the Recipient the maximum fixed amount described in Section 1 of the foregoing Agreement.
2. Initial Disbursement. The City shall disburse an initial payment equal to one-third (1/3) of the Grant (the “Initial Disbursement”) when the following conditions have been met:
  - a. execution of the Grant Agreement;
  - b. receipt and approval of the Pre-Construction Report, Pre-Construction Project Budget and Initial Invoice by the City; and
  - c. completion of Pre-Construction meeting with the City.
3. Second Disbursement. Following Initial Disbursement, the City shall disburse further payments up to 90% of the total award when the following conditions have been met:
  - a. receipt and approval of the Mid-Construction Report, Mid-Construction Project Budget and Second Invoice by the City,
  - b. completion of Mid-Construction meeting with the City, and
  - c. documentation, to the satisfaction of the City, of how the Initial Disbursement of Grant funds was spent.

The City will review and approve or reject the Payment Application within fifteen (15) business days. Payment Applications may be made at the Recipient’s discretion but in no event more than once per calendar month.

4. Final Disbursement. The entire unpaid balance of the Grant shall be made upon the occurrence of the following:
  - receipt and approval of the Final Report, Final Project Budget and Final Invoice by the City,
  - completion of Final-Construction meeting with the City,
  - documentation, to the satisfaction of the City, of how the Grant funds were spent,
  - installation of the permanent Attribution Signage at the Project Location as further defined in the approved budget, and
  - receipt and approval of the Certificate of Completion.

The City will make Final Disbursement not more than forty-five (45) days after the requirements of Paragraph B.4 have been met by the Recipient and the City has made the determination that the project is complete.

Retainage & Additional Terms Governing Payment. If the City questions any amount included in a Payment Application, the City may, in its discretion, retain ten (10) percent of each payment or 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 payment.