



New Hampshire Municipal Technical Assistance Grant Program

GRANT AGREEMENT

This agreement ("Agreement"), executed this 28th day of January 2019, is by and between Plan New Hampshire - The Foundation for Shaping the Built Environment, 21 Daniel Street 2nd floor, c/o GPI, Portsmouth NH 03801 (hereinafter "Plan NH") and the **Town of Hopkinton** (hereinafter "the Municipality").

Plan New Hampshire has been granted, from NH Housing Finance Authority, funding for the purpose of creating and administering the NH Municipal Technical Assistance Grant Program (hereinafter "the MTAG Program"). This program provides funding, through a competitive application process, to municipalities so that they may hire consultants to assist them in expanding choices in places to live through new or re-written zoning regulations.

Pursuant to a competitive application process, Plan NH desires to provide a grant to the Municipality for a project that, focusing on Hart's Corner:

- will make adjustments in the existing TIF District language to allow and encourage housing diversity and related infrastructure as permitted investments in the District Development Plan
- results in rewriting and/or creating new zoning for this area to specifically allow and encourage a diversity of housing options.

as proposed in its MTAG Program application.

The Municipality is willing to undertake and complete the Project pursuant to the terms and conditions of this Agreement, which are as follows:

1. **PROJECT PERFORMANCE AND CONSULTANT SELECTION.** The Municipality agrees to perform work to complete the Project pursuant to the terms and conditions of the Work Plan and Narrative as submitted in the Municipality's Application to the MTAG program (hereinafter "the Application") *as revised after consultation(s) with Plan NH and/or with UNH Cooperative Extension (see below)*. Such revisions shall be dated and initialed by each appropriate party and included as addenda to this Agreement.

The Application, nonetheless, is considered part of this Agreement and any commitments included within the Application shall be binding on the Municipality.

2. The Municipality represents, warrants, and agrees that it will subcontract with a qualified consultant (Arnett Development Group), as indicated in its Application, to perform or assist in the work of the Project; including the Work Plan itself. The Municipality acknowledges that no

grant funds are to be used to pay for the Municipality's staff costs, or other general administrative expenses.

The Municipality's contractor/consultant may subcontract Project work only upon Plan NH's written approval unless said subcontractor is named in the Application. Any use of a subcontractor will not release the Municipality from any of its obligations, duties or responsibilities under this Agreement and the Municipality shall insure such subcontractor's adherence to and compliance with all terms and conditions of this Agreement.

The Municipality shall at all times be responsible for Project performance under this Agreement. All Project work shall be performed in compliance with all applicable local, state and federal laws, regulations and rules.

3. Throughout the Project, the Municipality shall conduct an ongoing outreach and engagement (COE) process, with guidance from UNH Cooperative Extension, to maximize input of community members, including traditionally under-represented populations, and to ensure that the Municipality's citizens are fully informed of the Project and its resulting regulatory proposals.

The Municipality agrees to work cooperatively with Plan NH and UNH Cooperative Extension, as well as with Arnett Development Group, to further develop not only a work plan, but a COE Plan, the results of which shall become part of this Agreement as noted above.

**At minimum, 5% of the grant funds must be used
for community outreach and engagement purposes.**

4. **PROGRESS REPORTS.** The Municipality shall report to Plan NH, **on the last business day of each month**, progress toward implementation. These reports, including a final report, shall build on one another, and include summaries of completed tasks, public meetings, any workshops and/or hearings, public participation levels, and additional outreach efforts.

Progress reports must also include, when appropriate or applicable, drafts of any proposed regulations for the purpose of allowing Plan NH to comment on the draft prior to notice of public hearings held by the Municipality's Planning Board or other cognizant body.

In addition, Plan NH strongly recommends addressing in each report:

- a. What questions are coming up or which have come up that are (still) unanswered?
- b. Are there areas in which you feel stuck, or that progress is not being made?
- c. Has anything come up that has surprised you? Or even that you think could have been included in your Application?

5. **POST-COMPLETION PROJECT REPORTS**

- a. If the Municipality's proposed regulations are adopted, the Municipality shall report on permitting and development activity under the regulations for a period of five (5) years (annually, on June 30 of each year or other agreed-upon date) after Project term completion.

- b. If the Municipality's proposed regulations are NOT adopted, the Municipality shall report on efforts to do annually, on June 30 (or other agreed-upon date), for a period of no more than five (5) years.
6. GRANT AMOUNT AND REIMBURSEMENT OF MUNICIPALITY'S COSTS. The amount of the grant to be made by Plan NH to the Municipality is **\$ 14,600.00** as requested in its application.

Grant funds will be paid as reimbursement(s) by Plan NH to the Municipality for its costs within 30 days of presentation of an invoice (See #7, below) to Plan NH by the Municipality. Plan NH reserves the right to request further information in support of the Municipality's invoice; such requests will toll the reimbursement period until requested information is provided by the Municipality.

Grant funds or Match funds may NOT be used to pay for municipal staff or citizen time for any part of this project.

In addition to consulting services, the Municipality may expend grant funds and/or the cash match funds or the purpose of acquiring materials and services necessary to perform tasks identified in the Application, including but not limited to costs of public notices for meetings and food and beverages for public meetings.

Food and beverage costs will qualify for grant fund reimbursement under the following circumstances and may be incurred directly by the municipality:

- A. The food and beverages purchased with grant funds will be provided at a meeting where the primary purpose is to disseminate information about the municipality's project, or to gather information from the public regarding the project.

The meeting will be open to the general public and the general public will be provided with meaningful advance notice of the meeting.

- B. The cumulative amount of funds used to purchase food and beverages will not exceed 2.5 percent of the grantee's total project budget **\$490.00**).
- C. Grant funds will not be used for the purchase of alcoholic beverages.

7. MATCH and INVOICING.

The Municipality has demonstrated an additional **cash match commitment of \$5000.00**, which meets the requirement of at least 25% of grant funds.

(For the purposes of this Agreement, "match" is defined as a **financial contribution** toward the total project costs made by the Municipality and may consist of direct appropriations contributed by the Municipality specifically for the approved Application, financial gifts, private financial contributions, or grant funds from other sources.)

The Municipality must expend all Match Funds before invoicing Plan NH for MTAG Funds.

Documentation of these expenditures, with a narrative summary report of related activities must be included (see above) with the first invoice to Plan NH. (Report may be the monthly report.)

Proof of *all expenditures* must be documented and submitted with invoices. The documentation should specify which source of funding (Match, MTAG funds) is reimbursing the expenditures.

All MTAG funds must be distributed by March 31 2020.

Note that Plan NH will not release the final 25% of MTAG funds (\$3650.00) until there is demonstration that the Project work has been completed or has reached a stopping point (eg, an ordinance has been drafted and placed on a ballot or submitted to the decision-making authority).
If it appears that this will not happen for the March 2020 Town Meeting, please notify Plan NH no later than November 2, 2019.

Town of Hopkinton

Municipal Technical Assistance Grant Funds \$ 14,600.00

Cash Match, Town of Hopkinton..... 5.000.00

Total project funds: \$ 19,600.00

Of these funds:

- \$730.00 (5% of MTAG funds) *minimum* to be used for Community Outreach and Engagement (COE)
- \$490.00 (2.5% of total project funds) *maximum* may be used for COE meeting food and beverages¹

1. *Of course, the Municipality may spend more from other funds.*

8. PROJECT TERM. The Municipality shall ensure that the Project work is performed in a manner that is consistent with the time periods set forth in the Application and as revised in early 2019. Should additional time be needed, a formal request must be submitted to Plan NH no later than November 1, 2019.

The Municipality acknowledges that it is responsible to complete all Project work and that it shall deliver to Plan NH, as discussed above:

- (a) Monthly reports of all required work as described in the Application;
- (b) All required documentation under this Agreement; and
- (c) Reports of any and all other requirements, duties, obligations and responsibilities of the Municipality under the Application.

The Municipality acknowledges and agrees that Plan NH shall have the sole authority and discretion to determine if the Municipality has met the requirements set forth in this Agreement.

9. **COMPLIANCE WITH APPLICABLE LOCAL, STATE AND FEDERAL LAWS, REGULATIONS, AND RULES.** The Municipality acknowledges and agrees that the MTAG Program is governed by certain local, state and federal laws, regulations, and rules, and agrees that it shall fully comply with all local, state and federal laws, regulations and rules that may be applicable to the services provided hereunder.
10. **LIABILITY AND HOLD HARMLESS.** Plan NH shall not be liable for the action or inaction of the Municipality in the performance of its duties under this Agreement. Further, the Municipality shall indemnify and hold Plan NH and its employees, members, officers, counsel, and other representatives harmless from all claims, causes of action, liability, loss, damage, or expense arising or resulting from the Municipality's actions, including, but not limited to negligence and willful or intentional conduct in performing the work contemplated under this Agreement or arising in any way under this Agreement.
11. **Plan NH's RIGHT TO TERMINATE AGREEMENT.** In the event of a violation of any term or condition of this Agreement by the Municipality, Plan NH shall have the right to terminate this Agreement by giving the Municipality ten (10) days written notice of such termination. Plan NH will reimburse the Municipality for its appropriately-documented Project expenses incurred prior to the effective termination date indicated in its written notice.
12. **MUNICIPALITY'S ADMINISTRATIVE AND FINANCIAL REPORTS AND INFORMATION.** The Municipality represents, warrants and agrees that it shall maintain full and accurate accounts and records, adequate to identify and account for all costs and expenses pertaining to the work performed by the Municipality pursuant to this Agreement and such other records and information as may be deemed necessary by Plan NH to assure proper accounting and use for all MTAG Program funds, including matching funds. The Municipality shall provide PDF copies of all invoices, vouchers, statements and financial records pertaining to this MTAG Program to Plan NH with the submission of each invoice. All such information and records shall be retained for five (5) years by the Municipality and by Plan NH after expiration of this Agreement.
13. **NO INTELLECTUAL PROPERTY RIGHTS.** The Municipality represents, warrants and agrees that any and all reports, plans, drawings or other documents produced or generated in whole or in part under this Agreement shall not be the subject of an application for copyright or other intellectual property right in or protection by, through or on behalf of the Municipality, i.e. the Municipality shall have no intellectual property rights whatsoever in or claims upon or to such reports, plans, drawings or other documents produced or generated in whole or in part under this Agreement.
14. **NO AGENCY.** The Municipality acknowledges and agrees that it has no authority to act on behalf of Plan NH as its agent, representative or in any other capacity whatsoever and that it will not hold itself out as an agent or representative of Plan NH. Further, the Municipality acknowledges and agrees that the Municipality does not and shall not claim or assert to have the right to act for, bind or take any action whatsoever in any capacity whatsoever on behalf of Plan NH.
15. **AUTHORITY.** Plan NH is a 501(c)3 duly organized under the laws of the State of New Hampshire,

and has full power and authority to enter into this Agreement. The Municipality is a political subdivision of the State of New Hampshire and has full power and authority to enter into this Agreement.

16. **WAIVER.** The waiver of a breach of any provision of this Agreement by either party or the failure of either party otherwise to insist upon strict performance of any provision hereof shall not constitute a waiver of any subsequent breach or of any subsequent failure to perform.

17. **NOTICE.** Any notice required under this Agreement shall be given as follows:

Notice to Plan NH:

Robin H. LeBlanc, Executive Director
Plan NH
21 Daniel Street 2nd floor c/o GPI
Portsmouth NH 03801
MAILING ADDRESS: PO Box 1105 Portsmouth NH 03802-1105
603-452-7526
R_leblanc@plannh.org

Notice to the Municipality:

18. **APPLICABLE LAW AND VENUE.** This Agreement shall be governed by and construed in accordance with the laws of the State of New Hampshire. Any legal proceeding relating to this Agreement shall be brought in the proper state or federal court in the State of New Hampshire.

19. **SEVERABILITY.** If any provision of this Agreement is for any reason held illegal, void or invalid, such illegality or invalidity shall not affect the remaining provisions hereof, and this Agreement shall be construed and enforced as if such illegal, void or invalid provisions(s) were not a part hereof.

20. **ENTIRE AGREEMENT.** This writing, along with the exhibits and attachments, constitutes the entire agreement of the parties and all other writings, statements, agreements, or representations whether oral or written are superseded and replaced hereby. No alteration, change or modification of this agreement shall be made except in writing signed by all parties.


21. **BINDING EFFECT.** This Agreement shall be binding upon the parties hereto and upon their successors, heirs, personal representatives and assigns.

IN WITNESS WHEREOF, the parties have hereunto set their hands the day and year first above written.

Plan NH

By:  Date: 28 January 2019
Robin H. LeBlanc, Executive Director
Plan NH

Town of Hopkinton:

By:  Date: 3/11/2019
Neal A. Cass
Town Administrator

[Signature, Printed Name and Title]
Duly Authorized