MLC

56

CDFA
COMMUNITY DEVELOPMENT FINANCE AUTHORITY

April 12, 2023

His Excellency, Governor Christopher T. Sununu
and the Honorable Council
State House
Concord, New Hampshire 03301

Requested Action

Authorize the Community Development Finance Authority (CDFA), under the Community Development Block Grant (CDBG) program, to award a grant to the Town of Conway, 1634 E Main Street, Conway, New Hampshire 03813 in the amount of $500,000 to support the 109 Pine Street Affordable Housing project situated at 109 Pine Street, North Conway, New Hampshire, upon Governor and Council approval for the period effective April 12, 2023, through June 30, 2025. **100% federal funds.**

Explanation

The Town of Conway is requesting $500,000, on behalf of The Bluebird Project, LLC. to support its multi-unit residential rehabilitation project situated at 109 Pine Street in North Conway, New Hampshire. Five (62%) of the eight units will be occupied by households of low and moderate income. There is a severe lack of workforce housing in Conway and the larger Mt. Washington Valley area with less than a 1% vacancy rate according to the The 2021 NH Residential Rental Cost survey. The goal of the Bluebird Project is to provide stable, high quality, long-term housing for the local Mt. Washington Valley community by addressing the severe lack of housing and ensuring that low- and moderate-income households have access to quality housing. Matched funding in the amount of $1,856,000 will be provided by owner equity, bank financing and utility funds.

This Agreement allocates a portion of the Community Development Block Grant (CDBG) funds provided to New Hampshire by the U. S. Department of Housing and Urban Development (HUD). CDFA is administering this program as provided by RSA 162-L. The funds for this contract are from the Community Development Block Grant Fund, which is intended to help municipalities solve development problems.

Sincerely,

Katherine Easterly Martey
Executive Director

KEM/ms

Attachments

FORM NUMBER G-1 (version 11/2021)

GRANT AGREEMENT

The State of New Hampshire and the Grantee hereby
Mutually agree as follows:
GENERAL PROVISIONS

1. Identification and Definitions.

1.1. State Agency Name **Community Development Finance Authority**		**1.2. State Agency Address** **14 Dixon Avenue** **Concord, NH 03301**	
1.3. Grantee Name **Town of Conway**		**1.4. Grantee Address** **PO Box 2680** **Conway, NH 03818**	
1.5 Grantee Phone # **603-447-3811**	**1.6. Account Number** **22-016-CDHS-2**	**1.7. Completion Date** **June 30, 2025**	**1.8. Grant Limitation** **$ 500,000**
1.9. Grant Officer for State Agency **Cynthia Harrington, Chair, Board of Directors**		**1.10. State Agency Telephone Number** **603-226-2170**	
If Grantee is a municipality or village district: **"By signing this form we certify that we have complied with any public meeting requirement for acceptance of this grant, including if applicable RSA 31:95-b."**			
1.11. Grantee Signature 1 **Date:** 3/9/2023		**1.12. Name & Title of Grantee Signor 1** **John Eastman, Town Manager**	
Grantee Signature 2		**Name & Title of Grantee Signor 2**	
Grantee Signature 3		**Name & Title of Grantee Signor 3**	
1.13 State Agency Signature(s) Katherine Easterly Martey **Date:** Mar 16, 2023		**1.14. Name & Title of State Agency Signor(s)** **Katherine Easterly Martey, Executive Director**	
1.15. Approval by Attorney General (Form, Substance and Execution) (if G & C approval required) **By:** Yakhmina Rakhmatova **Assistant Attorney General, On:** 3/23/2023			
1.16. Approval by Governor and Council (if applicable) **By:** **On:** / /			

2. SCOPE OF WORK: In exchange for grant funds provided by the State of New Hampshire, acting through the Agency identified in block 1.1 (hereinafter referred to as "the State"), the Grantee identified in block 1.3 (hereinafter referred to as "the Grantee"), shall perform that work identified and more particularly described in the scope of work attached hereto as EXHIBIT B (the scope of work being hereinafter referred to as "the Project").

3. AREA COVERED. Except as otherwise specifically provided for herein, the Grantee shall perform the Project in, and with respect to, the State of New Hampshire.

4. EFFECTIVE DATE; COMPLETION OF PROJECT.

4.1. This Agreement, and all obligations of the parties hereunder, shall become effective on the date on the date of approval of this Agreement by the Governor and Council of the State of New Hampshire if required (block 1.16), or upon signature by the State Agency as shown in block 1.14 ("the Effective Date").

4.2. Except as otherwise specifically provided herein, the Project, including all reports required by this Agreement, shall be completed in ITS entirety prior to the date in block 1.7 (hereinafter referred to as "the Completion Date").

5. GRANT AMOUNT; LIMITATION ON AMOUNT; VOUCHERS; PAYMENT.

5.1. The Grant Amount is identified and more particularly described in EXHIBIT C, attached hereto.

5.2. The manner of, and schedule of payment shall be as set forth in EXHIBIT C.

5.3. In accordance with the provisions set forth in EXHIBIT C, and in consideration of the satisfactory performance of the Project, as determined by the State, and as limited by subparagraph 5.5 of these general provisions, the State shall pay the Grantee the Grant Amount. The State shall withhold from the amount otherwise payable to the Grantee under this subparagraph 5.3 those sums required, or permitted, to be withheld pursuant to N.H. RSA 80:7 through 7-c.

5.4. The payment by the State of the Grant amount shall be the only, and the complete payment to the Grantee for all expenses, of whatever nature, incurred by the Grantee in the performance hereof, and shall be the only, and the complete, compensation to the Grantee for the Project. The State shall have no liabilities to the Grantee other than the Grant Amount.

5.5. Notwithstanding anything in this Agreement to the contrary, and notwithstanding unexpected circumstances, in no event shall the total of all payments authorized, or actually made, hereunder exceed the Grant limitation set forth in block 1.8 of these general provisions.

6. COMPLIANCE BY GRANTEE WITH LAWS AND REGULATIONS. In connection with the performance of the Project, the Grantee shall comply with all statutes, laws regulations, and orders of federal, state, county, or municipal authorities which shall impose any obligations or duty upon the Grantee, including the acquisition of any and all necessary permits and RSA 31-95-b.

7. RECORDS and ACCOUNTS.

7.1. Between the Effective Date and the date seven (7) years after the Completion Date, unless otherwise required by the grant terms or the Agency, the Grantee shall keep detailed accounts of all expenses incurred in connection with the Project, including, but not limited to, costs of administration, transportation, insurance, telephone calls, and clerical materials and services. Such accounts shall be supported by receipts, invoices, bills and other similar documents.

7.2. Between the Effective Date and the date seven (7) years after the Completion Date, unless otherwise required by the grant terms or the Agency pursuant to subparagraph 7.1, at any time during the Grantee's normal business hours, and as often as the State shall demand, the Grantee shall make available to the State all records pertaining to matters covered by this Agreement. The Grantee shall permit the State to audit, examine, and reproduce such records, and to make audits of all contracts, invoices, materials, payrolls, records of personnel, data (as that term is hereinafter defined), and other information relating to all matters covered by this Agreement. As used in this paragraph, "Grantee" includes all persons, natural or fictional, affiliated with, controlled by, or under common ownership with, the entity identified as the Grantee in block 1.3 of these provisions

8. PERSONNEL.

8.1. The Grantee shall, at its own expense, provide all personnel necessary to perform the Project. The Grantee warrants that all personnel engaged in the Project shall be qualified to perform such Project, and shall be properly licensed and authorized to perform such Project under all applicable laws.

8.2. The Grantee shall not hire, and it shall not permit any subcontractor, subgrantee, or other person, firm or corporation with whom it is engaged in a combined effort to perform the Project, to hire any person who has a contractual relationship with the State, or who is a State officer or employee, elected or appointed.

8.3. The Grant Officer shall be the representative of the State hereunder. In the event of any dispute hereunder, the interpretation of this Agreement by the Grant Officer, and his/her decision on any dispute, shall be final.

9. DATA; RETENTION OF DATA; ACCESS.

9.1. As used in this Agreement, the word "data" shall mean all information and things developed or obtained during the performance of, or acquired or developed by reason of, this Agreement, including, but not limited to, all studies, reports, files, formulae, surveys, maps, charts, sound recordings, video recordings, pictorial reproductions, drawings, analyses, graphic representations, computer programs, computer printouts, notes, letters, memoranda, paper, and documents, all whether finished or unfinished.

9.2. Between the Effective Date and the Completion Date the Grantee shall grant to the State, or any person designated by it, unrestricted access to all data for examination, duplication, publication, translation, sale, disposal, or for any other purpose whatsoever.

9.3. No data shall be subject to copyright in the United States or any other country by anyone other than the State.

9.4. On and after the Effective Date all data, and any property which has been received from the State or purchased with funds provided for that purpose under this Agreement, shall be the property of the State, and shall be returned to the State upon demand or upon termination of this Agreement for any reason, whichever shall first occur.

9.5. The State, and anyone it shall designate, shall have unrestricted authority to publish, disclose, distribute and otherwise use, in whole or in part, all data.

10. CONDITIONAL NATURE OR AGREEMENT. Notwithstanding anything in this Agreement to the contrary, all obligations of the State hereunder, including, without limitation, the continuance of payments hereunder, are contingent upon the availability or continued appropriation of funds, and in no event shall the State be liable for any payments hereunder in excess of such available or appropriated funds. In the event of a reduction or termination of those funds, the State shall have the right to withhold payment until such funds become available, if ever, and shall have the right to terminate this Agreement immediately upon giving the Grantee notice of such termination.

11. EVENT OF DEFAULT; REMEDIES.

11.1. Any one or more of the following acts or omissions of the Grantee shall constitute an event of default hereunder (hereinafter referred to as "Events of Default"):

11.1.1 Failure to perform the Project satisfactorily or on schedule; or

11.1.2 Failure to submit any report required hereunder; or

11.1.3 Failure to maintain, or permit access to, the records required hereunder; or

11.1.4 Failure to perform any of the other covenants and conditions of this Agreement.

11.2. Upon the occurrence of any Event of Default, the State may take any one, or more, or all, of the following actions:

11.2.1 Give the Grantee a written notice specifying the Event of Default and requiring it to be remedied within, in the absence of a greater or lesser specification of time, thirty (30) days from the date of the notice; and if the Event of Default is not timely remedied, terminate this Agreement, effective two (2) days after giving the Grantee notice of termination; and

11.2.2 Give the Grantee a written notice specifying the Event of Default and suspending all payments to be made under this Agreement and ordering that the portion of the Grant Amount which would otherwise accrue to the Grantee during the period from the date of such notice until such time as the State determines that the Grantee has cured the Event of Default shall never be paid to the Grantee; and

11.2.3 Set off against any other obligation the State may owe to the Grantee any damages the State suffers by reason of any Event of Default; and

11.2.4 Treat the agreement as breached and pursue any of its remedies at law or in equity, or both.

12. TERMINATION.

12.1. In the event of any early termination of this Agreement for any reason other than the completion of the Project, the Grantee shall deliver to the Grant Officer, not later than fifteen (15) days after the date of termination, a report (hereinafter referred to as the "Termination Report") describing in detail all Project Work performed, and the Grant Amount earned, to and including the date of termination.

12.2. In the event of Termination under paragraphs 10 or 12.4 of these general provisions, the approval of such a Termination Report by the State shall entitle the Grantee to receive that portion of the Grant amount earned to and including the date of termination.

12.3. In the event of Termination under paragraphs 10 or 12.4 of these general provisions, the approval of such a Termination Report by the State shall in no event relieve the Grantee from any and all liability for damages sustained or incurred by the State as a result of the Grantee's breach of its obligations hereunder.

12.4. Notwithstanding anything in this Agreement to the contrary, either the State or, except where notice default has been given to the Grantee hereunder, the Grantee, may terminate this Agreement without cause upon thirty (30) days written notice.

13. CONFLICT OF INTEREST. No officer, member of employee of the Grantee, and no representative, officer or employee of the State of New Hampshire or of the governing body of the locality or localities in which the Project is to be performed, who exercises any functions or responsibilities in the review or

approval of the undertaking or carrying out of such Project, shall participate in any decision relating to this Agreement which affects his or her personal interest or the interest of any corporation, partnership, or association in which he or she is directly or indirectly interested, nor shall he or she have any personal or pecuniary interest, direct or indirect, in this Agreement or the proceeds thereof.

14. GRANTEE'S RELATION TO THE STATE. In the performance of this Agreement the Grantee, its employees, and any subcontractor or subgrantee of the Grantee are in all respects independent contractors, and are neither agents nor employees of the State. Neither the Grantee nor any of its officers, employees, agents, members, subcontractors or subgrantees, shall have authority to bind the State nor are they entitled to any of the benefits, workmen's compensation or emoluments provided by the State to its employees.

15. ASSIGNMENT AND SUBCONTRACTS. The Grantee shall not assign, or otherwise transfer any interest in this Agreement without the prior written consent of the State. None of the Project Work shall be subcontracted or subgranted by the Grantee other than as set forth in Exhibit B without the prior written consent of the State.

16. INDEMNIFICATION. The Grantee shall defend, indemnify and hold harmless the State, its officers and employees, from and against any and all losses suffered by the State, its officers and employees, and any and all claims, liabilities or penalties asserted against the State, its officers and employees, by or on behalf of any person, on account of, based on, resulting from, arising out of (or which may be claimed to arise out of) the acts or omissions of the Grantee or subcontractor, or subgrantee or other agent of the Grantee. Notwithstanding the foregoing, nothing herein contained shall be deemed to constitute a waiver of the sovereign immunity of the State, which immunity is hereby reserved to the State. This covenant shall survive the termination of this agreement.

17. INSURANCE.

17.1 The Grantee shall, at its own expense, obtain and maintain in force, or shall require any subcontractor, subgrantee or assignee performing Project work to obtain and maintain in force, both for the benefit of the State, the following insurance:

17.1.1 Statutory workers' compensation and employees liability insurance for all employees engaged in the performance of the Project, and

17.1.2 General liability insurance against all claims of bodily injuries, death or property damage, in amounts not less than $1,000,000 per occurrence and $2,000,000 aggregate for bodily injury or death any one incident, and $500,000 for property damage in any one incident; and

17.2. The policies described in subparagraph 17.1 of this paragraph shall be the standard form employed in the State of New Hampshire, issued by underwriters acceptable to the State, and authorized to do business in the State of New Hampshire. Grantee shall furnish to the State, certificates of insurance for all renewal(s) of insurance required under this Agreement no later than ten (10) days prior to the expiration date of each insurance policy.

18. WAIVER OF BREACH. No failure by the State to enforce any provisions hereof after any Event of Default shall be deemed a waiver of its rights with regard to that Event, or any subsequent Event. No express waiver of any Event of Default shall be deemed a waiver of any provisions hereof. No such failure of waiver shall be deemed a waiver of the right of the State to enforce each and all of the provisions hereof upon any further or other default on the part of the Grantee.

19. NOTICE. Any notice by a party hereto to the other party shall be deemed to have been duly delivered or given at the time of mailing by certified mail, postage prepaid, in a United States Post Office addressed to the parties at the addresses first above given.

20. AMENDMENT. This Agreement may be amended, waived or discharged only by an instrument in writing signed by the parties hereto and only after approval of such amendment, waiver or discharge by the Governor and Council of the State of New Hampshire, if required or by the signing State Agency.

21. CONSTRUCTION OF AGREEMENT AND TERMS. This Agreement shall be construed in accordance with the law of the State of New Hampshire, and is binding upon and inures to the benefit of the parties and their respective successors and assignees. The captions and contents of the "subject" blank are used only as a matter of convenience, and are not to be considered a part of this Agreement or to be used in determining the intend of the parties hereto.

22. THIRD PARTIES. The parties hereto do not intend to benefit any third parties and this Agreement shall not be construed to confer any such benefit.

23. ENTIRE AGREEMENT. This Agreement, which may be executed in a number of counterparts, each of which shall be deemed an original, constitutes the entire agreement and understanding between the parties, and supersedes all prior agreements and understandings relating hereto.

24. SPECIAL PROVISIONS. The additional or modifying provisions set forth in Exhibit A hereto are incorporated as part of this agreement.

Grantee Initials: [signature] PEL

Date: 3/16/2023

EXHIBIT A

Special Provisions

Modifications, additional and/or deletions to Form G-1, Grant Agreement, General Provisions, described in detail.

NONE

Initials

EXHIBIT B

GRANT ACTIVITIES

1. PROJECT DESCRIPTION AND PURPOSE

1.1. The project shall consist of the awarding of $500,000 in Community Development Block Grant ("CDBG") funds to the Town of Conway (the "Grantee") (UEI #D6JLA8DF7525), $475,000 of which is to be subgranted to The Bluebird Project, LLC (the "Subrecipient") (UEI#X8TRWJHJAMG6) to support its multi-unit residential rehabilitation project situated at 109 Pine Street, Conway, New Hampshire (the "Project"). The Scope of the Project shall be more completely defined in the Specifications and Plans ("Plans") to be developed in connection with this Agreement. The property for which CDBG Grant funds will be used (the "Project Property") is more particularly described in the deed for said property, to be attached to this Grant Agreement as Attachment I.

1.2. Consistent with the National Objectives of the Community Development Block Grant Program under Title I of the Housing and Community Development Act of 1974, as amended, the Parties agree that this project will benefit the residents in eight rental housing units of which five units (62%) shall be of low- and moderate-income as that term is defined in 24 CFR 570.483.

1.3. Project activities to be undertaken in connection with the Project shall comply with all applicable federal, state, and local design standard regulations and safety and construction codes.

2. GRANT ADMINISTRATION

2.1. Grantee shall use its own staff (or a hired grant administrator) and resources to perform all activities necessary to administer the CDBG funds in accordance with the provisions of this Agreement.

2.2. Grantee shall be permitted to use up to $25,000 of CDBG funds as reimbursement for Administrative Project Costs, as that term is defined by applicable state and federal guidelines and as is provided for in Exhibit C. In no event shall administrative costs reimbursable with grant funds exceed fifteen (15) percent of the total Grant Funds.

2.3. Grantee shall enforce the terms and conditions of the Subrecipient Agreement to be entered into as is provided in this contract.

2.4. Grantee shall send, at a minimum, its grant administrator, or a designated representative involved in the administration of this Grant, to the next CDBG Grant Implementation Workshop to be offered by the Community Development Finance Authority.

2.5. Grantee shall submit to the CDFA all required reports as specified in this Agreement and shall monitor and enforce the reporting requirements of the Subrecipient as provided in this Agreement or any Exhibits or attachments hereto.

2.6. Grantee shall provide such training, as is necessary to the Subrecipient, to secure satisfactory performance of its duties and responsibilities under the Subrecipient Agreement.

Initial Here

2.7. Grantee shall monitor the Subrecipient for compliance with the Subrecipient Agreement and all pertinent requirements referenced herein.

2.8. Grantee shall enter into a Closeout Agreement with the Subrecipient and CDFA, as required by CDFA.

2.9. Within thirty (30) days of executing this Agreement, Grantee shall submit to CDFA for approval an Implementation Schedule for completion of the Project. Grantee shall obtain the prior approval of CDFA for any changes in the Implementation Schedule.

3. STATE AND FEDERAL COMPLIANCE

3.1. Grantee shall comply, and shall require any Subrecipient, contractor and subcontractor to comply, with all federal and state laws, including but not limited to the following, and all applicable standards, rules, orders, ordinances, or regulations issued pursuant thereto:

3.1.1. The Copeland "Anti-Kickback" Act, as amended (118 USC 874) as supplemented in Department of Labor regulations (41 CFR Chapter 60).

3.1.2. Nondiscrimination. Title VI of the Civil Rights Act of 1974 PL 88- 352), as amended, (42 USC 2000d) the Fair Housing Act of 1968 PL 90-284), Executive Orders 11063 and 12259, and the requirements imposed by the Regulations of the Department of Housing and Urban Development (24 CFR 107 and 24 CFR 570.496) issued pursuant to that Title.

3.1.3. Labor Standards. Davis-Bacon Act, as amended (40 USC 276a-276a-7), the Contract Work Hours and Safety Standards Act (40 USC 327-333).

3.1.4. The Flood Disaster Protection Act of 1973 (PL 93-234), as amended, and the regulations issued pursuant to that act, and Executive Order 11985.

3.1.5. Architectural Barriers Act (PL 90-480), 42 USC 4151, as amended, and the regulations issued or to be issued thereunder, including uniform accessibility standards (24 CFR 40) for public buildings with 15 or more residential units. RSA 275-C:10 and the New Hampshire Architectural Barrier Free Design Code (Han 100, et. seq.) is also applicable.

3.1.6. Rehabilitation Act of 1973. 29 USC 794, Sections 503 and 504, Executive Order 11914 and U.S. Department of Labor regulations issued pursuant thereto.

3.1.7. The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (PL 91-646), as amended, 15 CFR Part 916 including amendments thereto and regulations thereunder.

3.1.8. The National Environmental Policy Act of 1969 (PL 90-190): the National Historic Preservation Act of 1966 (80 Stat 915, 116 USC 470); and Executive Order No. 11593 of May 31, 1971, as specified in 24 CFR 58.

3.1.9. The Clean Air Act, as Amended, 42 USC 1857 et seq., the Federal Water Pollution Control Act, as amended, 33 USC 1251 et seq. and the regulations of the Environmental Protection Agency with respect thereto, at 40 CFR Part 15, as amended from time to time.

Initial Here

3.1.10. RSA 354 and rules of the New Hampshire Human Rights Commission (HUM 100, et. seq.) on discrimination in employment, membership, accommodations, and housing.

3.1.11. The Age Discrimination Act of 1975, as amended (42 USC 6101, et. seq.) and implementation of regulations.

3.1.12. The lead paint requirements (24 CFR 35) of The Lead-Based Paint Poisoning Prevention Act (42 USC 4821, et. seq.).

3.1.13. The NH State Energy Code (RSA 155-D).

3.1.14. The NH State Life Safety Code (RSA 155:1) and rules of the NH State Fire Marshall.

3.1.15. Citizen Participation Requirements. The 1987 amendments to the Housing and Community Development Act of 1974, stated in Section 508.

3.1.16. Affirmative Action Requirements. In furtherance of its covenant Grantee shall:

(a) take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, creed, age, sex, or national origin; such action shall be taken in conjunction with any of the Grantee's acts in the capacity of an employer including, but not limited to: employment of individuals, upgrading, demotions or transfers, recruitment or recruitment advertising; layoffs or terminations; changes in rates of pay or other forms of compensation; selection for training, including apprenticeship, and participation in recreational and educational activities;

(b) post in conspicuous places available to employees and applicants, employment notices, to be provided by CDFA, setting forth the provisions of this non-discrimination clause; the Grantee will, in all solicitations or advertisements for employees, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, creed, age, sex or national origin;

(c) keep all such information, records and reports as may be required by the rules, regulations or orders of the Secretary of Labor and furnish or submit the same at such times as may be required; the Grantee shall also permit CDFA, or the Secretary of Labor or any of their designated representatives to have access to any of the Grantee's books, records and accounts for the purpose of investigation to ascertain compliance with the aforesaid rules, regulations and orders and covenants and conditions herein contained;

(d) during the term of this Agreement, shall not discriminate among participants under this Agreement on the basis of race, color, religion, sex, handicap or national origin. For the purpose of this Agreement, distinctions on the grounds of the following: denying a participant any service or benefit or availability of a facility; providing any service or benefit to a participant which

Initial Here

is different, or is provided in a different manner or at a different time from that provided to other participants under this Agreement; subjecting a participant to segregation or separate treatment in any matter related to his receipt of any service; restricting a participant in any way in the enjoyment of any advantage or privilege enjoyed by others receiving any service or benefit; treating a participant differently from others in determining whether he satisfies any admission, enrollment quota, eligibility, membership, or other requirement or condition which individuals must meet in order to be provided any service or benefit; the assignment of times or places for the provision of services on the basis of race, color, religion, sex, or national origin of the participants to be served.

3.1.17. Section 3 of the Housing and Urban Development Act of 1968 (12 USC 1701u) as amended by the Housing and Community Development Act of 1974 (42 USC 5301). The contractor will ensure that to the greatest extent feasible, opportunities for training and employment arising in connection with this CDBG-assisted project will be extended to lower income project area residents. Further, the contractor will, to the greatest extent feasible, utilize business concerns located in or substantially owned by residents of the project area, in the award of contracts and purchase of service and supplies.

3.1.18. Drug-Free Workplace Act of 1988 (42 USC. 701). In carrying out this Agreement, the contractor agrees to comply with the requirements of the Drug-Free Workplace Act of 1998 (42 U.S.C. 701) and to certify that contractor will comply with drug-free workplace requirements in accordance with the Act and with HUD rules found at 24 CFR part 24, subpart F.

3.1.19. Federal Funding Accountability and Transparency Act (FFATA).

As applicable to this grant, and for all subcontracts exceeding $25,000, Grantee shall require that the Subgrantee or Subrecipient shall comply with requirements established by the Office of Management and Budget (OMB) concerning the Unique Entity Identifier (UEI), the Central Contractor Registration (CCR) database, and the Federal Funding Accountability and Transparency Act, including Appendix A to Part 25 of the Financial Assistance Use of Universal Identifier and Central Contractor Registration, 75 Fed. Reg. 55671 (Sept. 14, 2010) (to be codified at 2 CFR part 25) and Appendix A to Part 170 of the Requirements for Federal Funding Accountability and Transparency Act Implementation, 75 Fed. Reg. 55663 (Sept. 14, 2010) (to be codified at 2 CFR part 170). For additional information on FFATA reporting and the FSRS system, please visit the www.fsrs.gov website, which includes FFATA legislation, FAQs and OMB guidance on subaward and executive compensation reporting.

3.1.20. Women- and Minority-Owned Businesses (W/MBE): If applicable to this grant, Grantee and Subrecipient will use its best efforts to afford small businesses, minority business enterprises, and women's business enterprises the maximum practicable opportunity to participate in the performance of this Agreement. As used in this Agreement, the terms "small business" means a business that meets the criteria set forth in section 3(a) of the Small Business Act, as amended (15 U.S.C. 632), and "minority and women's business enterprise" means a business at least fifty-one (51) percent owned and controlled by minority group members or women. For the purpose of this definition, "minority group members" are Afro-Americans, Spanish-speaking, Spanish surnamed or Spanish-heritage Americans, Asian-Americans, and American Indians. The Subrecipient may rely on written representations by

Initial Here

businesses regarding their status as minority and female business enterprises in lieu of an independent investigation.

4. SUBRECIPIENT AGREEMENT

4.1. Grantee shall enter into a Subrecipient Agreement with the Subrecipient in a form satisfactory to CDFA and meeting the requirements of Attachment II, "Subrecipient Agreement Minimum Terms and Conditions" attached hereto and incorporated herein by reference..

4.2. The Subrecipient Agreement shall provide for the subgranting of $475,000 in CDBG funds to the Subrecipient consistent with the terms and conditions of this Agreement.

4.3. Grantee shall provide to CDFA, for its review and approval, the proposed Subrecipient Agreement prior to its execution. Prior to the disbursement of grant funds but not more than thirty (30) days following the Effective Date of this Agreement, Grantee shall provide to CDFA an executed copy of said Subrecipient Agreement.

4.4. The Subrecipient Agreement shall require the Subrecipient to enter into a Mortgage Lien with Grantee that meets the requirements as provided herein.

4.5. Grantee shall cause all applicable provisions of this Exhibit B to be inserted in all Subrecipient agreements, contracts and subcontracts for any work or Project Activities covered by this Agreement so that the provisions will be binding on each Subrecipient, contractor and subcontractor; provided, however, that the foregoing provisions shall not apply to contracts for standard commercial supplies or raw materials. Grantee shall take such action with respect to any Subrecipient agreement, contract or subcontract as the State, or, where applicable, the United States, may direct as a means of enforcing such provisions, including sanctions for noncompliance.

5. PROJECT MATCHING FUNDS; ADDITIONAL FINANCING

5.1. The Parties agree that the CDBG funds to be awarded pursuant to this Agreement shall be matched with non-CDBG funds in an amount not less than $1,856,000 consisting of owner equity, a Union Bank loan and utility funds.

5.2. Grant funds shall not be released or disbursed to Grantee unless and until the additional financing and matching requirements described above have been obtained and documented to CDFA's satisfaction.

6. MORTGAGE LIEN

6.1. Prior to approval by CDFA of any purchase or construction contract for the Property, Grantee shall execute and record with the applicable County Registry of Deeds a mortgage lien (the "Mortgage") on the Property acceptable to CDFA in the amount of $475,000. Grantee shall submit to CDFA satisfactory evidence of such recording.

6.2. The mortgage lien shall provide for the recovery by Grantee, on behalf of CDFA, of the total CDBG funds expended on this Project in the event that the low- and moderate-income benefit as defined herein is not maintained for the required five (5) year period commencing upon the completion

of the Project. The amount of CDBG funds subject to recovery in accordance with this paragraph shall decrease over the five (5) year period at a rate negotiated between Grantee and Subrecipient and approved by CDFA.

6.3. Any CDBG funds returned to Grantee pursuant to enforcement of any Mortgage Liens shall be returned to CDFA.

7. COVENANT OF LONG-TERM BENEFIT FOR LOW- AND MODERATE-INCOME HOUSEHOLDS

7.1. Grantee and CDFA agree that five of the eight units (62%) benefiting from this Project shall be occupied by households of low- and moderate-income, as defined in 24 CFR 570.483.

7.2. Grantee shall require the Subrecipient to certify and warrant that, from the Project Completion Date to the end of the five (5) year benefit period, the beneficiaries of the project shall primarily be of low- and moderate-income households, as defined in 24 CFR 570.483 and rent shall not exceed 100 percent of the "Fair Market Rent for Existing Housing" published by HUD under 24 CFR 888 in the Federal Register.

7.3. Grantee shall require Subrecipient to maintain adequate administrative mechanisms in place to assure compliance with the requirements of this Section. Grantee shall enforce the provision of this Section, which shall survive the termination or expiration of this Agreement.

8. CONSTRUCTION CONTRACTING, INSPECTION, AND CERTIFICATION

8.1. Prior to execution of the construction contract or project contracts, Grantee shall submit the proposed contract(s) for the Improvements to CDFA for its review and approval to determine compliance with all applicable federal and state requirements. CDFA approval shall not abrogate its rights to enforce any part of this Agreement or constitute a waiver of any provision of this Agreement.

8.2. Grantee or Subrecipient shall require that all contractors and subcontractors comply with all applicable requirements of federal, state, and local laws and regulations.

8.3. Grantee or Subrecipient shall furnish and maintain competent technical supervision of the Project site throughout the construction of the Improvements to assure that the work conforms to the Plans, specifications, and schedules approved by CDFA for the Project.

8.4. Grantee shall provide CDFA reasonable notice of all preconstruction conferences, if applicable, to be scheduled in connection with the Grant Activities and afford CDFA the option of participating in such conferences.

8.5. Bid Guarantees: Units of local government shall follow their own normal requirements relating to bid guarantees or bonds or performance bonds.

8.6. Bonds Required: Grantee covenants that each of its officials or employees having custody of the Grant funds during acquisition, construction, development, and operation of Grant Activities shall be bonded at all times in accordance with RSA 41:6 and rules adopted thereunder by the Department of Revenue Administration.

8.7. Subcontracts, Bonds Required: When Grantee or any Subrecipient awards a contract or

Initial Here

subcontract exceeding $250,000 in amount for the construction, alteration or repair of any public building or other public improvement or public work, including highways, the Grantee shall, or where applicable Subrecipient shall, as a minimum, require each contractor and subcontractor to carry payment and performance bonds for 100% of the value of the contract.

8.8. Upon completion in full of the improvements, Grantee shall promptly deliver to CDFA: (a) a written certificate of Grantee or Subrecipient's Inspector, who shall be a licensed professional engineer, that the construction of the Project has been fully completed in a good and workmanlike manner and in accordance with the Plans, and (b) a copy of the permanent certificate of occupancy or other such applicable certificates, licenses, consents and approvals issued by governmental authorities with respect to the Project.

8.9. All work under this Project shall be completed prior to Completion Date, as specified in Section 1.7 of the General Provisions.

9. PUBLIC FACILITY AND HOUSING REHABILITATION STANDARDS (IF APPLICABLE)

9.1. The following standards shall apply to all public facilities and housing rehabilitated with Grant funds, as applicable to project type:

9.1.1. HUD Section 8 Existing Housing Quality Standards as listed in 24 CFR 982.401, paragraphs (a) through (n), or municipal housing and/or building, electrical and plumbing codes where such codes exceed the HUD standards;

9.1.2. Where applicable, the state building code as defined in RSA 155-A; and

9.1.3. Where applicable, the state's architectural barrier-free design code.

10. GRANTEE FINANCIAL MANAGEMENT SYSTEM

10.1. Except where inconsistent with federal requirements, state procedures and practices will apply to funds disbursed by CDFA, and local procedures and practices will apply to funds disbursed by units of local government.

10.2. Cash Advances: Cash advances to Grantee shall be approved only to the extent necessary to satisfy the actual, immediate cash requirements of Grantee in carrying out the purpose of the approved program or project. The timing and amount of cash advances shall be as close as is administratively feasible to the actual disbursements by Grantee for direct program costs and the proportionate share of any allowable indirect costs. Cash advances made by Grantee to Subrecipients shall conform to the same standards of timing and amount as apply to advances to Grantee including the furnishing of reports of cash disbursements and balances.

10.3. Fiscal Control: Grantee must establish fiscal control and fund accounting procedures which assure proper disbursement of, and accounting for, grant funds and any required non-federal expenditures. This responsibility applies to funds disbursed by Subrecipients and contractors as well as to funds disbursed in direct operations of Grantee. Grantee shall be required to maintain a financial management system which complies with 2 CFR 200 and 24 CFR 570 or such equivalent system as CDFA may require. Requests for payment shall be made according to CDFA's CDBG Implementation Guide.

Initial Here

11. PROCUREMENT

11.1. Grantee and any Subrecipient procurement procedures shall be in accordance with state and local procurement practices and regulations, provided that procurements made with Grant Funds adhere, at a minimum, to the standards set forth in 2 CFR Part 200.318-326.

12. REPORTS AND CLOSE OUT

12.1. Semi-Annual progress reports which identify the status of Grant Activities performed, the outlook for completion of the remaining Grant Activities prior to the Completion Date and the changes, if any which need to be made in the Project or Grant Activities, shall be submitted by the 15th of the month in January (for period end December 30th) and July (for period end June 30th) via CDFA's Grants Management System (GMS).

12.2. Financial reports, including a statement detailing all Grant or Project Costs (as hereinafter defined) which have been incurred since the prior request for reimbursement, shall be submitted with each request for reimbursement and with the Closeout Report. Financial Reports shall be submitted via CDFA's Grants Management System (GMS).

12.3. Within thirty (30) days after the Completion Date, a Closeout Report shall be submitted which summarizes the results of the Grant Activities, showing in particular how the Grant Activities have been performed. The Closeout Report shall be in the form required or specified by CDFA.

12.4. The Audited Financial Reports shall be prepared in accordance with the regulations which implement OMB 2 CFR Part 200. The audited financial report shall be submitted within thirty (30) days of the completion of said report to CDFA.

12.5. Where the Grantee is not subject to the requirements of OMB 2 CFR Part 200, one of the following options will be chosen by CDFA:

12.5.1 Within ninety (90) days after the Completion or Termination Date, an audited financial report shall be submitted to CDFA. Said audit shall be conducted utilizing the guidelines set forth in "Standards for Audit of Governmental Organizations, Programs, Activities, and Functions" by the Comptroller General of the United States.

12.5.2 CDFA will conduct a financial Review-In-Lieu of Audit within ninety (90) days after the Completion Date of the Project.

12.6. Where the length of the grant period exceeds twenty-four (24) months, there shall be an interim audit performed and submitted.

13. RECORDS AND ACCOUNTS: ACCESS

13.1. During the performance of the Project Activities and for a period of three (3) years after the Completion Date, the date of the final audit approval by CDFA, or three years following HUD's closeout of CDFA's grant year, whichever is later, the Grantee shall keep, and shall require any Subrecipient to keep, the following records and accounts:

Initial Here

13.1.1. Records of Direct Work: Detailed records of all direct work performed by its personnel under this Agreement.

13.1.2. Fiscal Records: Books, records, documents and other statistical data evidencing, and permitting a determination to be made by CDFA of all Project Costs and other expenses incurred by the Grantee and all income received or collected by the Grantee, during the performance of the Project Activities. The said records shall be maintained in accordance with accounting procedures and practices acceptable to CDFA, and which sufficiently and properly reflect all such costs and expenses, and shall include, without limitation, all ledgers, books, audits, records and original evidence of costs such as purchase requisitions and orders, invoices, vouchers, bills, requisitions for materials, inventories, valuations of in-kind contributions, labor time cards, payrolls and other records requested or required by CDFA.

13.1.3. Contractor and Subcontractor Records: The Grantee shall, and where applicable, Subrecipient shall, establish, maintain and preserve, and require each of its contractors and subcontractors to establish, maintain and preserve property management, project performance, financial management and reporting documents and systems, and such other books, records, and other data pertinent to the project as the CDFA may require. Such records shall be retained for a period of three (3) years following completion of the project and receipt of final payment by the Grantee, until an audit is completed and all questions arising therefrom are resolved, or three years following HUD's closeout of CDFA's grant year, whichever is later.

14. TERMINATION; REMEDIES

14.1. Inability to Perform; Termination by Grantee. As a result of causes beyond its control, and notwithstanding the exercise of good faith and diligence in the performance of its obligations hereunder, if it shall become necessary for Grantee to terminate this Agreement, Grantee shall give CDFA fifteen (15) days advance written notice of such termination, in which event the Agreement shall terminate at the expiration of said fifteen (15) days.

14.2. Termination without Default. In the event of termination without default and upon receipt, acceptance and approval by CDFA of the Termination Report, as referenced in the General Provisions, Grantee shall receive payment for all Project Costs incurred in the performance of Grant Activities completed up to and including the date of termination and for which payment had not previously been made including, but not limited to, all reasonable expenses incurred in the preparation of the Termination Report; provided, however, that in the event that any payments have been made hereunder in excess of Project Costs incurred up to and including the date of termination of the Agreement, CDFA shall offset any payments to be made hereunder against such payments, and if applicable, Grantee shall refund to CDFA the amount of any excess funds it retains after such offset.

14.3. Termination for Default. In the event of termination for default or other violation of Program requirements, CDFA shall, upon receipt, acceptance and approval of the Termination Report submitted by Grantee, pay Grantee for Project Costs incurred up to and including the date of termination (subject to off-set against funds paid to Grantee hereunder and to the refund of any excess funds); provided, however, that in such event the amount of such payment shall be determined solely by CDFA; and provided, further, that in no event shall the making of any such payments relieve Grantee of any liability for damages sustained or incurred by CDFA as a result of Grantee's breach of its obligations hereunder,

Initial Here

or relieve Grantee of responsibility to seek return of Grant Funds from any Subrecipient or Beneficiary where applicable.

14.4. Limitation on Grantee Liability for Subgranted Funds. Notwithstanding anything in this Agreement to the contrary and absent the presence of fraud or negligence on the part of Grantee in enforcing its rights and obligations under the terms of any subrecipient agreement, the sole obligation of Grantee with respect to the return of Grant Funds, in the event of default on a grant condition or other termination of the Project or event requiring return of Grant Funds, shall be to make a good faith effort to return to the State of New Hampshire all grant funds paid to Subrecipient through Grantee. Grantee shall make good faith efforts to enforce the legal obligations entered into with the Subrecipient as provided herein, to call upon the collateral held by itself or others, and exercise due diligence in its efforts in bringing about the satisfaction of the grant obligations and, having done so, it shall not be required to look to any other funds or its tax base to recoup grant funds not recovered from the Subrecipient.

14.5. Assignment to CDFA and Payment of Expenses and Costs. Grantee hereby agrees that, in the event it fails to enforce the provisions of any subrecipient agreement or fails to cure an Event of Default resulting in termination of this Agreement or the Project, Grantee shall, upon demand by CDFA, assign and convey to CDFA all or any of its rights, title and interest, or delegate to CDFA all or any of its obligations under the Subrecipient Agreement and any Mortgage, Promissory Note, Security Agreement or other agreement as applicable. Such delegation or assignment shall be effective only in the event of a default by Subrecipient or Beneficiary in its or their obligations under the Subrecipient Agreement or other agreement. In the event that CDFA assumes any of the obligations of Grantee as provided herein, Grantee shall pay all costs and expenses incurred by CDFA in the enforcement of the Subrecipient Agreement, collection upon any loan, mortgage or other security, or in curing any Event of Default.

14.6. Where the Grant Agreement or Subrecipient Agreement is terminated or the Project is otherwise terminated due to a default, inability to perform, or reason other than project completion and Grant Funds are required to be returned by Grantee, the disposition of Grant Funds to be returned shall be determined solely by CDFA.

15. ADDITIONAL GRANT REQUIREMENTS

15.1. Grantee shall prepare and adopt a written Code of Ethics governing the performance of its employees engaged in the procurement of supplies, equipment, construction and services consistent with the requirements of 24 CFR 85.36(b)(3). The Code of Ethics shall be prepared in the form shown in the CDBG Implementation Guide, and shall be formally adopted prior to requesting Grant funds. The Grantee shall also comply with the conflict of interest policy consistent with the requirements of 24 CFR 570.489(h) and 2 CFR 200 and shall be approved by CDFA.

15.2. Grantee shall prepare and adopt a financial management plan, that complies with 2 CFR 200 and 24 CFR 570 and is approved by CDFA, which describes Grantee's system for receiving and expending the grant funds including the internal controls, which shall ensure compliance as outlined within this Grant Agreement. The plan shall be formally adopted prior to requesting Grant funds.

15.3. Grantee shall submit to CDFA all required documentation of low- and moderate-income benefit in accordance with the reporting requirements of the Subrecipient Agreement. The information shall be provided on the Periodic Progress Report, as found in the Community Development Block Grant Program (CDBG) Implementation Guide.


Initial Here

15.4. Special Assessment. Grantee certifies that it shall not levy special assessments or charge access fees against properties owned and occupied by low- and moderate-income persons to recover capital costs of public improvements which were assisted in whole or in part with CDBG funds. Grantee may request in writing and the Director of CDFA may give written permission in certain situations under 24 CFR 570.482 (b) to recover that portion of capital costs financed with non-CDBG funds from non-low- and moderate-income households.

15.5. Affirmatively Furthering Affordable Housing. Grantee certifies that it has no ordinances, codes or written policies which effectively exclude mobile homes or manufactured housing and rental housing which may be occupied by low- and moderate-income households.

15.6. Affirmatively Furthering Fair Housing. Grantee certifies that it will conduct and administer the grant in conformity with the Fair Housing Act (42 USC 3601-20) and will affirmatively further fair housing.

15.7. In the event Grantee fails to enforce the provisions of the Subrecipient Agreement or fails to cure an Event of a Default under the Subrecipient Agreement, Grantee shall, upon demand by CDFA, assign and convey all or any part of its rights, title and interest or delegate all or any of its obligations under the Subrecipient Agreement or the Mortgage to CDFA, such assignment or delegation to be effective only in the event of a default in Subrecipient's obligation to Grantee under the terms of the Subrecipient Agreement or Mortgage. In such event, Grantee agrees to pay and shall pay all reasonable costs and expenses incurred by CDFA in the enforcement of the Subrecipient or Mortgage obligations or in curing any Event of Default thereunder.

15.8. CDFA shall have the right to terminate all or any part of its obligations under this Agreement in the event that any official, employee, architect, engineer, attorney, or inspector of, or for the Grantee, or any governmental official or representative becomes directly or indirectly interested financially in the acquisition of any materials or equipment, or in any construction of the Project, or in the furnishing of any service to or in connection with the Project, or any benefit arising therefrom.

15.9. Excessive Force by Law Enforcement Agencies. Grantee certifies that it has adopted and enforces a policy prohibiting the use of excessive force by law enforcement agencies within its jurisdiction against any individuals engaged in nonviolent civil rights demonstrations in accordance with Section 519 of Public Law 101-144.

15.10. Lobbying. Grantee certifies that:

15.10.1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

15.10.2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of

Initial Here

Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard form - LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

15.10.3. The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all Subrecipient's shall certify and disclose accordingly.

15.11. Certification of Nonsegregated Facilities as required by the May 9, 1967, Order (32 FR 7439, May 19, 1967) on Elimination of Segregated Facilities, by the Secretary of Labor. Prior to the award of any construction contract or subcontract exceeding $10,000, Grantee shall require the prospective prime contractor and each prime contractor shall require each subcontractor to submit the following certification:

15.11.1. By the submission of this bid, the bidder, offer or, applicant or subcontractor certifies that he/she does not maintain or provide for his/her employees any segregated facilities at any of his/her establishments, and that he/she does not permit his/her employees to perform their services at any location, under his/her control where segregated facilities are maintained.

15.11.2. He/she certifies further that he/she will not maintain or provide for his/her employees any segregated facilities at any of his/her establishments, and that he/she will not permit his/her employees to perform their services at any location, under his/her control, where segregated facilities are maintained. The bidder, offer or, applicant, or subcontractor agrees that a breach of this certification is a violation of the Equal Opportunity clause in this Agreement. As used in this certification, the term "segregated facilities" means any waiting rooms, work areas, rest rooms and wash rooms, restaurants and other eating areas, time clocks, locker rooms and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation, and housing facilities provided for employees which are segregated by explicit directive or are in fact segregated on the basis of race, creed, color or national origin, because of habit, local custom, or otherwise. He/she further agrees that (except where he/she has obtained identical certifications from proposed subcontractors for specific time periods) he/she will obtain identical certifications from proposed subcontractors prior to the award of subcontracts exceeding $10,000 which are not exempt from the provisions of the Equal Opportunity clause: that he/she will retain such certifications in his/her files: and that he/she will forward the following notice to such proposed subcontractors (except where the proposed subcontractors have submitted identical certifications for specific time periods):

NOTICE TO PROSPECTIVE SUBCONTRACTORS OF REQUIREMENT FOR CERTIFICATIONS OF NONSEGREGATED FACILITIES

NOTE: The penalty for making false statements in offers is prescribed in 18 USC 1001.

16. PUBLICITY AND SIGNAGE

16.1. Public Relations. The Grantee shall grant CDFA the right to use the Grantee's name, likeness, and logo in any public relations or publicity efforts. This shall include, but not be limited to, press

Initial Here

releases, media interviews, website, publications, brochures, etc. CDFA's publicity efforts may also include details about Grantee's project, contract, or other publically available information.

16.2. Reciprocal Publicity. The Grantee also shall acknowledge CDFA appropriately in all organizational and public forums as to the support, financial and otherwise, that has been provided to the project. This recognition shall include, but not be limited to, print/electronic media, publications, interviews, brochures, website, etc.

16.3. Project Signage. For construction/renovation projects – CDFA logo must be included in signage at the job worksite. CDFA logo may not be any smaller than 50% of the size of the largest logo displayed. This requirement can be waived if no other partner/entity requires worksite signage and creating signage solely for CDFA poses a hardship. Alternative – If none of these are applicable/feasible, an alternative display of the CDFA logo or public recognition may be used with permission from CDFA.

Initial Here

EXHIBIT C

PROJECT COSTS; METHOD AND TERMS OF PAYMENT

1. PROJECT COSTS; PAYMENT SCHEDULE; REVIEW BY CDFA

1.1 Program Activity Costs: As used in this Agreement, the term "Program Activity Costs" shall mean all reimbursable costs incurred in performance of the Grant activities. "General Administration Costs" shall mean all expenses directly or indirectly incurred by Grantee in the performance of the Project Activities, as determined by CDFA to be eligible and allowable for payment in accordance with allowable administrative project cost standards set forth in 2 CFR Part 200 as revised from time to time, and with the rules, regulations, and guidelines established by CDFA. General Administrative costs include but are not limited to: preparation of environmental review, record keeping, reporting, audits, and oversight of any Project closing and/or construction and compliance with all federal, state, and local laws, rules, and regulations and this contract. In no event shall General Administration Costs exceed fifteen (15) percent of the total Grant funds allowed. With respect to a nonprofit subrecipient, such subrecipient shall meet the requirements of 2 CFR Part 200.

1.2 Delivery Costs: If applicable to this Agreement, the term "Delivery Costs" shall mean all reimbursable costs incurred by a Subrecipient as set forth in Attachment I, "Sources and Uses" in connection with a regional revolving loan fund that are directly related to the preparation and execution of loan documents and to the monitoring and administration of the loan provisions, and which are allowable by the New Hampshire Community Development Block Grant program rules.

1.3 Payment of Program Activity Costs: Subject to the terms and conditions of this agreement, CDFA agrees to pay Grantee all Program Activity Costs, provided, however, that in no event shall the total of all payments made by CDFA pursuant to this Agreement exceed the Grant Amount as set out in Paragraph 1.8 of the General Provisions, and provided further that all Project Costs shall have been incurred prior to the Completion Date, except for reasonable approved Program Activity Costs incurred within 90 days after the Completion Date and in connection with closeout requirements as required in CDFA's Community Development Block Grant Implementation Guide.

1.4 Review by CDFA; Disallowance of Costs: At any time during the performance of the Program Activities, and upon receipt of the Progress Reports, Closeout Report, or Audited Financial Report, CDFA may review all Program Activity Costs incurred by Grantee or any Subrecipient and all payments made to date. Upon such review, CDFA shall disallow any items of expense which are not determined to be allowable or are determined to be in excess of actual expenditures, and shall, by written notice specifying the disallowed expenditures, inform Grantee of any such disallowance. If CDFA disallows costs for which payment has not yet been made, it shall refuse to pay such costs. If payment has been made with respect to costs which are subsequently disallowed, CDFA may deduct the amount of disallowed costs from any future payments under this Agreement or require that Grantee refund to CDFA the amount of the disallowed costs.

2. METHOD AND TERMS OF REIMBURSEMENT FOR PROGRAM ACTIVITY COSTS

2.1 When Project Funds May Be Released. CDFA shall not disburse any funds for the purposes of this Project until such time as all agreements specified in Exhibit B and any other agreements or documents specified pursuant to this Agreement are fully executed and received, and where applicable are reviewed and approved in writing by CDFA. Agreements and documents may include:

Initial Here

2.1.1 A Subrecipient Agreement, as applicable;

2.1.2 Documentation of other committed match funds or additional financing necessary, as identified in Exhibit B;

2.1.3 A copy of any required deed, survey, map, or other document pertaining to the Project Property or Premises;

2.1.4 Copies of required certificates of insurance from all parties to this agreement;

2.1.5 Purchase and Sale Agreement, engineering, construction, consultant, or other contracts;

2.1.6 Certification/verification of employment documentation or household income documentation;

2.1.7 Any lease and loan documents, mortgages, liens, security instruments, municipal bonds, and similar agreements used in connection with the enforcement of beneficiary requirements, as well as any other related documents as requested by CDFA.

2.2 Timing of Payments. Upon thirty (30) days of the receipt, review, and approval by CDFA of financial reports and requests for reimbursement from Grantee specifying all Program Activity Costs incurred, CDFA agrees to reimburse Grantee for Program Activity Costs. Reimbursement may be withheld until CDFA determines that a particular project activity or portion of the project activity hereunder has been satisfactorily completed.

2.3 Disbursement of funds by CDFA does not constitute acceptance of any item as an eligible Program Activity Cost until all Program Activity Costs have been audited and determined to be allowable costs.

3. REQUIRED DOCUMENTATION FOR DISBURSEMENT OF GRANT FUNDS

3.1 Reimbursement requests for all Program Activity Costs, including General Administrative Costs, Delivery Costs, and Subrecipient costs, shall be accompanied by proper supporting documentation in the amount of each requested disbursement along with a payment request form as supplied by CDFA, which shall be completed and signed by Grantee. Documentation may include invoices for supplies, equipment, services, contractual services, and, where applicable, a report of salaries paid or to be paid.

4. LIMITATIONS ON USE OF FUNDS

4.1 Grant funds are to be used in a manner consistent with the State of New Hampshire Community Development Block Grant Program as approved by the U.S. Department of Housing and Urban Development.

4.2 Grant funds are to be used only in accordance with procedures, requirements and principles specified in 2 CFR 200 and 24 CFR 85.

4.3 Grant funds may not, without advance written approval by CDFA, be obligated prior to the Effective Date or subsequent to the Completion Date of the grant period. Obligations outstanding as of the Completion Date shall be liquidated within ninety (90) days. Such obligations must be related to goods or services provided during the grant period, except that reasonable costs associated solely with

Initial Here

grant closeout, (e.g., audits, final reports) may be incurred within ninety (90) days after the Completion Date. The funding assistance authorized hereunder shall not be obligated or utilized for any activities requiring a release of funds under the Environmental Review Procedure for the Community Development Block Grant Program at 24 CFR 58, until such release is issued in writing by CDFA.

4.4 Changes in Funding Project Activities: Grantee may submit a written request for the authority to transfer up to ten (10) percent of the full value of the grant from one approved activity to another listed in herein or from an approved activity within the approved project area to an approved activity located outside the project area and the Director of CDFA may approve the requested transfer.

4.5 Transfers over ten percent of the full value of the grant from one approved activity to other approved activities or outside the target area, or the addition of one or more new activities requires an amendment to this grant agreement. Grantee shall hold a public hearing in accordance with RSA 162-L:14 II(b) when submitting a request for an amendment involving twenty-five (25) percent or more of the full value of the grant.

4.6 Up to $475,000 of Grant Funds may be applied by Grantee for costs related to the Project Activity.

4.7 Up to $25,000 of Grant Funds may be applied by Grantee for costs related to the General Administration of the grant.

5. PERFORMANCE OF SERVICES BY GRANTEE PRIOR TO EFFECTIVE DATE; PAYMENT BY CDFA. Any Grant Activities performed by Grantee with non-CDBG funds prior to the Effective Date shall be performed at the sole risk of Grantee, and in the event that this Agreement shall not become effective, CDFA shall be under no obligation to pay Grantee for any costs incurred in connection with any Grant Activities, or to otherwise pay for any Activities performed during such period.

6. PROGRAM INCOME (IF APPLICABLE)

6.1 Program Income: All program income earned during the term of this Agreement shall be retained by Grantee or, in projects involving the administration of a revolving loan fund by the Subrecipient.

6.2 When Used for Project Activities: When program income becomes available, Grantee and, where applicable, Subrecipient shall use it for Grant Activities contained in the Project Description before drawing down additional funds unless the program income is deposited in a revolving loan account with prior approval by CDFA.

6.3 When Used for Eligible Activities: After completion of the Grant Activities specified in this Agreement, Grantee and, where applicable, Subrecipient shall use program income only for eligible activities which benefit primarily people from low- and moderate-income families, with prior approval by CDFA as specified in the Closeout Agreement between CDFA and Grantee and, where applicable, Subrecipient.

Initial Here

Attachment I

Warranty Deed

KNOW ALL MEN BY THESE PRESeNTS THAT We, **MICHAEL DIODATI AND PATRICIA DIODATI, TRUSTEES OF THE DIODATI REALTY TRUST,** dated 11/12/02 and having a mailing address of 22 Thomas Road, Lawrence Massachusetts 01843 for consideration paid grants to **The Bluebird Project, LLC with a mailing address of Balcony View, North Conway, New Hampshire 03860** with WARRANTY COVENANTS:

A certain tract or parcel of land, with the buildings thereon, situated on the easterly side of Pine Street, in the Village of North Conway, Count of Carroll and State of New Hampshire, as shown on plan entitled "Boundary-Line Adjustment Plan Between the Bunker & Waltz, Pine Street, in North Conway Village, Town of Conway, New Hampshire, prepared for Briggs H. Bunker & Miles E. Waltz", as drawn by H. E. Bergeron, P.A., recorded at Carroll County Registry of Deeds, Plan Book 208, Page 78, more particularly bounded and described as follows:

Beginning North 74° 14' 13" East or a distance of 1.87 from a rebar found, said point being in the northwesterly most corner of the within described premises, and being situate on the easterly sideline of Pine Street, so-called, thence turning and running North 74° 14' 37" East, a distance of 153.92 feet to a point marked by a 36" white pine; thence turning and running South 63° 17' 43" East, a distance of 18.94 feet by a 34" white pine; thence turning and running South 81° 54' 16" East, a distance of 37.39 feet to an iron pipe found; thence turning and running North 88° 21' 15" East, a distance of 98.99 feet to the northeasterly most point of the within described premises; thence turning and running South 5° 3' 27" East, a distance of 97.69 feet to an 8"x 8" stone post, said stone post marking the southeasterly most point of the within described premises; thence turning and running South 88° 21' 15" West, a distance of 121.74 feet to a 6" x 7" stone post found; thence turning and running North 9° 20' 22" West, a distance of 18.08 feet to a rebar set; thence turning and running South 77° 58' 33" West, a distance of 159.04 feet to a rebar set on the easterly sideline of Pine Street, so-called, said point being the southwesterly most point of the within described premises; thence turning and running North 19° 3' 48" West, a distance of 90.18 feet to the point and place of beginning.

EXCEPTING AND RESERVING from this conveyance any right by layout of Pine Street that the Town of Conway may have in and to said premises.

Subject to easements of record if any there be and to the extent any are in force but specifically excluding the easement conveyed at Book 134, Page 343 which is not conveyed by this deed.

The above described property is not the homestead property of the Grantors.

Being the same premises conveyed to Michael Diodati and Patricia Diodati, Trustees of the Diodati Realty Trust by deed of Briggs H. Bunker dated March 8, 2006 and recorded in the Carroll County Registry of Deeds at Book 2523, Page 0659.

Signed this 28th day of DECEMBER, 2021.

Michael Diodati, Trustee of Diodati Realty Trust

Patricia Diodati, Trustee of Diodati Realty Trust

STATE OF ~~NEW HAMPSHIRE~~ MAINE
OXFORD COUNTY, SS. DATE: 12/28/2021

Then personally appeared the above named Michael Diodati, Trustee of Diodati Realty Trust and Patricia Diodati, Trustee of Diodati Realty Trust and acknowledged the foregoing instrument as their free act and deed, before me.

Notary Public/Justice of the Peace
My Commission Expires:_____
Print or Type Name:

ANDREW P. PIERCE
Notary Public-Maine
My Commission Expires
July 01, 2026

ATTACHMENT II

SUBRECIPIENT AGREEMENT
MINIMUM TERMS AND CONDITIONS

Town of Conway ("Grantee") hereby warrants and agrees that the Subrecipient Agreement with The Bluebird Project, LLC ("Subrecipient") to be executed in conformance with the requirements of Exhibit B of the Grant Agreement shall be subject to approval by CDFA. The Subrecipient Agreement shall incorporate the entire Grant Agreement and shall include it as an attachment, and shall contain at a minimum the following terms and conditions:.

1. REPRESENTATIONS AND WARRANTIES. Subrecipient shall represent and warrant:

1.1 Subrecipient is a duly organized and validly existing New Hampshire limited liability company in good standing under the laws of the State of New Hampshire. Subrecipient has the power and authority to undertake the grant activities as provided in the Grant Agreement. Subrecipient has the power and authority to own its properties, to conduct business as it is now being conducted, has the power to execute and deliver and perform its obligation under the Subrecipient Agreement and all other documents as applicable to this grant agreement.

1.2 The Subrecipient Agreement is the legal, valid and binding obligation of the Subrecipient and is enforceable against Subrecipient, in accordance with each document's respective terms.

1.3 Subrecipient has complied in all material respects with all applicable federal, state and local laws, statutes, rules and regulations pertaining to the grant activities.

1.4 No application, exhibit, schedule, report or other written information provided by Subrecipient or its agents in connection with the grant application knowingly contained, when made, any material misstatement of fact or knowingly omitted to state any material fact necessary to make the statements contained therein not misleading, in light of the circumstances under which they were made.

2. PROJECT DESCRIPTION AND SUBGRANT ACTIVITIES.

2.1 Project Description.

The project shall consist of the awarding of $500,000 in Community Development Block Grant ("CDBG") funds to the Town of Conway (the "Grantee") (UEI #D6JLA8DF7525), $475,000 of which is to be subgranted to The Bluebird Project, LLC (the "Subrecipient") (UEI#X8TRWJHJAMG6) to support its multi-unit residential rehabilitation project situated at 109 Pine Street, Conway, New Hampshire (the "Project").

2.2 Benefit to Low- and Moderate- Income Households.

The general purpose of the project is to principally benefit Low- and Moderate-Income Households as that term is defined in the Grant Agreement and as referenced in 24 CFR 570.483 as determined by the U. S. Department of Housing and Urban Development (HUD) for the State of New Hampshire. The most current HUD Income Limits may be found at CDFA's website at www.nhcdfa.org

Initial Here

2.3 Grant of Funds/Matching Funds.

2.3.1 Subrecipient shall use the Grant funds subgranted to it solely for the purposes described herein and consistent with the required terms and conditions of the Grant Agreement and Subrecipient Agreement.

2.3.2 Subrecipient shall be subgranted a total of $475,000 of the CDBG funds, in order to carry out the Project Activity.

2.3.3 The Grantee shall retain $25,000 of the grant for administrative costs associated with management of the Grant.

2.3.4 The Parties agree that the CDBG funds to be awarded pursuant to this Agreement shall be matched with non-CDBG funds in an amount not less than $1,856,000 consisting of owner equity, a Union Bank loan and utility funds..

3. SUBRECIPIENT REQUIREMENTS.

3.1 Compliance with Laws. Subrecipient shall comply with all applicable federal, state and local laws, statutes, executive orders and rules as they relate to the application, acceptance and use of funds for this Project, including, but not limited to, the requirements as specified in the Grant Agreement.

3.2 Disbursement of Grant Funds. Upon compliance with, and subject to the provisions of this Agreement and provided there shall exist no Event of Default under this Agreement, the Grant Agreement or any other agreements, in connection with the Project, and no condition or event which, with the giving of notice or lapse of time would constitute such an Event of Default, the Grantee shall, upon submittal of written requests for payment accompanied by invoices and other documentation or supporting documents as required by the Grantee, make disbursements of grant funds. Disbursement of grant funds shall be in accordance with the terms of the Grant Agreement, including Exhibit C.

Disbursement of funds by the Grantee does not constitute acceptance by the Grantee or CDFA of any item as an eligible Project cost until all Project costs have been audited and determined to be allowable costs. Upon the expiration of the Grant Agreement, or other termination of the project, Subrecipient shall transfer to the Grantee any Grant funds on hand at the time of expiration and any accounts receivable attributable to the use of CDBG funds.

3.3 Security. Prior to approval by CDFA of any contract for the Property, Subrecipient shall provide Grantee a mortgage lien in the amount of $475,000 (the "Mortgage") on the Property, or other acceptable security to CDFA, as set forth in Exhibit B. Grantee shall submit to CDFA satisfactory evidence of such recording.

The mortgage lien shall provide for the recovery by Grantee, on behalf of CDFA, of the total CDBG funds expended on this Project in the event that the low- and moderate-income benefit as defined herein is not maintained for the required five-year period commencing upon the completion of the Project. The amount of CDBG funds subject to recovery in accordance with this paragraph shall decrease over the five-year period at a rate negotiated between Grantee and Subrecipient and approved by CDFA.

4. COVENANT OF LONG TERM BENEFIT FOR LOW- AND MODERATE-INCOME PERSONS.

4.1 Subrecipient shall covenant and warrant that upon Project completion, five of the eight units

Initial Here

(62%) benefitting from the Project shall be occupied by Low- and Moderate-Income Persons as that term is defined in 24 CFR 570.483.

4.2 At time of Grantee's submission of the Closeout Report to CDFA as provided in Exhibit B of the Grant Agreement, Subrecipient shall certify the number of households at the Project Property are occupied by Low- and Moderate-Income Persons and are benefiting as a result of this Project. Subrecipient shall, for closeout purposes only, gather information on those groups deemed as "Protected" by HUD and required for reporting on the "Periodic Progress Report" as provided in the most current edition of the "CDBG Implementation Guide."

4.3 Subrecipient shall further covenant and warrant that the Property shall remain in use as residential property and from the Project Completion Date to the end of the five (5) year benefit period, the beneficiaries of the project shall primarily be of low- and moderate-income households, as defined in 24 CFR 570.483 and rent shall not exceed 100 percent of the "Fair Market Rent for Existing Housing" published by HUD under 24 CFR 888 in the Federal Register. Subrecipient has and will continue in its Bylaws or other administrative provisions an adequate administrative capacity to ensure that this benefit is maintained for said period. This covenant shall survive the expiration or termination of this Agreement.

4.4 In the event that Subrecipient grants, conveys, leases or otherwise transfers its interests in the Property, Subrecipient shall include a clause in such deed, lease or similar transfer instrument whereby the other party, for himself, his heirs, personal representatives, successors in interest, and assigns, as a part of the consideration therefore, covenants and agrees, as a covenant running with the land, that the property shall continue to be used as residential property and shall continue to be made available to Low- and Moderate-Income households for the remainder of the Benefit Period.

4.5 Subrecipient shall not sell, lease, encumber, otherwise transfer, or dispose of any part of its title or other interests in the Property, for the duration of the terms, conditions, and assurances in this Agreement, without the approval of Grantee.

5. SCHEDULE.

5.1 Implementation Schedule. The Grantee and Subrecipient have agreed to an Implementation Schedule, which will provide for the completion of all grant activities, prior to the Grant Completion Date. A schedule of major milestones shall be provided within the Subrecipient Agreement, and shall serve as a basis for enforcement of the Agreement.

5.2 Grant Completion Date. All work shall be completed prior to the Grant Completion Date as specified in Section 1.7 of the General Provisions. This date may be extended only with the permission of the Grantee, CDFA, and the Governor and Council.

6. INSURANCE & TAXES.

6.1 Subrecipient's Liability Insurance. Subrecipient shall, at its sole expense, obtain and maintain in force insurance in such amounts and covering such risks as are customary for entities engaged in the same or similar business to include, where applicable, comprehensive general liability covering any property development/construction activities and landlord insurance. At a minimum, this shall include insurance against all claims of bodily injury or property damage, in amounts of not less than $1,000,000 per occurrence and $2,000,000 aggregate.

6.2 If applicable, Subrecipient shall also, at its sole expense, obtain and maintain in force fire and extended coverage insurance covering all real property or assets purchased with Grant funds in an amount not less

Initial Here

than 100% of the whole replacement value of the property.

6.3 Insurance Standards. The policies described in this section shall be the standard form employed in the State of New Hampshire, issued by underwriters acceptable to the State, and authorized to do business in the State of New Hampshire. All policies shall be on an "occurrence" basis. Each policy shall contain a clause prohibiting cancellation or modification of the policy earlier than thirty (30) days after written notice thereof has been received by the Grantee and CDFA.

6.4 All policies shall name the Grantee and CDFA as additional insureds. Subrecipient shall provide the Grantee with certificates of insurance satisfactory to the Grantee, which evidence compliance with this Section.

6.5 Taxes. If applicable, Subrecipient shall pay all taxes, assessments, charges, fines and impositions attributable to the Property, which is the responsibility of the Subrecipient. Any alternative arrangements will require the approval of CDFA, whose consideration shall not be unreasonably withheld.

7. REPORTING REQUIREMENTS: PERIODIC AND CLOSEOUT AGREEMENTS.

7.1 Semi-Annual Reports. Semi-Annual reports shall be submitted by the Subrecipient to the Grantee, not less than five (5) business days prior to the semi-annual submission date, that is, no later than July 10, for the period of January 1 through June 30 and no later than January 10, for the period of July 1 through December 31 of each year. The reporting period shall begin on the date of Governor and Council approval and end on the Completion Date specified in Section 1.7 of the General Provisions of the contract between the Grantee and CDFA.

7.2 Closeout Agreement. Subrecipient shall enter into a Closeout Agreement with the Grantee and CDFA, which shall specify the reporting and other requirements applicable to the closing out of this Project.

7.3 Subrecipient Financial Reporting. Subrecipient shall submit to the Grantee and to CDFA its annual audited financial statements, within 90 days of its fiscal year end.

8. ACCOUNTING, AUDIT, AND RECORD KEEPING REQUIREMENTS

8.1 Accounting Records. Subrecipient shall keep all Project-related accounts and records, which fully disclose the amount and disposition by Subrecipient of the grant funds, the total cost of the Project, and the amount and nature of any portion of the Project cost supplied by other sources, and such other financial records pertinent to the Project. Accounts and records shall be kept in accordance with an accounting system that will facilitate an effective audit in accordance with the OMB Circular A-133 (for fiscal year 2016 and prior) and 2 CFR 200 (for fiscal year 2017 and ongoing). Records to be maintained shall include Project fiscal records consisting of all books, documents, ledgers, systems and expenses incurred, including, but not limited to, purchase, requisitions, orders, invoices, vouchers, bills and receipts, inventories, all lien documents, surveys, certified payrolls, and other documents verifying low- and moderate-income household or employment information.

8.2 Time Period. All of the records, documents, and data described above and all income verification information shall be kept during the performance of the project, and for three (3) years after its completion, until the satisfactory completion of an audit, or three years following HUD's closeout of CDFA's grant year, whichever is later.

8.3 Availability of Records. Subrecipient shall make available to the Grantee, CDFA, and HUD or any of their duly authorized representatives, for the purpose of audit and examination, any books, documents, papers

Initial Here

and records of Subrecipient pertinent to this Agreement.

9. INDEMNIFICATION.

Subrecipient shall defend, indemnify and hold harmless Grantee and the State, their officers and employees, from and against any and all losses suffered by Grantee or the State, their officers and employees, and any and all claims, liabilities or penalties asserted against Grantee and the State, their officers and employees, by or on behalf of any person, on account of, based on, resulting from, arising out of or claimed to arise out of the acts or omissions of Subrecipient.

Notwithstanding the foregoing, nothing herein contained shall be deemed to constitute a waiver of the sovereign immunity of the State, which immunity is hereby reserved to the State. This covenant shall survive the termination or expiration of this Agreement.

10. MAINTENANCE OF CORPORATE EXISTENCE; BY-LAWS.

10.1 Corporate Existence. Subrecipient shall both preserve and maintain the legal existence and good standing of its limited liability company status and its registration in New Hampshire as required to do business.

10.2 Scope of Mission. Subrecipient and Grantee agree that the Subrecipient's Articles of Incorporation and Corporate Bylaws ("Bylaws") as submitted with the Project application and incorporated herein by reference, provide an adequate administrative mechanism for assuring the Subrecipient's mission of for providing affordable housing for Low- and Moderate-Income Persons, during the Grant Period, as required pursuant to this agreement. This paragraph shall survive the termination of this agreement for a period not to exceed five (5) years.

11. MAINTENANCE OF PROPERTY.

11.1 Subrecipient shall maintain, keep and preserve in good working order and condition all of its property and assets necessary or useful in the proper conduct of its business and operation of the Project Property improved with Grant funds.

11.2 Subrecipient shall continue to operate and maintain, keep and preserve in good working order and repair the Project improvements at the Property, and shall operate the Project improvements in compliance with all applicable federal, state and local statutes, regulations, rules and orders.

12. EVENTS OF DEFAULT. The occurrence of any of the following events shall constitute an Event of Default under the Subrecipient Agreement:

12.1 The Property shall cease to be operated in accordance with the Project Purpose or Subrecipient shall fail to comply with the requirement of long-term affordability for Low- and Moderate-Income Benefit as provided herein;

12.2 Failure of Subrecipient to complete the Project satisfactorily in accordance with the approved Plans or on schedule or failure to submit any report, documentation or other instrument under this Agreement;

12.3 Subrecipient attempts to assign its rights under this Agreement or any advance made or to be made hereunder or any interest therein, or if the Property or any portion thereof is conveyed or encumbered in

Initial Here

any way without the prior written consent of the Grantee;

12.4 Any survey, report or examination discloses that the Project or Property or any portion thereof encroaches upon or projects over a street or upon or over adjoining property or violates any setback or other restriction, however created, or any zoning regulations or any building restriction of any governmental authority having jurisdiction with respect to the Property;

12.5 The Property or Project are materially damaged or destroyed by fire or other casualty or cause and the insurance proceeds therefrom are inadequate to rebuild or restore the Project or Property to their condition immediately prior to such casualty;

12.6 Any representation or warranty made herein or in any report, certification, or other instrument furnished in connection with this Agreement or any advances of Grant funds made hereunder, by or on behalf of Subrecipient, shall prove to be false or misleading in any material respect;

12.7 Any mechanics', laborers', materialmen's or similar statutory liens, or any notice thereof, shall be filed against the Property and/or the Project and shall not be discharged within thirty (30) days of such filing;

12.8 Subrecipient shall default in the due observance or performance of any covenant, condition, assurance or agreement to be observed or performed by Subrecipient under this Agreement;

12.9 Any cessation occurs at any time in construction of the Project for more than one (1) week except for causes beyond the control of Subrecipient, or if any substantial change is made in the schedule for the construction or in the approved Plans without the prior approval of the Grantee and CDFA;

12.10 Subrecipient shall (i) apply for or consent to the appointment of a receiver, trustee, or liquidator of it or any of its property, (ii) admit in writing its inability to pay its debts as they mature, (iii) make a general assignment for the benefit of creditors, (iv) be adjudicated as bankrupt or insolvent or (v) file a voluntary petition in bankruptcy, or a petition or answer seeking reorganization or an arrangement with creditors or to take advantage of any bankruptcy, reorganization, arrangement, insolvency, readjustment of debt, dissolution or liquidation law or statute, or an answer admitting the material allegations of a petition filed against it in any proceeding under any such law;

12.11 A petition, order, judgment, or decree shall be entered, without the application, approval or consent of Subrecipient by any court of competent jurisdiction, approving a petition seeking reorganization or approving the appointment of a receiver, trustee or liquidator of Subrecipient of all or a substantial part of its assets, and such order judgment or decree shall continue unstayed and in effect for any period of thirty (30) days;

12.12 The dissolution, termination of existence, merger or consolidation of Subrecipient or a sale of assets of Subrecipient out of the ordinary course of business without the prior written consent of the Grantee and CDFA; and

12.13 Failure to remedy an ineligible expenditure of grant funds or to reimburse the Grantee for any ineligible costs, which are paid from grant funds.

13. GRANTEE'S RIGHTS AND REMEDIES UPON DEFAULT.

13.1 Remedies upon Default. Upon the occurrence of any Event of Default, the Grantee may take any one, or more, or all, of the actions described below. Prior to taking any of the following actions, the Grantee will give Subrecipient a written notice of default specifying the Event of Default and requiring it to be remedied within

Initial Here

thirty (30) days from the date of notice. The following actions may be taken only if Subrecipient has not remedied the Event of Default in a timely manner.

13.1.1 Subrecipient acknowledges that, in the event Grantee fails to enforce the provisions of either the Subrecipient Agreement or fails to cure any event of default under the Subrecipient Agreement, Grantee shall, upon demand by CDFA, assign and convey all or any of of its rights, title and interest, or delegate all or any of its obligations under the Subrecipient Agreement to CDFA;

13.1.2 Terminate this Agreement, effective immediately upon giving notice of termination;

13.1.3 Suspend all payment of grant funds to be made pursuant to this Agreement until such time as the Grantee determines the Event of Default has been cured;

13.1.4 Set off against any other obligations the Grantee may owe to Subrecipient for any damages the Grantee may suffer by reason of any Event of Default;

13.1.5 Treat the Agreement as breached and pursue any of its remedies at law or in equity or both;

13.1.6 Foreclose under any available security instrument created under this agreement; and

13.1.7 Assume the right to seek full reimbursement of CDBG funds from the Subrecipient and the right to call on any collateral pledged, as applicable.

13.2 Judicial Enforcement. Subrecipient agrees that the Grantee and CDFA have a right to seek judicial enforcement with regard to any matter arising with respect to this Agreement, to include the assurances, covenants and other conditions, which extend beyond the completion date under this Agreement.

13.3 Disposition of Funds. Where the Grant Agreement or Subrecipient Agreement is terminated or the Project is otherwise terminated due to a default, inability to perform or reasons other than project completion, Grant funds are required to be returned. The disposition of Grant Funds to be returned shall be determined solely by CDFA.

14. ADDITIONAL REPRESENTATIONS AND WARRANTIES. Subrecipient represents and warrants:

14.1 Subrecipient will obtain all necessary approvals of the Plans and all necessary permits for the operation of its business from all governmental authorities having jurisdiction over the Project.

14.2 If applicable, construction of the project will not violate any zoning, environmental, subdivision, or land use ordinance, regulation or law; the Property conforms and complies in all material respects with all covenants, conditions, restrictions, reservations and zoning, environmental land use, and other applicable ordinances, laws, rules and regulations, federal, state, or local, affecting the Property.

14.3 No litigation, claims, suits, orders, investigations or proceedings are pending or threatened against Subrecipient or affecting the Property or the Project at law or in equity or before or by any federal, state, municipal or other governmental instrumentality; there are no arbitration proceedings pending under collective bargaining agreements or otherwise; and to the knowledge of Subrecipient, there is no basis for any of the foregoing. Any exceptions to this section shall be explained in an Exhibit, attached to this agreement.

14.4 Subrecipient has filed all federal, state and local tax returns required to be filed and has paid or

Initial Here

made adequate provision for the payment of all federal, state or local taxes, charges and assessments.

14.5 The execution and delivery and performance by Subrecipient of its obligations under this Agreement have been duly authorized by all requisite corporate action and will not violate any provision of law, any order of any court or other agency of government, or any indenture, agreement or other instrument to which Subrecipient is a party, or by which it is bound, or be in conflict with, result in a breach of, or constitute a default under, or except as may be provided in this Agreement, result in the creation or imposition of any lien, charge or encumbrance of any nature whatsoever upon any of the property or assets of Subrecipient pursuant to any such indenture, agreement or instrument. Subrecipient is not required to obtain any consent, approval or authorization from, or to file any declaration or statement with, any governmental instrumentality or other agency in connection with or as a condition to the execution, delivery or performance of this Agreement and all other related documents.

14.6 Subrecipient is not contemplating either the filing of a petition under any state or federal bankruptcy or insolvency laws or the liquidating of all or a major portion of its properties, and has no knowledge of any person contemplating the filing of any such petition against it.

14.7 No statement of fact made by or on behalf of Subrecipient in any of the Agreements or related documents or in any certificate, exhibit or schedule furnished to the Grantee pursuant thereto, contains any untrue statement of a material fact or omits to state any material fact necessary to make statements contained therein or herein not misleading. There is no fact or circumstance presently known to Subrecipient that has not been disclosed to the Grantee that materially affects adversely, nor as far as Subrecipient can foresee, will materially affect adversely Subrecipient, operations or considerations (financial or otherwise) of Subrecipient.

14.8 Subrecipient has complied in all material respects with all applicable statutes, regulations, and rules of federal, state, and local governments in respect to the conduct of its business and operations, including without limitation all applicable environmental statutes.

14.9 No Event of Default has occurred and is continuing under this Agreement or the loan documents (if applicable) and no event or condition which would, upon notice of expiration of any applicable cure, constitute an Event of Default has occurred and is continuing; Subrecipient is not in default under any note or other evidence of indebtedness or other obligation for borrowed money or any mortgage, deed to trust, indenture, lease agreement or other agreement relating thereto. Any exceptions to this section shall be explained in an Exhibit, attached to this agreement.

Subrecipient warrants that each of the foregoing representations and warranties is true and correct as of the date of this Agreement and Subrecipient shall indemnify and hold harmless the Grantee, State and CDFA from and against any loss, damage, or liability attributable to the breach thereof, including any and all fees and expenses incurred in the defense or settlement of any claim arising therefrom against the Grantee, State or CDFA.

15. MISCELLANEOUS PROVISIONS.

15.1 Compliance with Laws. Subrecipient shall comply with all applicable federal, state and local laws, statues, regulation, executive orders and rules as they relate to the application, acceptance and use of funds for this project, including, but not limited to, the requirements as specified in the Grant Agreement.

15.2 Compliance with OMB 2 CFR Part 200. Subrecipient acknowledges that it shall meet the requirements of OMB 2 CFR Part 200, to ensure compliance with Administrative Cost Standards.

15.3 No Assignment. Subrecipient shall not assign or transfer any of its rights or obligations under

Initial Here

this Agreement without the prior written consent of the Grantee and CDFA, and any attempted assignment or transfer shall be ineffective, null, void, and of no effect.

15.4 Amendment. No amendment or modification of any provision of this Agreement shall be effective unless it is in writing and executed by both parties and approved by CDFA.

15.5 Governing Law. The Subrecipient Agreement shall be governed by and construed in accordance with laws of the State of New Hampshire.

15.6 No failure on the part of Grantee or CDFA to exercise, and no delay in exercising, any right, power, or remedy under this Agreement or any other agreement contemplated herein shall operate as a waiver thereof; nor shall any single or partial exercise of any right under any such agreements preclude any other or further exercise thereof or the exercise of any other right. The remedies provided herein are cumulative and not exclusive of any remedies provided by law.

15.7 This Agreement, together with all attachments, schedules and exhibits thereto, contains the full, final and exclusive statement of the agreement of the parties and supersedes all prior understandings, representations or agreements, whether written or oral, with respect to such subject matter.

16. PUBLICITY AND SIGNAGE.

16.1 Public Relations. The Subrecipient shall grant CDFA the right to use the Grantee's name, likeness, and logo in any public relations or publicity efforts. This shall include, but not be limited to, press releases, media interviews, website, publications, brochures, etc. CDFA's publicity efforts may also include details about Grantee's project, contract, or other publically available information.

16.2 Reciprocal Publicity. The Subrecipient also shall acknowledge CDFA appropriately in all organizational and public forums as to the support, financial and otherwise, that has been provided to the project. This recognition shall include, but not be limited to, print/electronic media, publications, interviews, brochures, website, etc.

16.3 Project Signage. For construction/renovation projects – CDFA logo must be included in signage at the job worksite. CDFA logo may not be any smaller than 50% of the size of the largest logo displayed. This requirement can be waived if no other partner/entity requires worksite signage and creating signage solely for CDFA poses a hardship. Alternative – If none of these are applicable/feasible, an alternative display of the CDFA logo or public recognition may be used with permission from CDFA.

J.E.
Initial Here

Primex³
NH Public Risk Management Exchange

CERTIFICATE OF COVERAGE

The New Hampshire Public Risk Management Exchange (Primex³) is organized under the New Hampshire Revised Statutes Annotated, Chapter 5-B, Pooled Risk Management Programs. In accordance with those statutes, its Trust Agreement and bylaws, Primex³ is authorized to provide pooled risk management programs established for the benefit of political subdivisions in the State of New Hampshire.

Each member of Primex³ is entitled to the categories of coverage set forth below. In addition, Primex³ may extend the same coverage to non-members. However, any coverage extended to a non-member is subject to all of the terms, conditions, exclusions, amendments, rules, policies and procedures that are applicable to the members of Primex³, including but not limited to the final and binding resolution of all claims and coverage disputes before the Primex³ Board of Trustees. The Additional Covered Party's per occurrence limit shall be deemed included in the Member's per occurrence limit, and therefore shall reduce the Member's limit of liability as set forth by the Coverage Documents and Declarations. The limit shown may have been reduced by claims paid on behalf of the member. General Liability coverage is limited to Coverage A (Personal Injury Liability) and Coverage B (Property Damage Liability) only, Coverage's C (Public Officials Errors and Omissions), D (Unfair Employment Practices), E (Employee Benefit Liability) and F (Educator's Legal Liability Claims-Made Coverage) are excluded from this provision of coverage.

The below named entity is a member in good standing of the New Hampshire Public Risk Management Exchange. The coverage provided may, however, be revised at any time by the actions of Primex³. As of the date this certificate is issued, the information set out below accurately reflects the categories of coverage established for the current coverage year.

This Certificate is issued as a matter of information only and confers no rights upon the certificate holder. This certificate does not amend, extend, or alter the coverage afforded by the coverage categories listed below.

Participating Member:	*Member Number:*	*Company Affording Coverage:*
Town of Conway 1634 East Main Street Center Conway, NH 03813	146	NH Public Risk Management Exchange - Primex³ Bow Brook Place 46 Donovan Street Concord, NH 03301-2624

Type of Coverage	*Effective Date (mm/dd/yyyy)*	*Expiration Date (mm/dd/yyyy)*	*Limits* - NH Statutory Limits May Apply, If Not	
☐ **General Liability (Occurrence Form)** ☐ **Professional Liability (describe)** ☐ Claims Made ☐ Occurrence			Each Occurrence	
			General Aggregate	
			Fire Damage (Any one fire)	
			Med Exp (Any one person)	
☐ **Automobile Liability** Deductible Comp and Coll: ☐ Any auto			Combined Single Limit (Each Accident) Aggregate	
X **Workers' Compensation & Employers' Liability**	1/1/2023	1/1/2024	X Statutory	
			Each Accident	$2,000,000
			Disease – Each Employee	$2,000,000
			Disease – Policy Limit	
☐ **Property (Special Risk Includes Fire and Theft)**			Blanket Limit, Replacement Cost (unless otherwise stated)	

Description: Proof of Primex Member coverage only.

CERTIFICATE HOLDER: ☐ **Additional Covered Party** ☐ **Loss Payee**	**Primex³ – NH Public Risk Management Exchange**
CDFA 14 Dixon Ave, Suite 102 Concord, NH 03301	**By:** Mary Beth Purcell **Date:** 12/16/2022 mpurcell@nhprimex.org **Please direct inquires to:** **Primex³ Claims/Coverage Services** **603-225-2841 phone** **603-228-3833 fax**

Primex³
NH Public Risk Management Exchange

CERTIFICATE OF COVERAGE

The New Hampshire Public Risk Management Exchange (Primex³) is organized under the New Hampshire Revised Statutes Annotated, Chapter 5-B, Pooled Risk Management Programs. In accordance with those statutes, its Trust Agreement and bylaws, Primex³ is authorized to provide pooled risk management programs established for the benefit of political subdivisions in the State of New Hampshire.

Each member of Primex³ is entitled to the categories of coverage set forth below. In addition, Primex³ may extend the same coverage to non-members. However, any coverage extended to a non-member is subject to all of the terms, conditions, exclusions, amendments, rules, policies and procedures that are applicable to the members of Primex³, including but not limited to the final and binding resolution of all claims and coverage disputes before the Primex³ Board of Trustees. The Additional Covered Party's per occurrence limit shall be deemed included in the Member's per occurrence limit, and therefore shall reduce the Member's limit of liability as set forth by the Coverage Documents and Declarations. The limit shown may have been reduced by claims paid on behalf of the member. General Liability coverage is limited to Coverage A (Personal Injury Liability) and Coverage B (Property Damage Liability) only, Coverage's C (Public Officials Errors and Omissions), D (Unfair Employment Practices), E (Employee Benefit Liability) and F (Educator's Legal Liability Claims-Made Coverage) are excluded from this provision of coverage.

The below named entity is a member in good standing of the New Hampshire Public Risk Management Exchange. The coverage provided may, however, be revised at any time by the actions of Primex³. As of the date this certificate is issued, the information set out below accurately reflects the categories of coverage established for the current coverage year.

This Certificate is issued as a matter of information only and confers no rights upon the certificate holder. This certificate does not amend, extend, or alter the coverage afforded by the coverage categories listed below.

Participating Member:	*Member Number:*	*Company Affording Coverage:*
Town of Conway 1634 East Main Street Center Conway, NH 03813	146	NH Public Risk Management Exchange - Primex³ Bow Brook Place 46 Donovan Street Concord, NH 03301-2624

Type of Coverage	*Effective Date (mm/dd/yyyy)*	*Expiration Date (mm/dd/yyyy)*	*Limits* - NH Statutory Limits May Apply	
X **General Liability (Occurrence Form)** **Professional Liability (describe)** ☐ Claims Made ☐ Occurrence	1/1/2023	1/1/2024	Each Occurrence	$ 1,000,000
			General Aggregate	$ 2,000,000
			Fire Damage (Any one fire)	
			Med Exp (Any one person)	
☐ **Automobile Liability** Deductible Comp and Coll: $1,000 ☐ Any auto			Combined Single Limit (Each Accident) Aggregate	
☐ **Workers' Compensation & Employers' Liability**			☐ Statutory	
			Each Accident	
			Disease – Each Employee	
			Disease – Policy Limit	
☐ **Property (Special Risk Includes Fire and Theft)**			Blanket Limit, Replacement Cost (unless otherwise stated)	

Description: In regards to grant, the certificate holder is named as Additional Covered Party, but only to the extent liability is based on the negligence or wrongful acts of the member, its employees, agents, officials or volunteers. This coverage does not extend to others. Any liability resulting from the negligence or wrongful acts of the Additional Covered Party, or their employees, agents, contractors, members, officers, directors or affiliates is not covered. The Participating Member will advise of cancellation no less than 15 days prior to cancellation.

CERTIFICATE HOLDER:	X	Additional Covered Party		Loss Payee

CDFA
14 Dixon Ave, Ste 102
Concord, NH 03301

Primex³ – NH Public Risk Management Exchange

By: Mary Beth Purcell

Date: 1/4/2023 mpurcell@nhprimex.org

Please direct inquires to:
Primex³ Risk Management Services
603-225-2841 phone
603-228-3833 fax

CERTIFICATE
22-016-CDHS-2

I, Louise M. Inkell Town Clerk of Conway, New Hampshire do hereby certify that: (1) at the public hearing held on June 21, 2022, the Board of Selectmen voted to submit an application for Community Development Block Grant funds and if awarded; (2) enter into a contract with the Community Development Finance Authority and further authorize the Town Manager to execute any documents which may be necessary to effectuate this contract or any amendments thereto; (3) I further certify that this authorization has not been revoked, annulled or amended in any manner whatsoever, and remains in full force and effect as of the date hereof; and (4) the following person has been appointed to and now occupies the office indicated under item (2) above:

John Eastman, Town Manager

By: _____

Town Clerk

STATE OF NEW HAMPSHIRE
COUNTY OF Carroll, SS.

The foregoing instrument was acknowledged before me this 10th day of March, 2023, by the above-named Louise M. Inkell, Town Clerk of the Town of Conway, New Hampshire.

_____ (Seal)
Notary Public
My commission expires: _____

SANDRA L. GEORGE, Notary Public
My Commission Expires May 14, 2025

CERTIFICATION OF GRANTEE'S ATTORNEY

22-016-CDHS-2

I, Jason B. Dennis acting as Attorney for the Town of Conway, New Hampshire do hereby certify:

That in my opinion the Grantee is empowered to enter into the foregoing Grant Agreement under the laws of the State of New Hampshire. Further, I have examined the foregoing Grant Agreement and the actions taken by said Grantee and have determined that Grantee's official representative has been duly authorized to execute this Grant Agreement and that the execution thereof is in all respects due and proper and in accordance with the laws of the said State and applicable federal laws. In addition, for grants involving projects to be carried out on property not owned by Grantee, there are no legal impediments that will prevent full performance by the Grantee. Further, it is my opinion that the said Grant Agreement constitutes a legal and binding obligation of Grantee in accordance with the terms thereof.

Dated at Fryeburg, ME this 16th day of March 2023.

Signature of Grantee's Attorney

Town of Conway – $500,000 – Bluebird Project 109 Pine Street Affordable Housing Project (Housing)

Applicant	Town of Conway
Subrecipient	The Bluebird Project LLC
Project Name	109 Pine Street Affordable Housing Project
Project Location	109 Pine Street, Conway, NH
Request	$500,000
LMI Beneficiaries	8 Total / 5 LMI Units (62%)
HUD CDBG National Objective	LMH- 14B Rehabilitation: Multi-Unit Residential
NH State Category	Housing

Project Summary

The Town of Conway is requesting $500,000 to be sub granted to The Bluebird Project LLC (TBP) to rehabilitate a 150-year-old residential building which will be converted into eight units of housing, of which five will be affordable for low- and moderate-income households.

The Bluebird Project LLC is a Domestic Limited Liability Company established under New Hampshire RSA 293-C committed to providing long-term benefit to the Mt. Washington Valley community by providing affordable housing to low-income and moderate-income individuals and families in areas where there is a shortage of units. They are also committed to restoring historic and culturally significant buildings.

The 109 Pine Street building, which is in severe disrepair, was purchased by TBP in December of 2021. Its rehabilitation will add five units of affordable housing where there is an acute lack of housing for the workforce in Conway and the larger Mt. Washington Valley with less than 1% vacancy rate. In addition, the project will also restore North Conway's first lodging house which was recently accepted into the National Register of Historic Places.

The total cost to restore the building will be $2.4 million dollars and will include energy improvements like spray foam insulation, LED lighting, Energy Star appliances, and the use of mini-split heat pumps for heating and cooling. In addition to CDBG funding, the project includes a bank loan of $1.8 million dollars, TBP equity and utility incentives.

In order to access the significant loan capital required, 109 Pine Street will ensure through a lien that the five affordable units will be rented to low- and moderate-income households at HUD Fair Market Rents or lower for at least five years while the three market rate units will be used to help provide adequate cash flow.

Sources and Uses

Sources	CDBG	Union Bank Loan	Bluebird Equity	Utility Funds	
Uses					**Total Uses $**
Architectural/ Engineering			$11,232		$11,232
Residential Rehab	$475,000	$1,800,000	$13,768	$31,000	$2,319,768
CDBG Admin Costs	$25,000				$25,000
Committed Total		**$1,800,000**	**$25,000**	**$31,000**	**$1,856,000**
Pending Total	**$500,000**				**$500,000**
Grand Total	**$500,000**	**$1,800,000**	**$25,000**	**$31,000**	**$2,356,000**

Administrative Costs

Grant Administrator	$ 18,000
Advertising	$1,500
Legal	$500
Audit	$1,000
Application Writing	$4,000
Total	**$25,000**

Summary

- The project scored **139 points**;
- The project will ensure that five units of safe and healthy affordable housing units are created;
- The project preserves a historic building and promotes an existing neighborhood in North Conway Village; and
- The project meets a CDBG National Objective by providing a direct benefit to Low- and Moderate-Income persons.