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ATTORNEY GENERAL
DEPARTMENT OF JUSTICE

33 CAPITOL STREET
CONCORD, NEW HAMPSHIRE 03301-6397

JOHN M. FORMELLA
ATTORNEY GENERAL

JAMES T. BOFFETTI
DEPUTY ATTORNEY GENERAL

October 17, 2023

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

Your Excellency and Members of the Council:

REQUESTED ACTION

Authorize the New Hampshire Department of Justice (DOJ) to enter into a subgrant **retroactive** to July 1, 2023, with the Portsmouth Police Department, Portsmouth, NH (Vendor # 159594-B001), in an amount not to exceed $1,300,000, for the purpose of enhancing and sustaining the New Hampshire Internet Crimes Against Children (ICAC) effective upon Governor and Executive Council approval to June 30, 2025. 100% General Funds.

Funding is available as follows:

02-20-20-200010-2601	FY 2024	FY 2025
Attorney General		
073-500580, Grants, Non-Federal	$650,000	$650,000

EXPLANATION

This item is **retroactive** to July 1, 2023 because funding was not effective until July 1, 2023. Therefore, the contract process was not completed in time for Governor and Executive Council approval prior to July 1, 2023.

The Department of Justice was appropriated $800,000, through Chapter 79 Laws of 2023, Section 79:494, and $500,000, through Chapter 106 Laws of 2023, for the 2024-2025 biennium in order to support the New Hampshire Internet Crimes Against Children (ICAC) Task Force pursuant to RSA 21-M:17.

The ICAC Task Force conducts proactive investigations in order to identify, investigate, and arrest individuals who use digital technologies to exploit children for personal or commercial gain and to increase community outreach to educate citizens to help detect and prevent further internet crimes against children.

This subgrant will also provide programmatic assistance to affiliates who utilize personnel to further ICAC Task Force efforts, maintain forensic capacity, provide training for personnel, and perform other activities that will enhance the effectiveness of the ICAC Task Force.

Please let me know if you have any questions concerning this request. Thank you for your consideration.

Respectfully submitted,

John M. Formella
Attorney General

#4235424

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 New Hampshire Department of Justice		**1.2. State Agency Address** 33 Capitol Street, Concord, NH 03301	
1.3. Grantee Name Portsmouth Police Department		**1.4. Grantee Address** 3 Junkins Avenue, Portsmouth, NH 03801	
1.5 Grantee Phone # (603) 610-7457	**1.6. Account Number** 02-20-20-200010- 2601-073-500580	**1.7. Completion Date** 06/30/2025	**1.8. Grant Limitation** $1,300,000.00
1.9. Grant Officer for State Agency Kathleen Carr		**1.10. State Agency Telephone Number** (603) 271-3658	
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		**1.12. Name & Title of Grantee Signor 1** Karen Conard City Manager	
Grantee Signature 2		**Name & Title of Grantee Signor 2** Mark Newport Chief of Police	
Grantee Signature 3		**Name & Title of Grantee Signor 3**	
1.13 State Agency Signature(s) Kathleen Carr		**1.14. Name & Title of State Agency Signor(s)** Kathleen Carr, Director of Administration	
1.15. Approval by Attorney General (Form, Substance and Execution) (if G & C approval required) By: Shari Phillips Assistant Attorney General, On: 10/12/2023			
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").

Subrecipient Initials
Date

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

8. with, the entity identified as the Grantee in block 1.3 of these provisions.

8.1. PERSONNEL.

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

8.2. to perform such Project under all applicable laws.

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

8.3. the State, or who is a State officer or employee, elected or appointed.

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

9. Officer, and his/her decision on any dispute, shall be final.

9.1. DATA: RETENTION OF DATA: ACCESS.

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

Subrecipient Initials KSC
Date 9/12/23

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.

Subrecipient Initials ESC
Date 9/12/23

EXHIBIT A

- SPECIAL PROVISIONS -

The Portsmouth Police Department as the Grantee (hereinafter referred to as "Subrecipient") shall be compliant at all times with the terms, conditions and specifications detailed below, which are subject to annual review.

1. The Subrecipient must certify that Limited English Proficiency persons have meaningful access to any services provided by this program. National origin discrimination includes discrimination on the basis of limited English proficiency (LEP). Meaningful access may entail providing language assistance services, including oral and written translation when necessary. The U.S. Department of Justice has issued guidance for grantees to help them comply with these requirements. The guidance document can be accessed on the Internet at www.lep.gov.

2. The Subrecipient assures that in the event a Federal or State court or Federal or State administrative agency makes a finding of discrimination within the three years prior to the receipt of the federal financial assistance and after a due process hearing against the Subrecipient on the grounds of race, color, religion, national origin, sex, age, or disability, a copy of the finding will be submitted to the New Hampshire Department of Justice, Grants Management Unit and to the U.S. Department of Justice, Office for Civil Rights, Office of Justice Programs, 810 7th Street, NW, Washington, D.C. 20531. For additional information regarding your obligations under civil rights please reference the state website at http://www.doj.nh.gov/grants-management/civil-rights.htm and understand if you are awarded funding from this office, civil rights compliance will be monitored by this office, and the Office for Civil Rights, Office of Justice Programs, U.S. Department of Justice.

3. The Subrecipient will comply (and will require any subrecipients or contractors to comply) with any applicable nondiscrimination provisions, which may include the Omnibus Crime Control and Safe Streets Act of 1968 (34 U.S.C. § 10228(c)); the Victims of Crime Act (34 U.S.C. § 20110(e)); the Juvenile Justice and Delinquency Prevention Act of 2002 (34 U.S.C. § 11182(b)); the Violence Against Women Act (34 U.S.C. § 12291(b)(13)); the Civil Rights Act of 1964 (42 U.S.C. § 2000d); the Indian Civil Rights Act (25 U.S.C. §§ 1301-1303); the Rehabilitation Act of 1973 (29 U.S.C. § 794); the Americans with Disabilities Act of 1990 (42 U.S.C. §§ 12131-34); the Education Amendments of 1972 (20 U.S.C. §§ 1681, 1683, 1685-86); and the Age Discrimination Act of 1975 (42 U.S.C. §§ 6101-07). It will also comply with Ex. Order 13279, Equal Protection of the Laws for Faith-Based and Community Organizations; Executive Order 13559, Fundamental Principles and Policymaking Criteria for

Subrecipient Initials KSC
Date 9/12/23

EXHIBIT A

- SPECIAL PROVISIONS -

Partnerships With Faith-Based and Other Neighborhood Organizations; and the DOJ implementing regulations at 28 C.F.R. Part 38.

4. Compensation for individual consultant services is to be reasonable and consistent with that paid for similar services in the marketplace. The current consultant limit is $650 per day or $81.25 per hour. When the rate exceeds the limit for an 8-hour day, or a proportionate hourly rate (excluding travel and subsistence costs), a written prior approval is required . Prior approval requests require additional justification.

5. The Subrecipient agency agrees that, should they employ a former member of the New Hampshire Department of Justice (DOJ), that employee or their relative shall not perform work on or be billed to any federal or state subgrant or monetary award that the employee directly managed or supervised while at the DOJ for the life of the subgrant without the express approval of the DOJ.

6. The Subrecipient understands that grants are funded for the grant award period noted on the grant award document. No guarantee is given or implied of subsequent funding in future years.

7. To ensure that the goals and objectives of the project are being met, the DOJ requires applicant agencies to report specific performance measurements. The New Hampshire Internet Crimes Against Children (ICAC) Task Force will be required to report the following performance measurements to the DOJ quarterly, due with quarterly expenditure reports.

8. In addition to the above-mentioned quarterly statistics, the Subrecipient will submit one yearly narrative report, due on or before June 30th of each year beginning June 30, 2021. The report will highlight the efficacy of the Subrecipient's program and is intended for public release.

9. Other performance measurements may be requested by, but not necessarily limited to, the Governor, members of the New Hampshire Legislature, or by the Attorney General. If this were to occur the Subrecipient will be given an appropriate amount of time to assemble and disseminate the requested information.

10. Funds awarded to the Subrecipient may only be used to expand or enhance funds already budgeted to or by the agency. The supplanting of locally budgeted and approved funds for routine law enforcement duties is prohibited.

Subrecipient Initials KSC
Date 9/12/23

EXHIBIT B

- SCOPE OF SERVICES -

1. The Subrecipient shall receive a subgrant from the New Hampshire Department of Justice as the State Agency (DOJ) for expenses incurred and services provided for activities surrounding the Internet Crimes Against Children (ICAC) program.

2. The Subrecipient shall be reimbursed by the DOJ based on budgeted expenditures described in Exhibit C. The Subrecipient shall submit incurred expenses for reimbursement on the state approved expenditure reporting form as provided. Expenditure reports shall be submitted on a quarterly basis, within fifteen (15) days following the end of the current quarterly activities. Expenditure reports submitted later than thirty (30) days following the end of the quarter will be considered late and out of compliance. *For example, with an award that begins on January 1, the first quarterly report is due on April 15th or 15 days after the close of the first quarter ending on March 31.*

3. Subrecipient is required to maintain supporting documentation for all grant expenses both state funds and match if provided and to produce those documents upon request of this office or any other state or federal audit authority. Grant project supporting documentation shall be maintained for at least seven (7) years after the close of the Federal Grant.

4. Subrecipient shall be subject to periodic desk audits and program reviews by DOJ. Such desk audits and program reviews shall be scheduled with Subrecipient and every attempt shall be made by Subrecipient to accommodate the schedule.

5. All correspondence and submittals shall be directed to:
   NH Department of Justice
   Grants Management Unit
   33 Capitol Street
   Concord, NH 03301
   603-271-1261 or Kathryn.E.Fisher@doj.nh.gov.

Subrecipient Initials KSC
Date 9/12/23

EXHIBIT C

- PAYMENT TERMS -

1. The Subrecipient shall receive reimbursement in exchange for approved expenditure reports as described in EXHIBIT B.

2. The Subrecipient shall be reimbursed within thirty (30) days following the DOJ's approval of expenditures. Said payment shall be made to the Subrecipient's account receivables address per the Financial System of the State of New Hampshire.

3. The State's obligation to compensate the Subrecipient under this Agreement shall not exceed the price limitation set forth in form G-1 section 1.8.

   3a. The Subrecipient shall be awarded an amount not to exceed $650,000.00 of the total amount Grant Limitation from Governor and Council approval for 07/01/2023 to 06/30/2024, with approved expenditure reports. This shall be contingent upon continued state funding and program performance.

   3b. The Subrecipient shall be awarded an amount not to exceed $650,000.00 of the total amount Grant Limitation from Governor and Council approval for 07/01/2024 to 06/30/2025, with approved expenditure reports. This shall be contingent upon continued state funding and program performance.

   3c. With sufficient reason and under limited circumstances, the Subrecipient may apply for an extension of the grant period for up to the end of the state grant end date, not after. The Subrecipient must submit the request in writing. No extension is granted until approval is received by DOJ in writing.

4. Neither the Subrecipient nor DOJ will be responsible for any expenses or costs incurred under this agreement prior to Governor and Council approval, or after 06/30/2025 or, unless a grant extension is approved in writing by DOJ.

Subrecipient Initials KSC
Date 9/25/23

Non-Supplanting Certification

Supplanting defined

Federal funds must be used to supplement existing funds for program activities and must not replace those funds that have been appropriated for the same purpose. Supplanting shall be the subject of application review, as well as pre-award review, post-award monitoring, and audit. If there is a potential presence of supplanting, the applicant or grantee will be required to supply documentation demonstrating that the reduction in non-Federal resources occurred for reasons other than the receipt or expected receipt of Federal funds. For certain programs, a written certification may be requested by the awarding agency or recipient agency stating that Federal funds will not be used to supplant State or local funds. See the OJP Financial Guide (Part II, Chapter 3). http://www.ojp.usdoj.gov/financialguide/part2/part2chap3.htm.

Supplanting and job retention

A grantee may use federal funds to retain jobs that, without the use of the federal money, would be lost. If the grantee is planning on using federal funds to retain jobs, it must be able to substantiate that, without the funds, the jobs would be lost. Substantiation can be, but is not limited to, one of the following forms: an official memorandum, official minutes of a county or municipal board meeting or any documentation, that is usual and customarily produced when making determinations about employment. The documentation must describe the terminated positions and that the termination is because of lack of the availability of State or local funds.

The **City of Portsmouth Police Department** (Applicant) certifies that any funds awarded through **grant numbers** **2024IC01, 2025IC01** shall be used to supplement existing funds for program activities and will not replace (supplant) nonfederal funds that have been appropriated for the purposes and goals of the grant.

The **City of Portsmouth Police Department** (Applicant) understands that supplanting violations may result in a range of penalties, including but not limited to suspension of future funds under this program, suspension or debarment from federal grants, recoupment of monies provided under this grant, and civil and/or criminal penalties.

Printed Name and Title: KAREN CONARD, City Manager

Signature: KSC Date: 9/12/2023

Subrecipient Initials KSC
Date 9/12/23

CERTIFICATE OF AUTHORITY

I, Kelli L. Barnaby, City Clerk for the City of Portsmouth, do hereby certify that:

Upon the City Council's vote to accept any grant, the City Manager* is authorized to enter into grant agreements with local, state and federal agencies. His/Her authority is found in the Revised Charter of the City of Portsmouth, Articles 1 and 5,

IN WITNESS WHEREOF, I have hereunto set my hand as the City Clerk of the City of Portsmouth, New Hampshire this 12 day of September, 2023.

Kelli L. Barnaby
City Clerk

STATE OF NEW HAMPSHIRE
ROCKINGHAM, SS

On this 12 day of September, 2023, before me, the undersigned officer, personally appeared Kelli L. Barnaby, who acknowledged herself to be the City Clerk of the City of Portsmouth, New Hampshire and that she, as City Clerk, being authorized to do so, executed the foregoing instrument for the purposes therein contained.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

Justice of the Peace/Notary Public,
My commission expires: 6/24/2025.

KAREN A. SENECAL
Notary Public - New Hampshire
My Commission Expires June 24, 2025

**Acting City Manager in the absence of the City Manager*

h\rps\city clerk\certificate of authority

PORTSMOUTH POLICE COMMISSION

MEMORANDUM

DATE: AUGUST 29, 2023
TO: KAREN CONARD, CITY MANAGER
FROM: STEFANY SHAHEEN, PORTSMOUTH POLICE COMMISSION CHAIR
MARK D. NEWPORT, CHIEF OF POLICE
RE: GRANT

At the August 29th, 2023 Police Commission meeting, the Board of Police Commissioners approved and accepted the following grant:

a. **The Forensic Shield Grant in the amount of $1,300,000 from the New Hampshire Department of Justice for the New Hampshire Internet Crimes Against Children (ICAC) Task Force.**

We submit the information to you pursuant to City Policy Memorandum #94-36, for the City Council's consideration and approval at their September 5th, 2023 meeting. We respectfully request this item be placed on the City Council meeting agenda for the September 5th, 2023 regular City Council meeting.

Respectfully submitted,

Jacqueline D. Burnett
Office of the Chief

copies: Board of Police Commissioners
Business Asst. Patti Smallwood
Business Ops. Mgr. Karen Senecal

TO: KAREN CONARD, CITY MANAGER

FROM: KELLI L. BARNABY, CITY CLERK

RE: ACTIONS TAKEN AT THE PORTSMOUTH CITY COUNCIL MEETING HELD IN THE EILEEN DONDERO FOLEY COUNCIL CHAMBERS ON TUESDAY, SEPTEMBER 5, 2023

PRESENT: MAYOR McEACHERN, ASSISTANT MAYOR KELLEY, COUNCILORS TABOR, DENTON, MOREAU, BAGLEY, LOMBARDI, BLALOCK, AND COOK

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1. Proclamation – Childhood Cancer Awareness Month – Mayor McEachern read the Proclamation declaring September in Portsmouth as Childhood Cancer Awareness Month and urge the community to pause and remember the children we have lost to this terrible disease, and work to support the effort to find new therapies to treat and defeat pediatric cancer so children not only survive cancer but thrive.

   Mayor McEachern presented the Proclamation to Amy Kindstedt who accepted it with thanks and appreciation.

2. Proclamation – National Library Card Month – Mayor McEachern read the Proclamation declaring September as Library Card Month and encouraged all members of the community to get a library card to discover all the services, resources, programs and dedicated staff who make the Portsmouth Public Library – free and open to all – one of the City's greatest treasurers.

   Mayor McEachern presented the Proclamation to Library Director Friese who accepted it with thanks and appreciation.

3. Acceptance of Minutes – August 21, 2023 – **Voted** to accept and approve the minutes of the August 21, 2023 City Council meeting.

4. Public Comment Session – There were eight speakers: Roy Helsel (Proposed Budget Question); Rick Becksted (Budget 101); Esther Kennedy (Sewage Plant); Sue Polidura (Various); Petra Huda (Let's Talk Snow "Plowing"); Francis Cormier (Another Air Show); Robin Rousseau (via Zoom) (Snow Plowing Announcements); and Mark from the Park, Eliot, Maine (American Flags).

5. Public Hearing/Second Reading of Ordinance amending Chapter 1, Article IV, addition of new section – Section 1.413 – ARTS AND CULTURAL COMMISSION – Barbara Massar and Karen Rosania provided a brief presentation from the Arts and Cultural Commission. Barbara and Karen addressed the data collected and provided an overview of the cultural plan and spoke in support of making this a permanent commission.

   Held a Public Hearing.

   Voted to pass second reading and hold third and final reading at the September 18, 2023 City Council meeting.

   Voted to suspend the rules to bring forward third and final reading of the ordinance.

   Voted to pass third and final reading of the ordinance as presented.

6. Public Hearing/Second Reading of Ordinance amending Chapter 1, Article IV, Section 1.402 – ECONOMIC DEVELOPMENT COMMISSION – Subsections A, B and C – Phil Cohen provided a brief presentation speaking in support of the ordinance which provides a fresh look to the Economic Development Commission ordinance.

   Held a Public Hearing.

   Voted to pass second reading and hold third and final reading at the September 18, 2023 City Council meeting.

   Voted to suspend the rules in to bring forward third and final reading of the ordinance.

   Voted to pass third and final reading of the ordinance as presented.

7. **Voted** to suspend the rules to bring forward Item X. D. – Public Hearing/Adoption of Resolution Authorizing a Supplemental Appropriation from Unassigned Fund Balance for necessary expenditures related to Contractual Obligations. The City Council has determined that the sum of the Eight Hundred Ninety Thousand ($890,000.00) Dollars is to be appropriated from Unassigned Fund Balance to defray the expenditures related to contractual obligations for the Fiscal Year ending June 30, 2024 and Items XI. A. 1. – A. 5. – Approval of Tentative Agreements with the Firefighters Association of Portsmouth, Portsmouth Professional Fire Officers Association, Portsmouth Police Patrolman's Union NEPBA Local #11, Portsmouth Police Ranking Officers Association, NEPBA Local #220 and Portsmouth Police Civilian Employees Association, NEPBA Local #111.

8. Public Hearing/Adoption of Resolution Authorizing a Supplemental Appropriation from Unassigned Fund Balance for necessary expenditures related to Contractual Obligations. The City Council has determined that the sum of the Eight Hundred Ninety Thousand ($890,000.00) Dollars is to be appropriated from Unassigned Fund Balance to defray the expenditures related to contractual obligations for the Fiscal Year ending June 30, 2024 – Held a Public Hearing. On a unanimous roll call 9-0, **voted** to adopt the Resolution as presented.

9. Approval of Tentative Agreement with the Firefighters Association of Portsmouth – **Voted** to approve the agreement as presented.

10. Approval of Tentative Agreement with the Portsmouth Professional Fire Officers Association – **Voted** to approve the agreement as presented.

11. Approval of Tentative Agreement with the Portsmouth Police Patrolman's Union, NEPBA Local #11 – **Voted** to approve the agreement as presented.

12. Approval of Tentative Agreement with the Portsmouth Police Ranking Officers Association, NEPBA Local #220 – **Voted** to approve the agreement as presented.

13. Approval of Tentative Agreement with the Portsmouth Police Civilian Employees Association, NEPBA Local #111 – **Voted** to approve the agreement as presented.

14. Public Hearing/Second Reading of Ordinance amending Chapter 1, Article VIII – Code of Ethics – Preliminary, Section 1.801 – Definitions, and Section 1.802 – Conflicts of Interest – Held a Public Hearing. Moved to pass second reading and hold third and final reading at the September 18, 2023 City Council meeting.

    Voted that the definition of the term Direct Personal Interest contained at Section 1.801 K of the proposed ordinance be amended by the addition at the end of the definition of the words "or loss".

    Voted that a new section J (e) be added to Section 1.802 to read as follows: J (e) A City employee or official acting in a quasi-judicial capacity shall not vote or participate in the discussion of any matter which would place the official in contravention of any Code of Ethics provision contained in this ordinance.

    Voted to amend Section 1.802 – Conflicts of Interest, Subsection F – Gifts and Favors from $350.00 per calendar year to $100.00 per calendar year.

    Voted to schedule second reading and public hearing of the ordinance at the September 18, 2023 City Council meeting.

15. **Voted** to suspend the rules to continue the meeting beyond 10:30 p.m.

16. Request for First Reading to Amend Various Sections Regarding Chapter 7, Snow Announcements **Voted** to schedule first reading for amendments to Chapter 7, Article III, Section 7.321, Snow Emergency Parking Ban, and Article X, Section 7.1002, Snow Removal Operations, at the September 18, 2023 City Council meeting.

17. New Hampshire Public Works Mutual Aid and Assistance Agreement – **Voted** to adopt the New Hampshire Public Works Mutual Aid and Assistance Agreement as presented and authorize the City Manager to name the Director of Public Works as the Authorized Representative to execute the Agreement.

18. Disposition of Used DPW Vehicles – **Voted** to authorize the Department of Public Works to dispose of the used vehicles identified through the trade-in process as described in the memorandum.

19. Consent Agenda – **Voted** to adopt the Consent Agenda.

    A. Letter from The Music Hall requesting the closure of Chestnut Street on Friday, September 15th through Sunday, September 17th for The Music Hall's annual Telluride by the Sea Film Festival – 2nd Request – Request for the closure of Chestnut Street on Thursday, October 12th through Sunday, October 15th for the annual New Hampshire Film Festival ***(Anticipated action – move to refer to the City Manager with Authority to Act)***

    B. Letter from Freddy Petrone, I Got Bridged Team, requesting permission to hold the I Got Bridged 3rd annual walkathon on Sunday, September 10, 2023 ***(Anticipated action – move to refer to the City Manager with Authority to Act)***

20. Email Correspondence – **Voted** to accept and place on file.

21. Letter from Paul and Alison Dunne, requesting permission to build a floating access dock near existing stairs located on Peirce Island – **Voted** to refer to the Legal Department and the Public Works Department for report back.

22. Memorandum from Greater Portsmouth Recovery Coalition summarizing the progress of the coalition – **Voted** to accept and place on file.

23. Appointments to be Considered – The City Council considered the appointments listed below that will be voted upon at the September 18, 2023 City Council meeting.
    - Jen Scumaci to the Economic Development Commission
    - Erica Wygonik as a Regular Member to the Parking & Traffic Safety Committee
    - David Allen as an Alternate to the Parking & Traffic Safety Committee
    - Larry Booz to the Historic District Commission

24. Sustainability Committee Draft Ordinance – **Voted** to schedule a first reading on September 18, 2023 of the draft ordinance establishing at Sustainability Committee.

25. Acceptance of The Forensic Shield Grant for the Police Department NH Internet Crimes Against Children (ICAC) Task Force - $1,300,000.00 – **Voted** to approve and accept the grant as presented.

26. City Manager's Informational Items – City Manager Conard made the following announcements:

    - City staff will be holding a "Wastewater 101" presentation to the community on Wednesday, September 13th at 6:30 p.m. at the Levenson Room of the Public Library.

    - Household Hazardous Waste Collection Day will be held on Saturday, September 23rd between 8:00 a.m. and Noon.

    - The second FlashVote survey will be on the topic of parking and will be sent out in mid-September. The next FlashVote survey will be due out in October on the Climate Action Plan.

27. Miscellaneous Business Including Business Remaining Unfinished at Previous Meeting –

    Councilor Moreau announced that the Air Show will be held this weekend and there will be focus points with accessible access to enter the show.

    Councilor Blalock announced that the new turf field has been installed and Portsmouth Clipper's Football opening home game will be held on Friday evening against the Winnacunnet Warriors.

28. Adjournment – At 10:55 p.m., **voted** to adjourn.

Submitted by:

Kelli L. Barnaby, MMC/CNHMC
City Clerk

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:*
City of Portsmouth One Junkins Avenue Portsmouth, NH 03801	275	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	7/1/2023	7/1/2024	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 the Grant agreement, 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	Primex³ – NH Public Risk Management Exchange
					By: *Mary Beth Purcell*
New Hampshire Department of Justice 33 Capitol Street Concord, NH 03301					Date: 6/23/2023 mpurcell@nhprimex.org Please direct inquires to: **Primex³ Risk Management Services** **603-225-2841 phone** **603-228-3833 fax**

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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**	7/1/2023	7/1/2024	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**
New Hampshire Department of Justice 33 Capitol Street Concord, NH 03301			By: *Mary Beth Purcell* Date: 6/23/2023 mpurcell@nhprimex.org Please direct inquires to: **Primex³ Claims/Coverage Services** **603-225-2841 phone** **603-228-3833 fax**