



TOWN OF DURHAM

8 Newmarket Road

Durham, NH 03824

Tel: 603-868-5571

Fax: 603-868-1858

www.ci.durham.nh.us

NOTICE: Although members of the Town Council will be meeting in the Council chambers, the Council meetings are still available for members of the public to participate via Zoom or in-person.

AGENDA

DURHAM TOWN COUNCIL

MONDAY, MARCH 20, 2023

DURHAM TOWN HALL - COUNCIL CHAMBERS

7:00 PM

NOTE: The Town of Durham requires 48 hours notice if special communication aids are needed.

- I. Call to Order
- II. Town Council grants permission for fewer than a majority of Councilors to participate remotely
- III. Roll Call of Members. Those members participating remotely state why it is not reasonably practical for them to attend the meeting in-person
- IV. Approval of Agenda
- V. Special Announcements - None
- VI. Public Comments (*) - **Please state your name and address before speaking**
- VII. Approval of Minutes - March 6, 2023
- VIII. Councilor and Administrator Roundtable
- IX. Report from the UNH Student Senate External Affairs Chair or Designee
- X. **Unanimous Consent Agenda** (*Requires unanimous approval. Individual items may be removed by any councilor for separate discussion and vote*)
 - A. Shall the Town Council, upon recommendation of the Administrator, review and readopt the Town's Investment Policy as required by New Hampshire Revised Statutes Annotated (RSA) 41:9?
- XI. Committee Appointments - None

XII. Presentation Items

XIII. Unfinished Business

XIV. New Business

- A. Public Hearing on Resolution #2023-04 to Accept and Expend Unanticipated Grant Funds Totaling \$25,000 to be used to hire a Consultant to perform a Housing Needs Analysis document and hold a Community Forum.

XV. Nonpublic Session (if required)

XVI. Extended Councilor and Administrator Roundtable (if required)

XVII. Adjourn (NLT 10:30 PM)

<p>(*) <i>The public comment portion of the Council meeting is to allow members of the public to address matters of public concern regarding town government for up to 5 minutes.</i></p> <p><i>Obscene, violent, disruptive, disorderly comments, or those likely to induce violence, disruption or disorder are not permitted and will not be tolerated. Complaints regarding Town staff should be directed to the Administrator.</i></p>



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AGENDA ITEM: **# 7**
DATE: March 20, 2023

COUNCIL COMMUNICATION

INITIATED BY: Durham Town Council

AGENDA ITEM: APPROVE THE TOWN COUNCIL REVISED MEETING MINUTES FOR
MARCH 6, 2023

CC PREPARED BY: Karen Edwards, Administrative Assistant

PRESENTED BY: Todd I. Selig, Administrator

AGENDA DESCRIPTION:

Attached for the Council's review and approval are the minutes for the meeting held on March 6, 2023. Please call or email Karen Edwards with any grammatical/spelling changes prior to the meeting. Discussion at Monday evening's meeting should be limited only to substantive changes.

LEGAL AUTHORITY:

RSA 91-A:2 (II) specifies what must be contained in minutes of public meetings:

"Minutes of all such meetings, including names of members, persons appearing before the bodies or agencies, and a brief description of the subject matter discussed and final decisions, shall be promptly recorded and open to public inspection not more than 5 business days after the public meeting, except as provided in RSA 91-A:6, and shall be treated as permanent records of anybody or agency, or any subordinate body thereof, without exception."

LEGAL OPINION:

N/A

FINANCIAL DETAILS:

N/A

SUGGESTED ACTION OR RECOMMENDATIONS:

MOTION:

The Durham Town Council does hereby approve the Town Council meeting minutes for March 6, 2023 (as presented/as amended).



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AGENDA ITEM: **# 10A** *TS*

DATE: March 20, 2023

COUNCIL COMMUNICATION

INITIATED BY: Gail Jablonski, Business Manager

AGENDA ITEM: SHALL THE TOWN COUNCIL, UPON RECOMMENDATION OF THE ADMINISTRATOR, REVIEW AND READOPT THE TOWN'S INVESTMENT POLICY AS REQUIRED BY NEW HAMPSHIRE REVISED STATUTES ANNOTATED (RSA) 41:9?

CC PREPARED BY: Gail Jablonski, Business Manager

PRESENTED BY: Todd I. Selig, Town Administrator

AGENDA DESCRIPTION:

In May of 2010 the Town Council approved an Investment Policy (copy attached) for the Town of Durham. RSA 41:9, VII states that "The governing body shall **annually review** and adopt an investment policy for the investment of public funds in conformance with applicable statutes and shall advise the treasurer of such policies."

The adoption of financial policies is a good, sound business practice that fosters confidence in the fiscal operations of the municipality. Financial policies help to provide consistency, stability, and continuity in the financial operations of the Town. Written policies also provide a framework to guide and education both newly elected officials in carrying out their fiduciary responsibilities and newly appointed staff in the conduct of their financial duties. The ability to rely on well-defined financial policies helps to resolve conflicts and avoid allegations of bias or favoritism.

The town currently has a Tri-Party Collateral Agreement with Citizens Bank, N.A. and the Bank of New York Mellon and receives monthly statements with collateralized deposit information.

LEGAL AUTHORITY:

New Hampshire Revised Statutes Annotated (RSA) 41:9(VIII): “The selectmen shall annually review and adopt an investment policy for the investment of public funds in conformance with applicable statutes and shall advise the treasurer of such policies.”

LEGAL OPINION:

N/A

FINANCIAL DETAILS:

N/A

SUGGESTED ACTION OR RECOMMENDATIONS:

MOTION:

The Durham Town Council does hereby, upon review and recommendation of the Administrator, readopt the Investment Policy for the Town of Durham (as amended) and as required by New Hampshire Revised Statutes Annotated (RSA) 41:9.

TOWN OF DURHAM, NH
INVESTMENT POLICY

I. SCOPE

This investment policy establishes a framework for the safe and prudent investment of public funds. It applies to all financial assets in the custody of the town treasurer of the Town of Durham, NH. These funds are accounted for in the Town's annual financial report and include the following:

- ☐ General Fund
- ☐ Special Revenue Funds
- ☐ Capital Project Funds
- ☐ Forfeiture/Seizure Funds
- ☐ Any new fund created by the Town Council unless specifically exempted by the articles of its creation.

II. OBJECTIVES

The primary objective of the Town of Durham's Investment Policy is to set forth appropriate investment activities that provide for, first and foremost, the safety of principal, as well as sufficient liquidity to support operations while generating a reasonable investment yield.

The specific investment policy objectives are as follows:

- ☐ To ensure the preservation of capital and the protection of investment principal;
- ☐ To maintain sufficient liquidity to meet operating requirements;
- ☐ To satisfy all legal requirements;
- ☐ To attain market-average rate of return on investments taking into account risk and legal constraints and cash flow considerations.

III. DELEGATION OF AUTHORITY

In accordance with Chapter 41:29 of the Revised Statutes Annotated (RSA), of the State of New Hampshire, the responsibility for conducting investment transactions resides with the Town Treasurer, *except in the instance of capital reserve funds or trust funds, when the responsibility for conducting investment transactions reside with the Trustees of the Trust Funds in accordance with RSA 35:9.*

No person may engage in an investment transaction except as provided under the terms of this policy and the internal procedures and controls hereby established.

IV. PRUDENCE

The investment policy will be conducted in accordance with the "prudent person" standard which requires that:

Investments shall be made with judgment and care, under circumstances then prevailing, which persons of prudence, discretion and intelligence exercise in the management of their

TOWN OF DURHAM INVESTMENT POLICY

own affairs, not for speculation, but for investment, considering the probable safety of their capital as well as the probable income to be derived.

The Town recognizes that investment risks can result from issuer defaults, market price changes or various technical complications leading to temporary non-liquidity. The Treasurer is expected to display prudence in the selection of investments in a way to minimize default risk.

Officers and employees involved in the investment process shall refrain from personal business activity that could conflict (or appear to conflict) with proper execution of the investment program, or which could impair their ability to make impartial investment decisions.

V. INTERNAL CONTROLS

The internal controls for the Town of Durham shall be designed to prevent losses of public funds arising from fraud, employee error, misrepresentation by third parties, unanticipated changes in financial markets, imprudent actions by employees and officers of the Town.

In accordance with RSA 41:6 Bonds, Town Treasurers shall be bonded by position under a blanket bond from a surety company authorized to do business in the state.

All depository accounts of the Town must be held in the name of the Town. All income payable to the Town and all revenue received by the Town shall be forwarded to the Town Treasurer.

VI. INVESTMENT INSTRUMENTS

The treasurer shall deposit all such moneys in participation units in the public deposit investment pool established pursuant to RSA 383:22 or in federally insured banks chartered under the laws of New Hampshire or the federal government with a branch within the state, except that funds may be deposited in federally insured banks outside the state if such banks pledge and deliver to a third party custodial bank or the federal reserve bank collateral security for such deposits of the following types:

- (a) United States government obligations;
- (b) United States government agency obligations; or
- (c) Obligations of the state of New Hampshire in value at least equal to the amount of the deposit in each case.

Whenever the town treasurer has in custody an excess of funds which are not immediately needed for the purpose of expenditure, the town treasurer shall invest the same in the public deposit investment pool established pursuant to RSA 383:22, or in deposits, including money market accounts, or certificates of deposit, or repurchase agreements, and all other types of interest bearing accounts, of federally insured banks chartered under the laws of New Hampshire or the federal government with a branch within the state, or in obligations fully guaranteed as to principal and interest by the United States government. The obligations may be held directly or in the form of securities of or other interests in any open-end or closed-end management-type investment company or investment trust registered under 15 U.S.C. section 80a-1 et seq., if the

TOWN OF DURHAM INVESTMENT POLICY

portfolio of the investment company or investment trust is limited to such obligations and repurchase agreements fully collateralized by such obligations.

VII. SAFEKEEPING AND COLLATERALIZATION

In accordance with RSA 41:29 V, the Town Treasurer shall ensure that prior to acceptance of any moneys for deposit or investment, including repurchase agreements, the federally assured bank shall have such funds, at the time of deposit or investment, secured by collateral having a market value at least equal to 102% of the amount deposited or invested in each case. Such collateral shall be held by a third-party custodian and segregated for the exclusive benefit of the town. Collateral is marked to market at least weekly and daily when appropriate. Collateral maturity should coincide with the investment maturity. Collateral shall be delivered upon the Town Treasurer's direction.

Only securities defined by the bank commissioner as provided by rules adopted pursuant to RSA 386:57 shall be eligible to be pledged as collateral.

The banking institution shall provide the Town Treasurer with at least quarterly reports of the Town's collateral position. In addition, collateral agreements shall comply with provisions set forth in the Financial Institutions Reform, Recovery and Enforcement Act of 1989 (FIRREA), which require that the collateral agreement be:

- 1) In writing;
- 2) Approved by the Board of Directors of the depository or its loan committee;
- 3) Lists no specific pledged securities; and
- 4) Has been, continuously, from the time of its execution, an official record of the depository institution.

VIII. POLICY REVIEW

This policy shall be reviewed at least annually by the Council, or its designee, with changes made as warranted, followed by re-adoption by the governing body.

The Council reserves the right to implement changes to this policy without prior notice if it is deemed in the Town's best interest.

TOWN OF DURHAM INVESTMENT POLICY

Adopted by the Durham Town Council on May 3, 2010

Reviewed and Re-Adopted by the Durham Town Council on May 16, 2011.

Reviewed and Re-Adopted by the Durham Town Council on June 4, 2012.

Reviewed and Re-Adopted by the Durham Town Council on June 17, 2013.

Reviewed and Re-Adopted by the Durham Town Council on May 19, 2014.

Reviewed and Re-Adopted by the Durham Town Council on November 16, 2015.

Reviewed and Re-Adopted by the Durham Town Council on March 20, 2017.

Reviewed and Re-Adopted by the Durham Town Council on March 5, 2018.

Reviewed and Re-Adopted by the Durham Town Council on March 4, 2019.

Reviewed and Re-Adopted by the Durham Town Council on March 2, 2020.

Reviewed and Re-Adopted by the Durham Town Council on March 15, 2021.

Reviewed and Re-Adopted by the Durham Town Council on March 21, 2022.



Todd I. Selig
Town Administrator

Date

3/22/22



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AGENDA ITEM: **#14A TS**
DATE: **March 20, 2023**

COUNCIL COMMUNICATION

INITIATED BY:

Michael Behrendt, Town Planner

AGENDA ITEM:

PUBLIC HEARING ON RESOLUTION #2023-04 TO ACCEPT AND EXPEND UNANTICIPATED GRANT FUNDS TOTALING \$25,000 TO BE USED TO HIRE A CONSULTANT TO PERFORM A HOUSING NEEDS ANALYSIS DOCUMENT AND HOLD A COMMUNITY FORUM.

CC PREPARED BY:

Michael Behrendt, Town Planner

PRESENTED BY:

Michael Behrendt, Town Planner

AGENDA DESCRIPTION:

The Durham Housing Task Force spent many months developing extensive amendments to the Zoning Ordinance to promote new housing opportunities. The amendments were presented to the Planning Board, which held public hearings this past November and December. There was significant opposition to the proposal. The Planning Board tabled the amendments and returned the proposal to the task force for more study.

Members of the public stated that the amendments were too sweeping. Two key criticisms about the process for preparing the amendments were that they were put forward without an analysis of the actual housing needs in Durham and that they do not reflect the goals of the community. Both the Planning Board and the Housing Task Force requested that the Town staff pursue appropriate grant(s) to address these concerns.

We received a Housing Opportunity Grant (HOP) of \$25,000 on February 21, 2023 (*The award letter is attached*). We will use \$20,000 to hire a consultant to perform the needs analysis and \$5,000 to hire a different consultant to facilitate a half-day community forum in the fall to hear more from the community.

There is no match from the Town of Durham, though we will have some administrative expenses to support the project, which can be taken from allocations in the current planning

budget. Two or three members of the task force will attend a Housing Academy held over multiple sessions to learn more about housing issues.

We hope to hire the consultant for the needs analysis very soon (see below). It will probably take about four months to prepare it. We are now reaching out to potential consultants, including possibly the New Hampshire Listens program, for the community forum. The Housing Task Force will be conducting its own outreach to the community over the next six months with a housing survey and connections with various stakeholder groups.

Under the Town's purchasing policy, for a contract under \$30,000 it is not required that we advertise for proposals from consulting firms. Rather, we request proposal(s) from any appropriate firms and then evaluate the proposal(s). Town Council action is not needed for the award of the two contracts (for the needs analysis and the forum,) but the Town Council will need to approve our receiving and spending the grant funds. Under state law a public hearing must be held on this request first for acceptance of grant funds over \$10,000.

There is a housing shortage in New Hampshire, and housing proponents believe that every community must do its part to help alleviate the crisis. However, increasing the supply of housing in Durham is a challenge for the following reasons: 1) real estate values are high, 2) the presence of the University of New Hampshire brings concerns about undergraduates living in the neighborhoods and dominating the downtown, 3) there is a sense among some (rightly or wrongly) that increasing residential uses comes at the expense of preserving open space; and 4) there are limited opportunities for development since a large amount of land is owned by the University or designated as conservation land, and there are extensive wetlands and other topographic constraints. To a large extent, Durham has contributed substantially to addressing the regional crisis with the great expansion of student and senior housing over the past twenty years.

The town has virtually no multifamily buildings though that are not student housing or senior housing. The demand from undergraduate students and the capacity provided by parental financial support is so high that available apartments are almost invariably occupied by them. But there is a desire by task force members to have more diversity by age, ethnicity, household composition and income. The task force is looking at various strategies, including prospective zoning changes, to build multifamily projects that will also serve a population beyond undergraduate college students, and to promote missing middle housing (duplexes, triplexes, fourplexes, townhouses, rowhouses, courtyard apartments, cottage clusters, cohousing, etc.) to increase the range of housing types.

The Housing Needs Analysis will address these types of questions:

- 1) What is the current housing situation in Durham?
- 2) How much new housing is needed?
- 3) How do we determine "need?"

- 4) What kind of housing is needed?
- 5) Where can we develop this housing?
- 6) How much housing can Durham accommodate?
- 7) What is Durham's fair share of the area housing market (or have we already provided that with the large amount of existing student housing)?
- 8) Can Durham build housing that will be available for residents other than undergraduate students?
- 9) What would a build out of Durham look like? (This question is beyond the scope of the review, and is very much a moving target, but we can provide some helpful information here.)
- 10) What are the various constraints to expanding housing opportunities?

The consultant will work closely with Town Planner Michael Behrendt and will report back to the Durham Housing Task Force, which will oversee the project. Nick Taylor, Director of the Seacoast Workforce Housing Coalition and advisor to the task force, will provide guidance as needed.

The consultant will review the Master Plan, assessor's records, real estate data, water and sewer capacity, maps showing available land, maps showing topographic and other constraints, population data, the Strafford Regional Planning Commission Housing Needs Assessment, and other pertinent documents.

Upon completion of the Housing Needs Analysis, the Community Forum, the Housing Survey, and other outreach efforts by the Housing Task Force, the task force will prepare a revised set of proposed zoning amendments, grounded in the information that is obtained in this effort, to present to the Planning Board.

Planner Behrendt asked Craig Seymour of Durham, formerly with RKG Associates, about ideas for a firm conducting the Housing Needs Analysis. Mr. Seymour is currently doing a Housing Analysis for UNH, but he is largely retired from RKG. He directed Planner Behrendt to Russell Archambault, Vice President and Principal of RKG Associates. Planner Behrendt spoke with Mr. Archambault at length about the project. Mr. Archambault submitted a proposal and then spoke with the Housing Task Force (on March 13).

Planner Behrendt recommends to the Housing Task Force that they hire RKG Associates for the following reasons:

- a) There are not very many consulting firms who specialize in this kind of work, especially among those on the approved list of HOP consultants. RKG's area of expertise is in real estate, economic, and housing analysis.

- b) RKG has an excellent reputation and is very familiar with Durham. Founder Richard Gsottschneider is a Durham resident and the firm was based in town for many years.
- c) Craig Seymour is now working on the UNH Housing Analysis which should inform our project.
- d) RKG submitted a high-quality proposal but we will craft the contract to cover specific areas to be addressed. It was clear from the task force discussion with Mr. Archambault that we will be able to tailor the agreement as needed. The project is fixed at \$20,000 so we would not save money by hiring a different firm.

Here is an excerpt from Mr. Archambault's proposal:

"On behalf of RKG Associates, Inc., I am pleased to submit the enclosed proposal in response to the Town's RFP for a Housing Needs Analysis. The Town has identified a very interesting and challenging assignment and we believe that our firm is uniquely qualified to prepare a plan that will position the County to meet its future housing and affordable housing needs in the future. RKG Associates, Inc. has worked with many communities over the past several decades to help them understand their local housing needs and market trends to prepare for a different future...RKG Associates, Inc. is a nationally recognized economic, planning, and real estate advisory firm headquartered in Alexandria, Virginia, with offices in Atlanta, Georgia, Dallas, Texas, Boston, Massachusetts, and Durham, New Hampshire. Prior to opening our Boston office, Durham was our corporate headquarters location for over twenty years. We have been in the planning and economic consulting business for over 42 years and have built a solid reputation on being a respected and trusted advisor to thousands of communities, private development companies, local housing authorities and community development agencies throughout the country."

The task force requested that Planner Behrendt and Heather Grant, chair of the task force, work with RKG (and Administrator Todd Selig and Business Manager Gail Jablonski) on a draft contract to cover the specific areas desired for the analysis. The draft will be before the task force on April 10 for review.

A Public Hearing notice was published in the *Foster's/Seacoast Online* on Thursday, March 9, 2023. The notice was also posted on the outside bulletin board at Town Hall, as well as at the Durham Public Library and Department of Public Works.

LEGAL AUTHORITY: Pursuant to Town of Durham Purchasing Policy.

LEGAL OPINION: n/a

FINANCIAL DETAILS: Fairly minor administrative expenses from the current planning budget to support the project.

SUGGESTED ACTION OR RECOMMENDATIONS:

MOTION #1

The Durham Town Council does hereby OPEN the Public Hearing on (as presented) (as Amended) Ordinance #2023-04 to Accept and Expend Unanticipated Grant Funds Totaling \$25,000 to be used to hire a Consultant to perform a Housing Needs Analysis document and hold a Community Forum.

MOTION #2

The Durham Town Council does hereby CLOSE the Public Hearing on (as presented) (as Amended) Ordinance #2023-04 to Accept and Expend Unanticipated Grant Funds Totaling \$25,000 to be used to hire a Consultant to perform a Housing Needs Analysis document and hold a Community Forum.

MOTION #3

The Durham Town Council does hereby ADOPT Ordinance #2023-04 to Accept and Expend Unanticipated Grant Funds Totaling \$25,000 to be used to hire a Consultant to perform a Housing Needs Analysis document and hold a Community Forum.

RESOLUTION #2023-04 OF DURHAM, NEW HAMPSHIRE

AUTHORIZING THE ACCEPTANCE AND EXPENDITURE OF UNANTICIPATED GRANT FUNDS TOTALING \$25,000 TO BE USED TO HIRE A CONSULTANT TO PERFORM A HOUSING NEEDS ANALYSIS DOCUMENT AND HOLD A COMMUNITY FORUM.

WHEREAS, Town Planner, Michael Behrendt, working with the Housing Task Force, submitted a grant application to the New Hampshire Housing Finance Authority which is administering the InvestNH Municipal Planning & Zoning Grant Program under contract with the NH Department of Business & Economic Affairs; and

WHEREAS, the NH Department of Business & Economic Affairs has established the Program using funds awarded for purposes under Section 9901 of the American Rescue Plan Act (Pub. L. No. 117-2(March 11, 2021)); and

WHEREAS, on February 21, 2023, the Town was notified that it had been awarded an InvestNH Municipal Planning & Zoning grant in the amount of \$25,000 for hiring a consultant to perform a Housing Needs Analysis document and hold a Community Forum; and

WHEREAS, New Hampshire Revised Statutes Annotated (RSA) 31:95-b permits municipalities to authorize acceptance and expenditure of funds from the state, Federal or other governmental unit, or a private source, which becomes available during the fiscal year if they first adopt an article authorizing this authority indefinitely until specific rescission of such authority; and

WHEREAS, Resolution #99-19 adopting the provisions of RSA 31:95-b authorizing the Town Council to apply for, accept, and expend unanticipated funds from a Federal, state, or other governmental unit or a private source which becomes available during the Fiscal Year; and

WHEREAS, Council approval is required for the acceptance and expenditure of these funds; and

WHEREAS, RSA 31:95-b III(a) requires that a Public Hearing be held on unanticipated funds in excess of \$10,000; and

WHEREAS, on March 20, 2023, a duly posted and published Public Hearing was held by the Durham Town Council on the \$25,000 grant monies in accordance with RSA 31:95-b;

NOW, THEREFORE, BE IT RESOLVED, that the Durham Town Council, the governing and legislative body of the Town of Durham, New Hampshire does hereby approve **Resolution #2023-04** Acceptance and Expenditure of Unanticipated Grant Funds Totaling \$25,000 To Be Used to hire a Consultant to perform a Housing Needs Analysis document and hold a Community Forum.

PASSED AND ADOPTED this ___ day of **March 2023**, by a majority vote of the Durham Town Council with _____ affirmative votes, _____ negative votes , and _____ abstentions.

Katherine Marple, Chair
Durham Town Council

ATTEST:

Lorrie Pitt, Town Clerk-Tax Collector



February 21, 2023

Town of Durham
8 Newmarket Road
Durham, NH 03824

c/o Michael Behrendt, Town Planner
603-868-8064 | mbehrendt@ci.durham.nh.us

Dear Mr. Behrendt,

The Steering Committee for the InvestNH Municipal Planning & Zoning Grant Program reviewed your submission for the Housing Opportunity Planning (HOP) Grant. The purpose of this grant is to assist those municipalities looking to increase housing opportunities through community engagement and regulatory change.

I am pleased to inform you that the Steering Committee has approved your request of \$25,00 for the Town of Durham to pursue *HOP Phase 1: Needs Analysis and Planning*.

In addition to the monetary award, participation in Housing Academy is a key benefit of this program and is designed to help build or further develop local capacity as it relates to housing matters. To that end, and if you have not already done so, we encourage all awardees to recruit volunteer community members to participate alongside designated staff. Due to the volume of interest in Housing Academy, a second Housing Academy has been created and will begin in late April 2023. All grant recipients that received their award letters after February 1st, 2023 will be enrolled in Spring 2023 Housing Academy. Stay tuned for the schedule and registration.

At your earliest convenience, please email your acknowledgment and acceptance of this award to info@NHHOPgrants.org. Once we have received your acknowledgement, as well as a commitment letter from the consultant you plan to work with, we will follow up with a formal Grant Agreement. Note that all consultants must be on the [List of Qualified Consultants](#) found on NHHOPgrants.org. If you would like to work with a consultant who is not currently on this list, or if your community requires a competitive process, please contact us to discuss further.

Finally, in all public acknowledgments, we ask that you note this award as being received from the InvestNH Municipal Planning & Zoning Grant Program, funded by the NH Department of Business and Economic Affairs as part of the \$100 million InvestNH Initiative with ARPA State Fiscal Recovery funds. This award will be administered jointly by NH Housing, Plan NH, and UNH Cooperative Extension.

On behalf of the Steering Committee, congratulations!

A handwritten signature in blue ink, appearing to read "Tiffany McNamara".

Tiffany Tononi McNamara
Steering Committee Chair

Executive Director | Plan New Hampshire
603-452-7526 | tiffany@plannh.org

**InvestNH Municipal Planning & Zoning Grant Program
Housing Opportunity Planning Grant**

GRANT AGREEMENT

This agreement ("Agreement") is by and between New Hampshire Housing Finance Authority, 32 Constitution Drive, Bedford, NH 03110, ("NHHFA") and the Town of Durham, New Hampshire ("Grantee").

NHHFA is administering the InvestNH Municipal Planning & Zoning Grant Program ("the Program") under contract with the NH Department of Business and Economic Affairs ("BEA"). BEA has established the Program using funds awarded for these purposes under Section 9901 of the American Rescue Plan Act (Pub. L. No. 117-2 (March 11, 2021)).

Pursuant to a competitive application process NHHFA will provide a grant to Grantee for a project consistent with the Program objectives and Grantee's approved application ("the Project").

Grantee will undertake and complete the Project pursuant to the terms and conditions of this Agreement.

TERMS AND CONDITIONS

1. GRANT AMOUNT: \$25,000 .
2. EFFECTIVE DATE: February 21, 2023 .
3. COMPLETION DATE: July 31, 2024 .
4. PROGRAM ADMINISTRATOR. This Program is administered by Plan NH on behalf of NHHFA. Project communications with Grantee will generally be by and with the Program Administrator, but NHHFA may communicate directly with Grantee on some matters as stated in this Agreement.
5. PROJECT PERFORMANCE AND CONSULTANT SELECTION. Grantee agrees to perform work to complete the Project pursuant to the terms and conditions of the Scope of Work (Exhibit A). Grantee's application to the Program is considered part of this Agreement and any commitments included within the application will be binding on Grantee. Program application instructions, forms, and associated materials are also conditions to this Agreement.

Grantee acknowledges that it is responsible to complete all Project work and that it will deliver to the Program Administrator (a) all required work under the Scope of Work; (b) all required documentation under the Scope of Work; and (c) all other requirements, duties, obligations and responsibilities of Grantee under the Scope of Work. Grantee

acknowledges and agrees that NHHFA, acting at times through the Program Administrator, will have the sole authority and discretion to determine whether Grantee has met the requirements set forth in this Agreement.

Grantee shall subcontract with a consultant to perform the work of the Project. Grantee may select its consultant from the list of qualified contractors published as part of the Program without engaging in a competitive process. Grantee may otherwise engage in a competitive process to choose its consultant, but the consultant chosen by the Grantee will be subject to approval by the Program Administrator. Acting through the Program Administrator, NHHFA reserves the right to assess the qualifications of such consultants and to reject those it deems to be unqualified to perform the proposed work. Grantee's contractor may subcontract Project work only upon review and written approval of subcontractor's qualifications by the Program Administrator. Grantee will at all times be responsible for Project performance under this Agreement.

6. **MONTHLY PROGRESS REPORTS.** Grantee will report to Program Administrator on monthly progress toward implementing its proposed Scope of Work, completed tasks, and metrics of success including documentation on public meetings, workshops and hearings, public participation levels, and additional outreach efforts. Grantee will submit a progress report to the Program Administrator that includes a draft of any proposed regulations for the purpose of allowing NHHFA to comment on the draft prior to notice of public hearings held by the Grantee's planning board or other cognizant body.

7. **CLOSE OUT OF CONTRACT.** No later than 30 days following Project Completion Date, Grantee will submit its final invoice. Regardless of the Completion Date, any invoice submitted after July 31, 2024 will not be eligible for reimbursement. At the same time, Grantee will submit a final report to the Program Administrator. If Grantee cannot demonstrate that the funds have been expended for allowable costs, the excess funds shall be returned with the final report to Program Administrator, by check payable to New Hampshire Housing Finance Authority.

8. **POST-COMPLETION PROJECT REPORTS.** If Grantee adopts ordinances or regulations paid in whole or part with these grant funds, Grantee will report on permitting and development activity under the regulations for a period of three (3) years after Completion Date in a form determined by NHHFA.

9. **PROJECT TERM EXTENSION.** Grantee will ensure that the Project work is performed in a manner that is consistent with the time periods set forth in the Scope of Work and with the Completion Date. Grantee may request additional time to perform the Project work beyond the Completion Date, but in no circumstance will the Project term extend beyond July 31, 2024.

10. **COMPLIANCE WITH APPLICABLE LOCAL, STATE AND FEDERAL LAWS, REGULATIONS, AND RULES.** By signing this Agreement, Grantee certifies its understanding and acceptance of the terms and conditions of Exhibits C through F.

Grantee covenants and agrees that it will fully comply with all applicable provisions of these documents as well as all other applicable local, state and federal laws, regulations and rules that may be applicable to the conduct of this Project.

11. **CONFLICT OF INTEREST.** Grantee agrees that it will maintain in effect a conflict of interest policy consistent with 2 C.F.R. § 200.318(c) covering each activity funded under this Agreement. Grantee will disclose in writing to Program Administrator any potential conflict of interest affecting the awarded funds in accordance with 2 C.F.R. § 200.112.

12. **RESTRICTION ON ADDITIONAL FUNDING.** Grantee acknowledges and agrees that no portion of the funds under this Agreement may be used for the purpose of obtaining additional Federal funds under any other law of the United States, except if authorized under that law.

13. **UNIQUE ENTITY IDENTIFIER.** Grantee must (i) be registered in SAM.gov; (ii) provide a valid unique entity identifier; and (iii) continue to maintain an active SAM.gov registration with current information at all times during the term of the Project. Registration instructions are here: <https://sam.gov/content/home>.

14. **PUBLICATIONS.** With the exception of ordinances, regulations, and rules proposed or adopted by Grantee, any publications produced with funds from this award must display the following language: "This project [is being] [was] supported, in whole or in part by, federal award number SLFRP0145 awarded to the State of New Hampshire by the U.S. Department of the Treasury."

15. **LIABILITY AND INDEMNIFICATION.** NHHFA will not be liable for the action or inaction of Grantee in the performance of its duties under this Agreement. Further, Grantee will indemnify NHHFA and its employees, members, officers, counsel, and other representatives from all claims, causes of action, liability, loss, damage, or expense arising or resulting from Grantee's actions, including, but not limited to negligence and willful or intentional conduct in performing the work contemplated under this Agreement or arising in any way under this Agreement.

16. **NHHFA'S RIGHT TO TERMINATE AGREEMENT.** In the event of a violation of any term or condition of this Agreement by Grantee, NHHFA will have the right to terminate this Agreement by giving Grantee ten (10) days written notice of such termination. NHHFA will reimburse Grantee for its Project expenses incurred prior to the effective termination date indicated in its written notice.

17. **GRANTEE'S ADMINISTRATIVE AND FINANCIAL REPORTS AND INFORMATION.** Grantee will maintain full and accurate accounts and records, including personnel, property and financial records, adequate to identify and account for all costs and expenses pertaining to the work performed by Grantee pursuant to this Agreement and such other records and information as may be deemed necessary by NHHFA to assure proper accounting and use for all Program funds. Between the

Effective Date and the date five (5) years after the Completion Date, Grantee will keep, or require to be kept by subcontractors, detailed records of all services performed in connection with the Grant. At any time during Grantee's normal business hours, and as often as NHHFA, the State, the U.S. Department of Treasury or OMB may demand, Grantee will make available to the NHHFA, State, the U.S. Department of Treasury or OMB all records pertaining to matters covered by this Agreement. Grantee will permit NHHFA, the State, the U.S. Department of Treasury or OMB to audit, examine, and reproduce such records, and to make audits of all contracts, invoices, materials, payrolls, records of personnel, data, and other information relating to all matters covered by this Agreement.

18. NO INTELLECTUAL PROPERTY RIGHTS. Grantee acknowledges and agrees that any and all reports, plans, drawings or other documents produced or generated in whole or in part under this Agreement will not be the subject to copyright or other intellectual property right by Grantee or Grantee's contractors and subcontractors. All such documents will be in the public domain.

19. NO AGENCY. Grantee acknowledges and agrees that it has no authority to act on behalf of NHHFA as its agent, representative or in any other capacity whatsoever and that it will not hold itself out as an agent or representative of NHHFA. Further, Grantee acknowledges and agrees that it does not and shall not claim or assert to have the right to act for, bind or take any action whatsoever in any capacity whatsoever on behalf of NHHFA.

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

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

Notice to Program Administrator:

Tiffany Tononi McNamara
Plan NH
info@nhhopgrants.org

Notice to NHHFA:

George Reagan
New Hampshire Housing
32 Constitution Drive
Bedford, NH 03110
greagan@nhhfa.org

Notice to Grantee:

Name: Michael Behrendt

City/Town: Town of Durham

Address: 8 Newmarket Road

Durham, NH 03824

Email: mbehrendt@ci.durham.nh.us

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

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

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

25. BINDING EFFECT. This Agreement is binding upon the parties hereto and upon their successors, heirs, personal representatives and assigns.

Signature page follows.

AGREED:

New Hampshire Housing Finance Authority

By: _____ Date: _____
Benjamin D. Frost
Deputy Executive Director

Town of Durham, New Hampshire

By: _____ Date: _____
Signature (Duly Authorized)

Name and Title Printed

EXHIBIT A

Scope of Work

1. Grantee acknowledges and agrees that the funds awarded under this Agreement will be used solely for purposes identified in this Agreement. Funds are awarded for these purposes under Section 9901 of the American Rescue Plan Act (Pub. L. No. 117-2 (March 11, 2021)), for which Grantee has not received payment or reimbursement from any other source and the State has determined is an allowable purpose as defined in Section 9901.

2. Services to be Provided:

The following is as presented in Durham's awarded application packet:

Scope of Work and Budget

Here is a list of tasks related to work with the two consultants with target timeframes based on the date the grant is awarded. The work of the staff and the task force in overseeing the project, creating the survey, and reaching out to the community will be ongoing.

- 1) Grant is awarded to the Town of Durham. Time - 0.
- 2) Town selects consultant for needs analysis from approved list of qualified consultants or hires the Strafford Regional Planning Commission. Time - 2 weeks.
- 3) Consultant meets with Town Planner to discuss ideas for the project and the process. Time - 3 weeks.
- 4) Consultant meets with Housing Task Force to discuss ideas for the project and the process. Time - 4 weeks.
- 5) Town selects consultant for community forum - 8 weeks.
- 6) Consultant for needs analysis meets with Housing Task Force to review rough draft of document. Time - 12 weeks.
- 7) Consultant for needs analysis presents draft document to Housing Task Force or Planning Board for comments, including comments by the public. Time - 16 weeks.

- 8) Community forum is held. Issues related to housing crisis are presented to the public. Findings in the draft needs analysis document are discussed. We listen to concerns of residents related to housing and discuss the types and locations of housing that are considered appropriate for Durham. Time – 20 weeks.
- 9) Consultant for the needs analysis presents the final document, incorporating appropriate information from earlier comments and the community forum, to the Town Planner – 22 weeks.

Durham Housing Task Force

The members of the task force include:

- Cathy Frierson, Former UNH Professor of History and resident of Faculty Road neighborhood
- Heather Grant, Planning Board Vice Chair
- Charlotte Hitchcock, Member of Historic District Commission and retired architect
- Chuck Hotchkiss, Town Council member and professional city planner and statistician. Expected to be appointed as Council representative in March.
- Al Howland, State legislator and former Town Council and School Board member
- Mimi Kell, property manager with Golden Goose Properties. Now serving as an advisor.
- Eileen Murphy, Graduate student in family development at UNH and tenant
- Michael Saputo, former Assistant Director of Housing at UNH
- Judith Spang, professional city planner and former legislator
- Sally Tobias, Town Council member

BUDGET TEMPLATE			
	Task Name	Details	Cost
Task 1	Development of Analysis by Consultant	Paid by this grant	\$20,000
Task 2	Facilitator for Community Forum	Paid by this grant	\$ 4,500
Task 3	Housing Academy Stipend for two volunteers	Paid by this grant	\$ 500
Task 3	Additional Administrative Costs	From Town funds	\$ 1,000
Total:			\$26,000

EXHIBIT B

Methods and Conditions of Payment

Grantee acknowledges and agrees that funding under this Agreement may be withheld, in whole or in part, in the event of Grantee's non-compliance with any Federal or State law, rule or regulation applicable to the Project, or if the Project has not been satisfactorily completed in accordance with the terms and conditions of this Agreement.

FEDERAL STANDARDS. Grantee acknowledges and agrees that it is a "subrecipient" as that term is defined in 2 CFR 200 as amended (Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards), and that 2 CFR 200, other than such provisions as Treasury may determine are inapplicable to the State Fiscal Recovery Fund and subject to such exceptions as may be otherwise provided by Treasury, are considered legally binding and enforceable documents under this Agreement. The State reserves the right to use any legal remedy at its disposal including, but not limited to, disallowance of costs or withholding of funds. The direct costs charged under this Agreement are determined to be allowable under ARPA Section 9901 and the cost principles detailed in 2 CFR 200 Subpart E – Cost Principles.

REIMBURSEMENT OF GRANTEE'S COSTS. Grant funds will be paid as reimbursement by NHHFA to Grantee for its costs within 30 days of presentation of an invoice to the Program Administrator by Grantee. NHHFA reserves the right to request further information in support of Grantee's invoice; such requests will toll the reimbursement period until requested information is provided by Grantee.

ELIGIBLE COSTS. In addition to the cost of consulting services as required in this Agreement for conduct of the Project, Grantee may expend grant funds for the purpose of acquiring materials and other services necessary to perform tasks identified in the Scope of Work, including but not limited to costs of public notices for meetings.

Food and beverage costs will qualify for reimbursement provided its primary purpose is for the Project and for the purpose of engaging with the public or groups of stakeholders, such as public meetings or focus groups, or is for the dissemination of information about the Project and gathering of public input regarding the Project. Prior to any such expenditure, Grantee must secure the approval of the Program Administrator. Grantee can secure approval for a recurring series of expenditures in a single request. The cumulative amount of funds used to purchase food and beverages will not exceed one percent of Grantee's total project budget or \$2,500, whichever is greater, without prior approval by the Program Administrator. Grant funds cannot be used for the purchase of alcoholic beverages.

Grantee may use up to 7.5% of grant funds for its administrative costs.

Grant funds may not be used for the acquisition of property, to pay for equipment, or to pay for consultant services rendered prior to the Effective Date.

Regardless of the Completion Date, any invoice submitted for reimbursement after July 31, 2024 will not be eligible for reimbursement.

EXHIBIT C

Drug-Free Workplace

Grantee agrees to comply with the provisions of Sections 5151-5160 of the Drug-Free Workplace Act of 1988 (Pub. L. 100-690, Title V, Subtitle D; 41 U.S.C. 701 et seq.), and further agrees that by executing this Agreement it certifies as follows:

Certification Regarding Drug Free Workplace

This certification is required by the regulations implementing Sections 5151-5160 of the Drug-Free Workplace Act of 1988 (Pub. L. 100-690, Title V, Subtitle D; 41 U.S.C. 701 et seq.). The January 31, 1989, regulations were amended and published as Part II of the May 25, 1990, Federal Register (pages 21681-21691), and require certification by grantees, prior to award, that they will maintain a drug-free workplace. The certificate set out below is a material representation of fact upon which reliance is placed when NHHFA awards the grant. False certification or violation of the certification shall be grounds for suspension of payments, suspension or termination of grants, or government wide suspension or debarment.

- (A) Grantee certifies that it will or will continue to provide a drug-free workplace by:
- (a) Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession or use of a controlled substance is prohibited in Grantee's workplace and specifying the actions that will be taken against employees for violation of such prohibition;
 - (b) Establishing an ongoing drug-free awareness program to inform employees about—
 - (1) The dangers of drug abuse in the workplace;
 - (2) Grantee's policy of maintaining a drug-free workplace;
 - (3) Any available drug counseling, rehabilitation, and employee assistance programs; and
 - (4) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;
 - (c) Making it a requirement that each employee to be engaged in the performance of the grant be given a copy of the statement required by paragraph (a);
 - (d) Notifying the employee in the statement required by paragraph (a) that, as a condition of employment under the grant, the employee will—
 - (1) Abide by the terms of the statement; and

- (2) Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five calendar days after such conviction;
- (e) Notifying NHHFA in writing, within ten calendar days after receiving notice under subparagraph (d)(2) from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position title, to every grant officer on whose grant activity the convicted employee was working, unless the Federal agency has designated a central point for the receipt of such notices;
- (f) Taking one of the following actions, within 30 calendar days of receiving notice under subparagraph (d)(2), with respect to any employee who is so convicted—
 - (1) Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; or
 - (2) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, state, or local health, law enforcement, or other appropriate agency;
- (g) Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (a), (b), (c), (d), (e), and (f).

EXHIBIT D

Lobbying

Grantee agrees to comply with the provisions of Section 319 of Public Law 101-121, Government wide Guidance for New Restrictions on Lobbying, and 31 U.S.C. 1352, and further agrees that by executing this Agreement it certifies as follows:

CERTIFICATION REGARDING LOBBYING

Grantee certifies, to the best of its knowledge and belief, that:

- (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, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement (and by specific mention sub-grantee or sub-Grantee).
- (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 Congress in connection with this Federal contract, grant, loan, or cooperative agreement (and by specific mention sub-grantee or sub-Grantee), Grantee shall notify NHHFA.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

EXHIBIT E

Debarment

The Grantee agrees to comply with the provisions of Executive Office of the President, Executive Order 12529 and 45 CFR Part 76 regarding Debarment, Suspension, and Other Responsibility Matters, and further agrees that by executing this Agreement it certifies as follows:

CERTIFICATION REGARDING DEBARMENT, SUSPENSION, AND OTHER RESPONSIBILITY MATTERS - PRIMARY COVERED TRANSACTIONS

Instructions for Certification

- (1) By signing and submitting this Agreement, the Grantee is providing the certification set out below.
- (2) The inability of a person to provide the certification required below will not necessarily result in denial of participation in this covered transaction. If necessary, the Grantee shall submit an explanation of why it cannot provide the certification. The certification or explanation will be considered in connection with the State determination whether to enter into this transaction. However, failure of the Grantee to furnish a certification or an explanation shall disqualify such person from participation in this transaction.
- (3) The certification in this clause is a material representation of fact upon which reliance was placed when the State determined to enter into this transaction. If it is later determined that the Grantee knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, State may terminate this transaction for cause or default.
- (4) The Grantee shall provide immediate written notice to NHHFA, to whom this Agreement is submitted if at any time the Grantee learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
- (5) The terms "covered transaction," "debarred," "suspended," "ineligible," "lower tier covered transaction," "participant," "person," "primary covered transaction," "principal," "proposal," and "voluntarily excluded," as used in this clause, have the meanings set out in the Definitions and Coverage sections of the rules implementing Executive Order 12549: 45 CFR Part 76.
- (6) The Grantee agrees by submitting this Agreement that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by NHHFA.
- (7) The Grantee further agrees by submitting this Agreement that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Covered Transactions," provided by State, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

- (8) A Grantee in a covered transaction may rely upon a certification of Grantee in a lower tier covered transaction that it is not debarred, suspended, ineligible, or involuntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A Grantee may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the Non-procurement List (of excluded parties).
- (9) Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a Grantee is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
- (10) Except for transactions authorized under paragraph 6 of these instructions, if a Grantee in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal government, NHHFA may terminate this transaction for cause or default.

**CERTIFICATION REGARDING DEBARMENT, SUSPENSION, AND OTHER
RESPONSIBILITY MATTERS - PRIMARY COVERED TRANSACTIONS, cont'd**

***Certification Regarding Debarment, Suspension, and Other
Responsibility Matters - Primary Covered Transactions***

- (1) The Grantee certifies to the best of its knowledge and belief, that it and its principals:
 - (a) are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;
 - (b) have not within a three-year period preceding this Agreement been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or a contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
 - (c) are not presently indicted for otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph (1) (b) of this certification; and
 - (d) have not, within a three-year period preceding this Contract, had one or more public transactions (Federal, State or local) terminated for cause or default.
- (2) Where the prospective primary participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this Agreement.

EXHIBIT F

ASSURANCE OF COMPLIANCE NONDISCRIMINATION IN FEDERALLY ASSISTED PROGRAMS

By signing this Agreement, Grantee agrees to comply with Title VI of the Civil Rights Act of 1964 (Pub. L. 88-352); Title IX of the Education Amendments of 1972, as amended, (Pub. L. 92-318, Pub. L. 93-568, and Pub. L. 94-482); Section 504 of the Rehabilitation Act of 1973 (Pub. L. 93-112); the Age Discrimination Act of 1975 (Pub. L. 94-135); the Fair Housing Act, Title VIII-IX of the Civil Rights Act of 1968 (42 U.S.C. § 3601 et seq.), which prohibits discrimination in housing on the basis of race, color, national origin, sex, familial status, or disability; The Americans with Disabilities Act of 1990, as amended (42 U.S.C. §§ 12101 et seq.), which prohibits discrimination on the basis of disability under programs, activities, and services provided or made available by state and local governments or instrumentalities or agencies thereto.

In accordance with the above laws and regulations issued pursuant thereto, Grantee agrees to assure that no person in the United States shall, on the ground of race, color, national origin, sex, age, or disability, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity in which Grantee receives Federal assistance.

Applicability and Period of Obligation

In the case of any service, financial aid, covered employment, equipment, property, or structure provided, leased, or improved with Federal assistance extended to Grantee by the State or NHHFA with federal ARPA funds, this assurance obligates Grantee for the period during which Federal assistance is extended. In the case of any transfer of such service, financial aid, equipment, property, or structure, this assurance obligates the transferee for the period during which Federal assistance is extended. If any personal property is so provided, this assurance obligates Grantee for the period during which it retains ownership or possession of the property.

Employment Practices

Where a primary objective of the Federal assistance is to provide employment or where Grantee's employment practices affect the delivery of services in programs or activities resulting from Federal assistance extended by the State or NHHFA, Grantee agrees not to discriminate on the ground of race, color, national origin, sex, age, or disability, in its employment practices. Such employment practices may include, but are not limited to, recruitment, advertising, hiring, layoff or termination, promotion, demotion, transfer, rates of pay, training and participation in upward mobility programs; or other forms of compensation and use of facilities.

Subrecipient Assurance

Grantee shall require any individual, organization, or other entity with whom it subcontracts, subgrants, or subleases for the purpose of providing any service, financial aid, equipment, property, or structure to comply with laws and regulations

cited above. To this end, the subrecipient shall be required to sign a written assurance form; however, the obligation of both recipient and subrecipient to ensure compliance is not relieved by the collection or submission of written assurance forms.

Data Collection and Access to Records

Grantee agrees to compile and maintain information pertaining to programs or activities developed as a result of Grantee's receipt of Federal assistance from the State. Such information shall include, but is not limited to the following: (1) the manner in which services are or will be provided and related data necessary for determining whether any persons are or will be denied such services on the basis of prohibited discrimination; (2) the population eligible to be served by race, color, national origin, sex, age and disability; (3) data regarding covered employment including use or planned use of bilingual public contact employees serving beneficiaries of the program where necessary to permit effective participation by beneficiaries unable to speak or understand English; (4) the location of existing or proposed facilities connected with the program and related information adequate for determining whether the location has or will have the effect of unnecessarily denying access to any person on the basis of prohibited discrimination; and (5) the present or proposed membership by race, color, national origin, sex, age and disability in any planning or advisory body which is an integral part of the program.