

**CITY OF FRANKLIN
CITY COUNCIL MEETING
OCTOBER 10TH, 2023
6:00 P.M.**





CITY COUNCIL MEETING

Tuesday, October 10th, 2023 - 6:00 p.m.

Franklin High School Cafeteria

or view only via Zoom: <https://us02web.zoom.us/j/81361793141>

or by phone: 1-312-626-6799, Meeting ID# 813 6179 3141

SALUTE TO THE FLAG

MOMENT OF SILENCE FOR OUR VETERANS

PUBLIC HEARINGS

Resolution 07-24 accepting and appropriating a federal Department of Transportation grant for a Central Street Action Plan.

Resolution 08-24 accepting and appropriating a federal Department of Safety grant for Franklin PD Highway Safety.

Trestle Bridge Options

LEGISLATIVE UPDATE

COMMENTS FROM THE PUBLIC

Persons wishing to address the Council may speak for a maximum of three minutes. No more than thirty minutes will be devoted to public commentary. Reminder that public comment is welcome and will be taken under advisement by the Manager & Council. Ongoing requests for status should be addressed to the city manager or her designee during regular business hours. The council is a public body required to conduct the business before it on the agenda that has been vetted through the City's professional staff.

CITY COUNCIL ACKNOWLEDGEMENT

MAYOR'S UPDATE

Agenda Item I. (pg. 1)

Canvas of the Vote.

Agenda Item II. (pg. 6)

Presentation from KRT with updates on statistical appraisals.

Agenda Item III. (pg. 8)

Council to consider the minutes of the September 5th, 2023 City Council meeting and the nonpublic minutes from the September 5th, 2023 City Council meeting.

Agenda Item IV. (pg. 38)

School Board Update

Agenda Item V. (pg. 40)

Council to consider Resolution 07-24 accepting and appropriating a federal Department of Transportation grant for a Central Street Action Plan.

Agenda Item VI. (pg. 45)

Council to consider Resolution 08-24 accepting and appropriating a federal Department of Safety grant for Franklin PD Highway Safety.

Agenda Item VII. (pg. 80)

Council to consider Trestle Bridge options.

Agenda Item VIII. (pg. 88)

Council to consider setting a public hearing on Resolution 09-24 appropriating \$374,129 to the Franklin School District fiscal year 2024 budget and appropriating \$150,000 to the Franklin School District for the Portrait of a Graduate grant from the Barr.

Agenda Item IX. (pg. 94)

Council to consider setting a public hearing on Resolution 10-24 accepting and appropriating a federal grant in the amount of \$1,923,850 for the environmental clean up of the Stanley Mill site.

Agenda Item X. (pg. 110)

Council to consider changing polling location for Ward II.

Agenda Item XI. (pg. 115)

Council to consider the lease agreement for parking at the Lofts at Shepards Block.

Agenda Item XII. (pg. 128)

Council to consider deeding back property taken by tax deed.

Agenda Item XIII. (pg. 132)

Council to consider specific land to be put into conservation, led by Councilor Desrochers.

Agenda Item XIV. (pg. 135)

Other Business

1. Mayor & Council Appointments
2. Committee Reports
3. City Manager's Update
4. Late Items.

Adjournment

The City Council of the City of Franklin reserves the right to enter into non-public session when necessary, according to the provisions of RSA 91-A.

This location is accessible to the disabled. Those wishing to attend who are hearing or vision impaired may make their needs known by calling 934-3900 (voice), or through "Relay New Hampshire" 1-800-735-2964 (T.D./TRY)

CITY COUNCIL MEETING
AGENDA ITEM I



**CITY OF FRANKLIN
COUNCIL AGENDA REPORT**
City Council Meeting October 10, 2023

From: Michelle Stanyan, City Clerk

Subject: Council to Canvas the votes from the October 3, 2023 City Election:

Recommended Motions:

1. Councilor moves:
"I move that the Franklin City Council accept the return of votes and declare the following elected:"
 2. Mayor asks for a second, discussion, and vote.
-

Attachments/Exhibits:

1. Wards 1, 2 & 3 Election Results

CITY OF FRANKLIN – WARD I

CITY ELECTION RESULTS

OCTOBER 3, 2023

Total Voters on the Checklist- 1675

Ballots Cast- 412

Voter Turnout- 25%

Mayor- Two Years

Jo Brown	157
Desiree McLaughlin	236
Samuel Peter McLaughlin	14
Over Votes	0
Under Votes	4
Write-In's	1

Council- Three Years

James Chandler	148
Timothy Johnston	237
Over Votes	0
Under Votes	21
Write-In's	6

School Board-Three Years

Myla Marie Danforth	326
Over Votes	0
Under Votes	52
Write-In's	C. Martin 29 Scatter 5

Supervisor of Checklist-Six Years

Christine Dzujna	336
Over Vote	0
Under Votes	66
Write-In's	Scatter 10

A TRUE COPY ATTEST:


Signature of City Clerk

CITY OF FRANKLIN – WARD II

CITY ELECTION RESULTS

OCTOBER 3, 2023

Total Voters on the Checklist- 1301

Ballots Cast- 347

Voter Turnout- 27%

Mayor- Two Years

Jo Brown	102
Desiree McLaughlin	229
Samuel Peter McLaughlin	6
Over Votes	0
Under Votes	1
Write-In's	Scatter 9

Council- Three Years

Susan Hallett Cook	187
Over Votes	0
Under Votes	44
Write-In's	Tom Boyce 110
Write-In's	Scatter 6

School Board-Three Years

Elizabeth Cote	264
Over Votes	0
Under Votes	62
Write-In's	Scatter 21

Supervisor of Checklist-Six Years

Laurie Cass	269
Over Vote	0
Under Votes	71
Write-In's	7

A TRUE COPY ATTEST:


Signature of City Clerk

CITY OF FRANKLIN – WARD III**CITY ELECTION RESULTS****OCTOBER 3, 2023**

Total Voters on the Checklist-1675

Ballots Cast- 449

Voter Turnout- 27%

Mayor- Two Years

Jo Brown	165
Desiree McLaughlin	265
Samuel Peter McLaughlin	12
Over Votes	7
Under Votes	0
Write-In's	0

Council- Three Years

Gerald Bennett	34
Bradley J. Camley	29
Michael Lombardo	166
Edward R. Prive	200
Over Votes	1
Under Votes	14
Write-In's	Scatter 5

School Board-Three Years

Jane H. Cote	362
Over Votes	0
Under Votes	75
Write-In's	Scatter 12

Supervisor of Checklist-Four Years

Gerard Desrochers	372
Over Vote	0
Under Votes	75
Write-In's	Scatter 2

Supervisor of Checklist-Six Years

Daniel Darling	374
Over Vote	1
Under Votes	72
Write-In's	Scatter 2

Ward Clerk-One Year

Debbie Gibbs	373
Over Vote	0
Under Votes	74
Write-In's	Scatter 2

A TRUE COPY ATTEST:


Signature of City Clerk

CITY COUNCIL MEETING
AGENDA ITEM II



CITY OF FRANKLIN
COUNCIL AGENDA REPORT
October 10, 2023

Subject: Council to hear from KRT Appraisals regarding 2023 Statistical Update

CITY COUNCIL MEETING
AGENDA ITEM III



**CITY OF FRANKLIN
COUNCIL AGENDA REPORT**

City Council Meeting of October 10th, 2023

Subject: Approval of Minutes

Motion: "I move that the Franklin City Council approve the minutes of the September 5th, 2023 City Council meeting and the nonpublic minutes from the September 5th, 2023 City Council meeting."

Mayor calls for a second, discussion and the vote.



City Council Meeting Minutes
Tuesday, September 5, 2023 - 6:00 p.m.
Franklin High School Cafeteria

Council in attendance: Mayor Jo Brown, Councilor Jay Chandler, Councilor Leigh Webb, Councilor George Dzujna, Councilor Ted Starkweather, Councilor Valerie Blake, Councilor Vince Ribas, Councilor Olivia Zink and Councilor Bob Desrochers

Absent: Councilor Paul Trudel

Others in attendance: City Manager Judie Milner, City Department Heads, and members of the public.

Mayor Brown called the meeting to order in Council Chambers at 6:00 p.m.

Salute to the Flag was led by Councilor Ribas.

Councilor Desrochers stated that he didn't hear of any veterans passing away this month.

Public Hearings:

Resolution 05-24 to accept and appropriate \$418,000 InvestNH grant funds towards Stanley Mill demolition.

The public hearing opened at 6:01 p.m.

There was no discussion on this hearing.

The public hearing on Resolution 05-24 closed at 6:01 p.m.

Resolution 06-24 to accept and appropriate \$310,000 InvestNH grant funds towards municipal purposes.

The public hearing opened at 6:02 p.m.

There was a request for more clarification on the signage part of the resolution for \$100,000. Milner stated that this would cover studies on parking, traffic, and wayfinding signage in downtown and the rest of the city.

The public hearing on Resolution 06-24 closed at 6:03 p.m.

Legislative Update:

There is no update at this time.

Comments from the Public:

Mayor Brown reminded everyone that persons wishing to address the council may speak for a

maximum of three minutes and no more than thirty minutes will be devoted to public commentary.

Public comments opened at 6:11 p.m.

Councilor Desrochers read from a letter he received from resident, Ray Yonaitis, and also read 6 questions from an anonymous constituent. These can be found at the end of the minutes.

Resident Karen Darling gave some updates:

- The Historical Society will be hosting 'Hidden Treasures in the Public Library' by Library Director Rob Sargent. This will be held on Thursday night at 7pm.
- Choose Franklin has meetings quarterly with the next one being on October 19th. More information will be coming.
- A map of Franklin was presented showing good things that have been done in the community. She is hoping to continue adding to the map and is looking for a place to share it.

Many residents approached the council with comments and they are outlined below:

- Sarah Stanley, who was pursuing the American flag service, has 20 of the 45 flags so far and they will be going up on the telephone posts in the city soon.
- One resident wanted to let everyone know that she spoke with Madison Lightfoot from Senator Shaheen's office, who stated that the grant for the remainder of the Whitewater Park had passed the congressional committee and will be presented to budget committee.
- An idea for raising money for the city was suggested, which would be charging for parking.
- A resident read a letter from another citizen, Myla Everett, who was unable to attend and that is attached at the end of the minutes.
- Councilor Blake also read an email that she received from resident, Carol Heydt, which is attached at the end of the minutes.
- A resident let the council know that they should hold off on the \$20M bond. Mayor Brown stated that there is no intention to bring any bond to the council at this time.
- Resident Desiree McLaughlin, Ward II, read a letter that she wrote, which is attached to the end of the minutes along with her supporting documents.
- There were a few questions about how a TIF grant works. Milner explained that it is a tool for economic development that is allowable under RSA (she did not know the number off the top of her head) that they can use and it defines a district within the city. There are two TIF districts that are defined within the city. It allows the council the tool, which they have to appropriate through the budget process. For example, if a huge manufacturing plant comes to the TIF district that's in the industrial park, the tax increment from that manufacturing plant can be held aside to do improvements in that park. That is outside of regular general fund operations and then later on, that tax increment, after the improvements are completed, could absolutely come back into the general fund. It is designed to entice people to come in and spend their money in Franklin so that we get future tax dollars from them. Basically, half of the new revenue from a new business in the TIF district would go towards taking care of things in that park and the other half of the new revenue would go into the general fund. This is tax revenue that you would not have seen had this economic tool not been employed.

- Milner also answered a question about the \$100,000 going to a study for signage. She added that this is for several studies; a parking study, traffic study and wayfinding signage study. This is part of the Invest NH grant, which is part of the ARPA federal funds.

Councilor Chandler reminded the public that whenever the city receives a federal grant, it HAS to be applied to that specific project grant. It cannot fund any other projects. These are also not taxpayer dollars, but federal tax payer funds.

Milner read the updates from Coalition Coordinator, Stephanie Wolff, who was unable to attend the meeting:

- September 16th-21st - Stephanie will be attending the final week of the CADCA National Coalition Academy. Following this week, she will submit her products for completion and will be on to graduate from the program in early February.
- The Academic year has officially started, and that means that the Franklin Youth Initiative will be starting up soon! There will be lots of fun actives planned for the year, but the first order of business will be celebrating Red Ribbon Week occurring Oct 22nd- 31st. Wear your red ribbons during this week to show your support for substance-free living.
- Franklin Fall Festival is happening on October 21st from 2pm to 5pm. Registration is still open for vendors and soup entrees. Please visit Partners in Prevention Facebook page, the city website or look for the flyers for the registration links.
- Mark your calendars and collect your old medications from your cabinets and dispose of them safely! Drug Take Back Day will be occurring Saturday October 28th from 10am-2pm at the Franklin CVS.

Public comments closed at 6:43 p.m.

City Council Acknowledgement:

Councilor Webb thanked all of the candidates for stepping up to run in this year's city election.

Councilor Dzujna stated that this is a unique council as there are 4 veterans that sit on it; Mayor brown, Councilor Starkweather, Councilor Chandler and Councilor Desrochers. He thanked them all for their service.

Councilor Zink thanked the Municipal Services department during this rainy summer. They have been out in every storm.

Councilor Blake echoed Councilor Zink stating that they have been doing a great job.

Mayor's Update:

- Mayor Brown spoke about the lawsuit that was filed against the city and several officials by Miriam Kovacs. She read a comment from the city in response that everyone will probably hear on WMUR and local newspapers:

“Thank you, Union Leader, for the opportunity to respond. Be aware that the city did act quickly in response to Ms. Kovacs’ situation with an emergency City Council meeting that was open to the public for all comments. The drafting and passage of a city council proclamation against hate and the establishment of a volunteer anti-hate committee to look at the entire issue, of which Ms. Kovacs was a member. The committee still exists. We are also working with the DOJ to bring in a City Spirit program to help us build better community spirit and engagement. Allegations have been made, but the entire case is still under review by our city attorneys. These allegations are only that. They have not been proven to be true so it is prudent to wait until defendants can meet with the lawyers to determine the best course forward. I believe that neither the city nor any of the individual defendants will be found culpable of any discriminatory behavior or action. So, I would ask that we let the legal system work this through for us.”

- September 20th will be the groundbreaking for the Veteran’s Campus.
- The Franklin Business Group fair will be October 18th, 6pm – 8pm.

Agenda Item I.

Approval of Minutes.

Council to consider the minutes of the July 24th, 2023 City Council Workshop meeting, the August 7th, 2023 City Council meeting, the nonpublic minutes from the August 7th, 2023 City Council meeting and the August 21st, 2023 City Council Workshop meeting.

Motion – Councilor Ribas moved that the Franklin City Council approve the minutes of the July 24th, 2023 City Council Workshop meeting, the August 7th, 2023 City Council meeting, the nonpublic minutes from the August 7th, 2023 City Council meeting and the August 21st, 2023 City Council Workshop meeting. Seconded by Councilor Dzujna.

Mayor Brown asked if there was any discussion.
No discussion ensued.

All in favor. Motion PASSED.

Agenda Item II.

School Board Update

Superintendent LeGallo’s updates are as follows:

- **Adequacy Aid/Fund Balance Update:** The school district is receiving an additional \$200,000 in adequacy aid from their budget projection and approximately \$150,000 in

additional fund balance that was budgeted in the 23-24 budget. He will have the final fund balance figures when Jefferson reconciles the year. They are anticipating that these funds will be used to help address the project budget shortfall anticipated for FY25.

- **Teacher Shortage:** As of the opening of school, they are short 13.5 professional positions in the school district. These include 4 special education positions, 4 classroom positions at the middle school, 1 Guidance Counselor at the middle school, 2 math teachers at the high school and 2 science teachers at the high school. They have hired 1 special education teacher today and anticipate hiring a middle school teacher later this week. The impact of these shortages means larger class sizes at the middle school and some upper-level math and science classes being offered through collaboration with Lakes Region Community College and Winnisquam High School.
- **12-Passenger Van Purchase:** They have purchased a 12-passenger van to assist them in transporting students throughout the district, to LRCC/Winnisquam for smaller field trips and potentially some of their athletic events. They anticipate this purchase to save them money with the rising costs of transportation that they are seeing from those providers.
- **HVAC Project:** They are almost completed with the HVAC project at the elementary and middle school from this summer. The system is up and running in both schools and only some minor finishing touches are left to complete the project.
- **Door Access Control and Camera Project:** The door access control and updated camera projects have been completed at all 3 schools. The cameras come with a 10-year warranty. The door access controls have expanded access to their entrances at all 3 schools. Both projects have improved security and safety at the schools.
- **Strategic Planning:** LeGallo invited the City Councilors to participate in their community input session for their strategic planning process. The session will be held on Saturday, September 16th from 8:30am – 11:30am at the middle school.

Agenda Item III.

Council to consider Resolution 05-24 to accept and appropriate \$418,000 InvestNH grant funds towards Stanley Mill demolition.

Motion - Councilor Dzujna moved that the Franklin City Council adopt Resolution #05-24 accepting and appropriating an InvestNH grant in the amount of \$418,000 for the purpose of demolishing the Stanley Mill and authorizing the City Manager to execute all documents relating to the grant. Seconded by Councilor Ribas.

Mayor Brown asked if there was any discussion on this motion.

There was a question about whether this included the grant for the Brownfield project.

Milner stated that they have received 3 grants for this one project:

- In FY23 they appropriated \$200,000 from DES.
- This also includes this \$418,000 InvestNH grant.
- In addition, they recently learned that they received the big grant from EPA for \$1.923M

All 3 are added together are expected to take care of the environmental issues at Stanley Mill.

No other discussion ensued.

RESOLUTION #05-24

A Resolution Relating to a Supplemental Appropriation for Fiscal Year 2024.

In the year of our Lord, Two Thousand Twenty-Three,

WHEREAS, the City Council of the City of Franklin, New Hampshire adopted a budget for Fiscal Year 2024 which began July 1, 2023, **and;**

WHEREAS, the City Council of the City of Franklin, New Hampshire understands the Stanley Mill property is an extensive environmental clean-up project which requires the demolition of the mill, **and;**

WHEREAS, the City Council of the City of Franklin, New Hampshire understands the City received federal grant funds through the New Hampshire Business and Economic Affairs InvestNH program in the amount of \$418,000 for the purposes of demolishing the Stanley Mill, **and;**

WHEREAS, the City Council of the City of Franklin, New Hampshire wishes to appropriate the grant for the demolition of the mill, **Now,**

THEREFORE, BE IT RESOLVED that at the scheduled meeting of the City Council on Tuesday, September 5th, 2023 at 6pm the City Council of the City of Franklin, New Hampshire does hereby adopt resolution #05-24 accepting the InvestNH grant, authorizing the City Manager to execute all grant related documents and authorizing a non-lapsing appropriation through an increase in FY2024 revenues:

Federal Grant Brownfield Acct. No. 01-0-000-33110-413 – Four Hundred Eighteen Thousand dollars (\$418,000)

And an increase in FY2024 expenditure accounts,

Nuisance Abatement Brownfield Acct No. 01-1-302-40491-413 – Four Hundred Eighteen Thousand dollars (\$418,000),

By a roll call vote.

Roll Call:

Councilor Blake	<u>yes</u>	Councilor Desrochers	<u>yes</u>	Councilor Starkweather	<u>yes</u>
Councilor Webb	<u>yes</u>	Councilor Dzujna	<u>yes</u>	Councilor Trudel	<u>absent</u>
Councilor Chandler	<u>yes</u>	Councilor Ribas	<u>yes</u>	Councilor Zink	<u>yes</u>

All in favor. Motion PASSED

Agenda Item IV.

Council to consider Resolution 06-24 to accept and appropriate \$310,000 InvestNH grant funds towards municipal purposes.

Motion - Councilor Ribas moved that the Franklin City Council adopt Resolution #06-24 accepting and appropriating an InvestNH grant in the amount of \$310,000 for the purpose of matching DOT Action Plan, funding development studies and the city hall project. Seconded by Councilor Blake.

Mayor Brown asked if there was any discussion on this motion.

Councilor Webb stated that he would prefer to see the \$310,000 go towards all of the work that actually has to be done to rectify the life safety issues of the Soldiers Memorial City Hall, rather than \$100,000 of it going towards a study (\$20,000 for a match and the \$80,000 for a study that the City Manager assures us is necessary). The other \$190,000 will cover the architectural services, which means it doesn't go towards the actual work.

Mayor Brown stated that the \$80,000 has to be used for the specific DOT Action Plan or we lose the grant. The project has already been awarded to an architect, ARCoVe, in the amount of \$132,815, which is to provide the city with everything needed for the whole project, not just piece mailing the work. To pull out of that while in the middle of a contract with them would not be right.

Motion - Councilor Webb moved to accept the \$310,000, with the \$20,000 being used as a grant, but the remaining \$190,000 be put into the building account and be spent on work that needs to be done to get our building back. Seconded by Councilor Ribas.

The council discussed this option and the majority of the council was not in favor of this amendment.

Councilor Webb withdrew his motion to accept the resolution with an amendment to move \$190,000 to the building account. Councilor Ribas withdrew his second.

No other discussion ensued.

RESOLUTION #06-24

A Resolution Relating to a Supplemental Appropriation for Fiscal Year 2024.

In the year of our Lord, Two Thousand Twenty-Three,

WHEREAS, the City Council of the City of Franklin, New Hampshire adopted a budget for Fiscal Year 2024 which began July 1, 2023, and;

WHEREAS, the City Council of the City of Franklin, New Hampshire understands the City received federal grant funds through the New Hampshire Business and Economic Affairs InvestNH program in the amount of \$310,000 for municipal purposes, **and**;

WHEREAS, the City Council of the City of Franklin, New Hampshire recognizes several economic development purposes in which the InvestNH funding would be instrumental including DOT Action Plan project, traffic, parking and wayfinding signage studies, and the “city hall/opera house” project at Soldiers Memorial Hall, **and**;

WHEREAS, the City Council of the City of Franklin, New Hampshire wishes to appropriate the grant for these economic development purposes, **Now**,

THEREFORE, BE IT RESOLVED that at the scheduled meeting of the City Council on Tuesday, September 5th, 2023 at 6pm the City Council of the City of Franklin, New Hampshire does hereby adopt resolution #06-24 accepting the InvestNH grant, authorizing the City Manager to execute all grant related documents and authorizing a non-lapsing appropriation through an increase in FY2024 revenues:

Federal Grant Acct. No. 01-0-000-33110-000 – Three Hundred Ten Thousand dollars (\$310,000)

And an increase in FY2024 expenditure accounts,

Economic Development Other Professional Services Acct No. 01-6-511-40390-000 – One Hundred Twenty Thousand dollars (\$120,000)

Buildings Acct No. 01-9-012-40720-000 – One Hundred Ninety Thousand dollars (\$190,000),

By a roll call vote.

Roll Call:

Councilor Blake	<u>yes</u>	Councilor Desrochers	<u>yes</u>	Councilor Starkweather	<u>yes</u>
Councilor Webb	<u>no</u>	Councilor Dzujna	<u>yes</u>	Councilor Trudel	<u>absent</u>
Councilor Chandler	<u>yes</u>	Councilor Ribas	<u>yes</u>	Councilor Zink	<u>no</u>

6 in favor; 2 opposed. Motion PASSED

Agenda Item V.

Council to consider setting a public hearing on Resolution 07-24 accepting and appropriating a federal Department of Transportation grant for a Central Street Action Plan.

Motion - Councilor Zink moved that the Franklin City Council set a public hearing date for 6:00 p.m. on Tuesday, October 10, 2023, regarding Resolution #07-24 accepting and appropriating a federal grant from Dept of Transportation Safe Streets for All program in the amount of

\$80,000 for the purpose of creating an Action Plan for Central Street and authorizing the City Manager to execute all documents relating to the grant. Seconded by Councilor Dzujna.

Mayor Brown asked if there was any discussion on this motion.

A small discussion ensued and Milner stated that a grant checker sheet can be provided for better understanding in the future.

All in favor. Motion PASSED

Mayor Brown read the resolution to the public:

RESOLUTION #07-24

A Resolution Relating to a Supplemental Appropriation for Fiscal Year 2024.

In the year of our Lord, Two Thousand Twenty-Three,

WHEREAS, the City Council of the City of Franklin, New Hampshire adopted a budget for Fiscal Year 2024 which began July 1, 2023, **and;**

WHEREAS, the City Council of the City of Franklin, New Hampshire understands the City received federal grant funds through the Department of Transportation Safe Streets for All program in the amount of \$80,000 for the development of an action plan for Central Street, **and;**

WHEREAS, the City Council of the City of Franklin, New Hampshire recognizes the need to improve safety of the Central Street corridor for all users, **and;**

WHEREAS, the City Council of the City of Franklin, New Hampshire wishes to accept and appropriate the Safe Street for All grant for the action plan, **Now,**

THEREFORE, BE IT RESOLVED that at the scheduled meeting of the City Council on Tuesday, October 10, 2023 at 6pm the City Council of the City of Franklin, New Hampshire does hereby adopt resolution #07-24 accepting the Safe Streets for All grant through the federal Department of Transportation in the amount of \$80,000, authorizing the City Manager to execute all grant related documents and authorizing a non-lapsing appropriation through an increase in FY2024 revenues:

Federal Grant Acct. No. 01-0-000-33110-000 – Eighty Thousand dollars (\$80,000)

And an increase in FY2024 expenditure accounts,

Economic Development Other Professional Services Acct No. 01-6-511-40390-000 – Eighty Thousand dollars (\$80,000)

Agenda Item VI.

Council to consider setting a public hearing on Resolution 08-24 accepting and appropriating a federal Department of Safety grant for Franklin PD Highway Safety.

Motion - Councilor Blake moved that the Franklin City Council set a public hearing for Tuesday, October 10, 2023 at 6:00 pm, regarding Resolution #08-24, to accept and appropriate grant funds in the amount of \$6,600 from the Office of Highway Safety for the Franklin Police Department. Seconded by Councilor Webb.

Mayor Brown asked if there was any discussion on this motion.

Milner explained the programs (NH Click and You Drive, You Text, You Pay) to the council.

All in favor. Motion PASSED

Milner read the resolution to the public:

RESOLUTION #08-24

A Resolution Relating to a Supplemental Appropriation for Fiscal Year 2024.

In the year of our Lord, Two Thousand Twenty-Three,

WHEREAS, the City Council of the City of Franklin, New Hampshire adopted a budget for Fiscal Year 2024 which began July 1, 2023, **and;**

WHEREAS, the City Council of the City of Franklin, New Hampshire understands the City received federal grant funds through the New Hampshire Department of Safety, Office of Highway Safety in the amount of \$6,600 for highway safety directed patrols, **and;**

WHEREAS, the City Council of the City of Franklin, New Hampshire wishes to conduct these directed patrols which included speed, DUI, seatbelt and distracted driving enforcement for the safety of Franklin residents, **and;**

WHEREAS, the City Council of the City of Franklin, New Hampshire recognizes the required match of \$1,650 is appropriated in the FY2024 police department budget, **and;**

WHEREAS, the City Council of the City of Franklin, New Hampshire wishes to accept and appropriate the Highway Safety grant for directed patrols, **Now,**

THEREFORE, BE IT RESOLVED that at the scheduled meeting of the City Council on Tuesday, October 10, 2023 at 6pm the City Council of the City of Franklin, New Hampshire does hereby adopt resolution #08-24 accepting the Office of Highway Safety grant through the New Hampshire Department of Safety in the amount of \$6,600, authorizing the City Manager to execute all grant related documents and authorizing a non-lapsing appropriation through an increase in FY2024 revenues:

Federal Grant - Police Acct. No. 01-2-103-33111-000 – Six Thousand Six Hundred dollars (\$6,600)

And an increase in FY2024 expenditure account,

Patrol Overtime Acct No. 01-2-103-40140-000 – Six Thousand Six Hundred dollars (\$6,600)

Agenda Item VII.

Council to consider 2023 Fall disposition list of city property.

Motion - Councilor Dzujna moved that the Franklin City Council authorize the Municipal Services Director to sell, for the best possible price, vehicles and equipment as itemized on the proposed “Fall 2023, Municipal Services Department, Surplus Equipment Disposition List.

Seconded by Councilor Ribas.

Mayor Brown asked if there was any discussion on this motion.

There was a discussion on deciding what to do with the revenues if they don’t come out to what is estimated, which can happen. The council can appropriate the funds as they come in, if they would like.

All in favor. Motion PASSED

Agenda Item VIII.

Council to consider supporting the City Spirit Program with Department of Justice.

Mayor Brown went over the details of the City Spirit program.

She stated that they did have a meeting with Darryck Dean from DOJ, who came from the Boston office. This is something that she would really like to pursue. It will take a commitment of a small core group of individuals from all of the sectors of society. This is not a group that will be run by the city council, mayor or the city manager, but the community that will help run this program.

The DOJ will lead the initiative to a point where the Spirit Council will then be self-sustaining. Mr. Dean will help with training throughout this program.

She stated that they need council support of this initiative to begin the process.

Motion - Councilor Ribas moved that the Franklin City Council move forward with this program.

Seconded by Councilor Chandler.

All in favor. Motion PASSED

Agenda Item IX.

Council to consider setting a public hearing for Trestle Bridge decision.

Motion - Councilor Ribas moved that the Franklin City Council set a public hearing date for 6:00 p.m. on Tuesday, October 10th, 2023, regarding the Trestle Bridge options. Seconded by Councilor Blake.

Mayor Brown stated that the numbers for the different options have been updated and were available for the public. The handout of this is attached to the end of the minutes.

Milner stated that based on the last request her and P&Z Director Creighton had a meeting with DOT and the higher up told them that regardless of the option, DOT will pay the 80% of the project. DOT just needs the city to say that they can commit to the 20% match. This is GREAT news.

DOT needs the city to choose an option and commit to reasonably spend 20% of the chosen project. Once that is decided on, they will fund the 80% difference and put that in writing.

City funding would then need to be discussed afterwards.

All in favor. Motion PASSED

Agenda Item X.

Other Business:

1. Committee Reports

Councilor Webb stated that he is still in the process of putting together a Legislative Committee meeting for this month.

2. City Manager's Update

- The City Clerk's office will be closed Tuesday, October 3rd, for elections.
- Contingent Grant Line Activity – \$731.20 for the sex offender compliance grant
- Trust fund for school funding – \$272.55
- Congratulations: Sergeant Guerrero, Sergeant Francis, and Detective Sergeant Matthews for completing advanced SWAT training. Also, in fire, Sean Breen has completed his AEMT training and Nathan Ecker is attending the fire academy.
- Committee Meetings – September:
 - Joint Finance – 9/19 @ 6:15pm at the BRCC
 - Parks & Rec – 9/28 @ 9am at the BRCC
 - Police – 9/21 @ 12pm at the Police Dept
 - Legislative – TBD
 - Municipal Finance - TBD

- Shout out – Alan Larter and Jim Aberg from FBIDC for the Industrial Relic Art Walk. You will start to see these relics in a few key places.
- Ward 2 October 2023 Election will be held at City Hall. It is no longer a place of assembly, however, in following the business rules they can use the first floor for the elections. There will be a fire watch to make sure that everyone is safe and to make sure there is no more than 99 people in the building at one time.
The city council will be considering an alternative location for the presidential primary, which tends to be more attended.
- CDL Driving Course Update – A trial run had been done here in Franklin. There are a few bugs to work out from that trial so they are going to run a second trial run before this is brought to the council as an MOU for the program to continue in Franklin.

- Media contacts – All media contacts

- City letter to Representatives and Senator – State mandated voting machines – The town of Gilford has taken lead in writing their letter and the Lakes Region group has urged all cities and towns to write a similar letter. The letter would state that the city feels very strongly that the purchase of new voting machines come from state or federal funds or come up with alternative funding for these, instead of raising taxes to be able to pay for these mandated voting machines.

Milner wanted to ask the council if this was something that they would like to entertain mailing out as well. Councilor Zink suggested it gets written to the Secretary of State instead since she currently has \$12.9M of Help America Vote funds available. These machines run for \$6,000 per polling location.

The decision was to write a letter to the Secretary of State's office and copy the State Representatives, Senator and the federal delegation.

- Stanley Mill update – The EPA grant agreement has still not been received. Milner believes they usually come in November sometime and they are waiting for the \$1.923M grant.
- City Hall Update – Still working through the contract language. Looks to be in a good place to send to Attorney Fitzgerald to approve. Work has been started with funding that had already been appropriated. A 3D laser has been done of the entire building.
- Economic Development Workshop – This has been cancelled at this point for the talked about 9/20 date, in lieu of the Candidate's Forum on 9/25. However, she wanted to let the council know of something that just passed and the Governor did just put into effect. It is a change to the Right to Know policy, specifically the unsealing of nonpublic

documents. A few years ago we started adding the review of sealed nonpublic minutes from the last year in January's meeting, before the inaugural. There was a question of what to do with sealed documents from the past and the legislation that passed this year said that anything that is 10 years back from 60 days of the passing and that 60-day mark is October 3rd. So, anything 10 years and back would automatically be opened, unless there is a policy in place. This should be a council discussion on what they'd like to put in policy so she asked then council if they'd like to set aside the 9/20 date to do a workshop on a Right to know policy instead.

The council had no objection to this workshop scheduled for September 20th at 6pm at the Elks Lodge.

- 2 Grants Submitted – For Land and Water Conservation Fund (LWCF). Both grants are for Mill City Park, one for the land portion (includes mountain bike/pump track) and the other for the water portion/second feature. These grants are up to \$500,000.
- We are in year 13 of a grant funded program through Franklin Partners in Prevention, which started off as the Mayor's Drug Taskforce. The Project Coordinator, Stephanie Wolff, has been moving the program to a different fiscal agent, who may have other programs that are similar and not so diverse as the city. Wolff has met with Archways Partners for public health, which is our regional network for health and Healthfirst. The good part about this is we would have all of the great stuff for Franklin Partners in Prevention, but wouldn't have to do the grant administration. She wouldn't have to do a budget and would be able to concentrate on actual prevention in our youth.
- Merrimack County – Holding a 200th year celebration on Saturday, 9/30, from 11am – 3pm. This is a free family fun event with food, music and raffles. It is at the campus in Boscawen.
- Broadband Study Update - \$7,500 of ARPA funds had been put towards this study. This has shown that, while most of the community is being served, the quality of broadband is not there. The committee is going to be sending out a speed test, done by UNHT program. This link will be sent out on News & Announcements so hopefully residents who have Breezeline will be completing this speed test and sending us the results.
- Change in council follow up procedure – Instead of following up monthly, Milner has started to do a Friday update, following up on information from previous meetings or that have been asked during the week. She just wanted to check in with the council to see if that's working better for them. All agreed that this has been more helpful.
- The next City Council meeting is on Tuesday, October 10th at 6pm at the Franklin High School Cafeteria. This will include the canvas of the votes as an agenda item.

- Dog forfeitures – We started with 1,700 dogs at the beginning of this process and we’re down to 163 on the list now. Milner gave a huge shoutout to the Clerk’s office for their efforts to clean up this list.
- Small change in Youth Government this year – Milner has been working with Kevin DeLange from the school district, who was looking to make it a little more robust. There is a hands-on block every other day at the high school and one of the blocks is going to be youth government or civics. So, they will have a whole quarter of youth government. Milner would be involved as well as some councilors who can volunteer to come in and talk occasionally. To be able to get their credits for the class they will be required to attend the mock city council at the end of the quarter. For this first class, please hold aside November 2nd for a mock city council meeting.
- Non-Public Needed:

Milner stated that they were ready to enter into a nonpublic session.

Motion – Councilor Ribas moved that the Franklin City Council enter into nonpublic according to RSA 91-A:3, II(d) Consideration of the acquisition, sale or lease of real or personal property which, if discussed in public, would likely benefit a party or parties whose interests are adverse to those of the general community and RSA 91-A:3, II (I) Consideration of legal advice provided by legal counsel, either in writing or orally, to one or more members of the public body, even where legal counsel is not present. Seconded by Councilor Chandler.

By a roll call vote.

Roll Call:

Councilor Blake	<u>yes</u>	Councilor Desrochers	<u>yes</u>	Councilor Starkweather	<u>yes</u>
Councilor Webb	<u>yes</u>	Councilor Dzujna	<u>yes</u>	Councilor Trudel	<u>absent</u>
Councilor Chandler	<u>yes</u>	Councilor Ribas	<u>yes</u>	Councilor Zink	<u>yes</u>

All in favor. Motion PASSED

Entered into nonpublic at 8:32 p.m.

Motion – Councilor Ribas moved to leave nonpublic session and return to public session. Seconded by Councilor Starkweather.

All in favor. Motion PASSED

Public Session reconvened at 9:18 p.m.

Motion — Councilor Ribas moved to seal the minutes. Seconded by Councilor Blake.

By a roll call vote.

Roll Call:

Councilor Blake	<u>yes</u>	Councilor Desrochers	<u>yes</u>	Councilor Starkweather	<u>yes</u>
Councilor Webb	<u>yes</u>	Councilor Dzujna	<u>yes</u>	Councilor Trudel	<u>absent</u>
Councilor Chandler	<u>yes</u>	Councilor Ribas	<u>yes</u>	Councilor Zink	<u>yes</u>

All in favor. Motion PASSED

ADJOURNMENT:

**Motion to adjourn was made by Councilor Zink and seconded by Councilor Chandler.
All in favor. Motion PASSED.**

The meeting adjourned at 9:19 p.m.

Respectfully submitted,

Lisa A. Jones
Executive Secretary

From: Ray Yonaitis <the59ray@yahoo.com>

Sent: Saturday, September 2, 2023 9:49:20 PM

To: Ted Starkweather <TStarkweather@franklinnh.org>; George Dzujna <Gdzujna@franklinnh.org>; Jay Chandler <JChandler@franklinnh.org>; Olivia Zink <OZink@franklinnh.org>; Vince Ribas <VRibas@franklinnh.org>; Robert Desrochers <RDesrochers@franklinnh.org>; Leigh Webb <LWebb@franklinnh.org>; Valerie Blake <VBlake@franklinnh.org>; Paul Trudel <pctcc3@gmail.com>; Paul Trudel <PTrudel@franklinnh.org>; Mayor <Mayor@franklinnh.org>; City Manager <citymgr@franklinnh.org>

Subject: Bonds Tax Cap Other Concerns

Hello Mayor, City Councilors, and City Manager of Franklin,

I am writing to express my concerns about the proposed Tax Cap Breaking Bonds totaling \$20,000,000.00 currently under consideration for approval by the council. I have several major concerns regarding these bonds, including;

1. My first concern relates to the allocation of Bond Items being moved from specific funds under the tax cap to general funds outside the tax cap, which would circumvent the tax cap and potentially lead to a breach of the cap. This action could allow the money to be spent on any purpose without the citizens of Franklin's knowledge or approval.
2. Prior to voting on or approving any of these bonds, I urge the city to send out Requests for Proposals (RFPs) for sealed bids to be taken on any project. It is essential to inform the citizens of Franklin about these projects. Councilors should refrain from voting on any project unless they have access to all grant applications, denials, bids, contracts, and any other pertinent information to ensure taxpayers' interests are fully represented.
3. There appears to be conflicting reasons given for grant denials. While some claim that the City Manager has never advised them of grant denials for a year, others have suggested that grants were denied because "Franklin is no longer economically disadvantaged." I formally request that the City Manager provide the public with proof of grant denials, especially those referenced by Mr. Andrew Fournier, a Mill City Park Board member. If grants were verbally denied, please provide contact information for the relevant agency to confirm these statements. Councilors should also seek to verify this information.
4. I have concerns about the involvement of Councilor Valerie Blake, who is also a Board member of Mill City Park (MCP), a non-profit organization. It is important to understand when Councilor Blake became aware of MCP's financial situation, particularly in relation to the bond proposal. Additionally, clarification is needed regarding what steps she and the Board of Directors took to address MCP's financial challenges and whether this information was shared with the Mayor, Council, and the public. If this information was intentionally withheld, it raises questions about the City Manager's role.
5. There are concerns about fairness during public participation at council meetings. It has been observed that members of the whitewater park supporters are allowed to exceed their 3-minute allotted time, while opposing views are strictly held to the 3-minute limit. This discrepancy could be perceived as discrimination and favoritism.
6. The practice of allocating taxpayer dollars to non-profit organizations for business development is questioned. While tax breaks for new businesses moving to the city are understood, providing taxpayer funding for building businesses without a return on investment in tax dollars raises concerns. Business startups can seek loans from banks or engage in fundraising campaigns.
7. There is a discrepancy regarding Councilor Valerie Blake's attendance at an invite-only meeting on April 11th, which was initially stated to have no Councilors in attendance. However, Councilors Blake and Dzujna were confirmed to have attended. Councilors should provide an explanation for their presence and why this information was not disclosed to the public.
8. Additionally, audio recordings of certain council members making derogatory statements about citizens have surfaced, including references to a business owner as a "thug." It has raised concerns and resulted in a lawsuit against the city. Councilors should be held accountable for their statements and should consider issuing apologies.
9. There have been questions regarding Mayor Brown's contact with the Department of Justice Community Relations regarding the City Spirit Program. It is important for transparency that Mayor Brown confirms whether she provided the Department with audio recordings showing negative discussions about residents during public meetings and examples of her interactions with residents, both verbally and in writing.
10. Concerns have been raised about the safety of the Trestle Bridge. If the city considers it unsafe, activities such as kayaking, rafting, swimming, or hiking should not be permitted under it. Allowing such activities could potentially expose the city to legal liabilities and lawsuits.

Given my severe illnesses, it is challenging for me to attend City Council meetings. Therefore, I kindly request that one of my councilors from Ward Two reads my email during the public participation time so that all councilors and attendees and citizens of Franklin can hear my concerns.

In conclusion, I urge you to maintain an open mind and consider all viewpoints before making decisions regarding the Bonds, breaking the tax cap, and the conduct of our city officials. Additionally, I hope that any councilor with ties to any bond issue being voted on will recuse themselves from the vote.

Thank you for your attention to this matter.

Regards,

Raymond Yonaitis

Registered Voter, Ward 2, City of Franklin, NH,

QUESTIONS ASKED BY A CONSTITUANT

Mayor and or City Manager please respond verbally or in writing on the record

1-What is the status of the Cumberland Farms project?

2-Staus of the new police dispatch center?

3-Stanley Mill project?

4-Mojolaki law suite?

5-Painting of the crosswalks?

6-Alternatives to the privatization of trash pickup?

Good evening. Madame Mayor and City Council. My name is Myla Everett as most of you know.

I am a true native of Franklin. I was born in Franklin Hospital over 80 years ago into a family of Franklinites and graduated from Franklin High School a few years ago.

I stand here tonight to strongly urge you to support the Department of Justice's program, City Spirit. My community needs its spirit lifted!

After listening to Mr. Dean's presentation of the City Spirit program, I believe there is hope for my broken spirited community and its residents. I am active in and try to support the positive efforts of the community to address the needs of its residents. From what I have seen and experienced, City Spirit is exactly what we need if we can put aside our defensive attitudes and personal judgements to dedicate ourselves to making City Spirit successful.

I was disappointed to see that many of the decision makers were absent as well as few residents present. As I arrived at the Rotary Club meeting the next morning, I was greeted with a request to share the program I had heard about the night before. The members present were encouraged and expressed their interest in City Spirit.

City Spirit's focus is on finding the issues and solutions as seen by the residents. I want to believe as representatives of the residents, you, the city officials, would embrace this program as a tool to show your concern and welcome its information towards healing and strengthening the City of Franklin.



Valerie Blake <councilorblake3@gmail.com>

Re: Welcome to Franklin sign and more.

2 messages

Carol Heydt <caheydt@yahoo.com>

Sat, Sep 2, 2023 at 5:45 PM

To: Valerie Blake <councilorblake3@gmail.com>

Valerie, please continue to support the bonds necessary for the upkeep of the opera house and railroad trestle, the demolition of unsightly buildings, and support for the schools and road maintenance. I am retired and not wealthy, but if Franklin is to continue to fill it's empty buildings, and become a place that welcomes the future, we must dig deep and pay the price. Do not listen to the nay sayers please. A community that consists only of low economic loud voices cannot survive. Thank you for hearing my input and Thank you for your service to the community.

Sent from my iPhone

Desiree McLaughlin

Ward 2

9/5/2023 City Council Meeting

Good Evening Councilors, Mayor and City Manager,

Mayor Jo Brown, On Oct 3rd 2021 you posted on your Facebook page "On Tuesday Franklin will elect its 2nd female mayor, me, Jo Brown or Olivia Zink." You went on to describe your like methods of revitalization in Franklin but it was a key phrase at the end that caught my eye. "Throwing money at a problem without a plan does not solve problems – goals set through teamwork do. I have that experience."

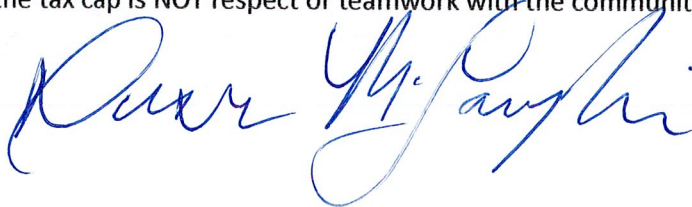
Mayor Brown, the strongest asset this city holds is its community. It is far more valuable than a river or a feature. Not only do they have realized value in the present but the unrealized gain from future generations is immeasurable. And you have left us on the bench for an economic development team with such poor transparency that I have to 91-A emails because the same team that has the gumption to recommend a 20 million dollar bond, doesn't have the accountability to publish minutes.

I have a question for you. It is your discretion to answer or not. But your silence may speak louder than your answer.

Has taxpayer money been spent on the waterpark?

I have a document received from Judie Milner in response to a 91-A I requested in May that indicates payments made for the Whitewater Park as well as Trestle View Park in an amount over a million dollars. Those are dated from 2021 and 2022. I understand there was a debt instrument issued for approximately 1.4 million and it may or may not have been guaranteed by the developer Eric Chinburg. But as far as I know, those are still tax dollars spent from the budget and the majority of the people are not in favor of their tax dollars going to this. So, have times changed? It appears you have already been spending tax dollars.

It is my understanding, Judie Milner received a denial letter in November from CDFA saying that \$400,000 in tax credits were being rescinded as a result of not qualifying for the 1.3 million dollar EDA grant but you couldn't do anything about that because you and the majority of the council were right in the middle of sticking it to the taxpayers with the trash ordinance repeal and replace. So we get through the January 2023 inauguration and then this allocation for 20 million dollars shows up in my email and back here I have to go. So I am here saying that you lied from day 1 when you campaigned for Mayor saying you respected the tax cap. Manipulating the budget and moving debt service payments outside the tax cap is NOT respect or teamwork with the community that elected you.



City of Franklin
Inception To Date Actual Ledger for Period Ending 7/31/2023

Account	Date	Source	JE Reference	Description	Debit	Credit	Balance
04-9-014-40798-122 Franklin Falls Mixed Use TIF				exp Beginning Balance			0.00
	10/31/2018	A/P	103118	T INVESTMENT PROPERTIES, INC PURCHASE NEW BUILDING	276,347.53		276,347.53
	10/31/2018	A/P	103118	SESSLER LAW OFFICE PURCHASE NEW BUILDING CANAL ST	276,347.53		552,695.06
	10/31/2018	A/P	103118	T INVESTMENT PROPERTIES, INC Cancel: PURCHASE NEW BUILDING		276,347.53	276,347.53
	11/14/2018	A/P	111418	SESSLER LAW OFFICE PURCHASE 33 MEMORIAL ST	197,392.76		473,740.29
	12/10/2018	A/P	121018	ALL-WAYS WRECKING 42-46 CANAL ST ASBESTOS	1,130.00		474,870.29
	12/31/2018	A/P	33	ALL-WAYS WRECKING MEMORIAL 33 MEMORIAL ST DEMOLISHED ST	27,800.00		502,670.29
	6/30/2019	A/P	072219	ALL-WAYS WRECKING 42-46 CANAL ST DEMOLITION	21,000.00		523,670.29
	7/01/2019	G/L	7272 FY20-385	Record Prior Period Adj from FY19 for parking improvement project to fixed asset and note payable and to record MCP fixed asset FY20		40,000.00	483,670.29
	6/30/2020	G/L	7088 FY20-358	Reclass MCP project coordination invoices to TIF amendment #1 project	40,000.00		523,670.29
	7/01/2020	G/L	7515 FY21-386	Record Prior period adjustment for Mixed use TIF fixed asset	40,000.00		563,670.29
	12/31/2020	A/P	36827	UNION LEADER CORPORATION GRANT ADMINISTRATOR PARKING LOT PROJECT & WHITEWATER PARK CONSTRUCTION	342.10		564,012.39
	1/31/2021	A/P	4569	CREDERE ASSOCIATES, LLC 33 MEMORIAL ST PHASE 1 ESA UPDATE	1,500.00		565,512.39
	2/23/2021	A/P	KF-21845	SRW ENVIRONMENTAL CONSULTING, LLC MEMORIAL ST PARKING LOT ENVIRONMENTAL ASSESSMENT	2,300.00		567,812.39
	6/30/2021	G/L	7513 FY21-383	Reclass Union Leader invoice to correct account #.	497.60		568,309.99
	6/30/2021	G/L	7835 FY21-424	To correct entries associated with Franklin Falls Mixed Use TIF & CDBG grant for parking lot improvements		839.70	567,470.29
	7/30/2021	A/P	52338	ALVIN J. COLEMAN & SON, INC WHITEWATER PARK CONSTRUCTION	116,410.62		683,880.91
	8/31/2021	A/P	52842	ALVIN J. COLEMAN & SON, INC WHITEWATER PARK	4,750.00		688,630.91
	9/30/2021	A/P	3	ALVIN J. COLEMAN & SON, INC WHITEWATER PARK THRU 9/30/21	235,787.62		924,418.53
	10/29/2021	A/P	4	ALVIN J. COLEMAN & SON, INC WHITE WATER PARK THRU 10/31/21	326,011.50		1,250,430.03
	12/02/2021	A/P	55086	ALVIN J. COLEMAN & SON, INC WHITEWATER PARK PAYMENT	13,205.00		1,263,635.03
	1/05/2022	A/P	55350	ALVIN J. COLEMAN & SON, INC WHITEWATER PARK PAYMENT THRU 12/31/21	65,858.75		1,329,493.78
	2/16/2022	G/L	7530 FY22-147	RECLASS KV PARTNERS INVOICES FOR PARKING LOTS TO TIF PROJECT	7,200.00		1,336,693.78
	3/03/2022	A/P	57413	ALVIN J. COLEMAN & SON, INC WHITEWATER PARK PAYMENT THRU 02/28/22	193,011.50		1,529,705.28
	5/01/2022	A/P	59740	ALVIN J. COLEMAN & SON, INC WHITEWATER PARK - PAYMENT THRU 05/31/22	89,260.10		1,618,965.38
	5/05/2022	A/P	244592	MILLICAN NURSERIES, INC. TREES FOR TRESTLE PARK	1,995.00		1,620,960.38

City of Franklin
Inception To Date Actual Ledger for Period Ending 7/31/2023

<u>Account</u>	<u>Date</u>	<u>Source</u>	<u>JE Reference</u>	<u>Description</u>	<u>Debit</u>	<u>Credit</u>	<u>Balance</u>
	5/25/2022	A/P	1158	M.A. SMITH ELECTRIC, LLC WHITEWATER PARK	2,475.00		1,623,435.38
	5/25/2022	A/P	1159	CONSTRUCTION CONTINGENCY M.A. SMITH ELECTRIC, LLC WHITEWATER PARK	665.00		1,624,100.38
	6/20/2022	A/P	3503	CONSTRUCTION CONTINGENCY KV PARTNERS, LLC MEMORIAL & CANAL STREET PARKING LOT- CONSTRUCTION DOCUMENTS	1,800.00		1,625,900.38
	6/30/2022	G/L	7964 FY22-389	Recognize TIF proceeds deferred in FY21, reclass phase 1 of Whitewater park construction from TIF to appropriate grants, accrue grant revenue, correct TIF proceeds entry based on exp reclass		458,961.67	1,166,938.71
	8/03/2022	A/P	60057	ALVIN J. COLEMAN & SON, INC WHITEWATER PARK - PAYMENT THRU 07/31/22	93,889.91		1,260,828.62
	8/03/2022	G/L	8031 FY23-194	Reclass Alvin J. Coleman invoice to reflect adj made for FY22 invoice paid twice	11,833.00		1,272,661.62
	8/12/2022	A/P	1190	M.A. SMITH ELECTRIC, LLC WHITEWATER PARK CONSTRUCTION CONTINGENCY - LIGHT ON THE WAVE	558.22		1,273,219.84
	2/08/2023	G/L	8095 FY23-247	Reclass Recreation Engineering & Planning invoice	15,145.29		1,288,365.13
	5/15/2023	A/P	051523	HEART & STONE LANDSCAPING, LLC INSTALLATION OF TRESTLEVIEW PARK AMPHITHEATER SIGN	600.00		1,288,965.13
	5/20/2023	A/P	3670	KV PARTNERS, LLC PARKING LOT CONSTRUCTION: CONSTRUCTION OBSERVATION	2,650.00		1,291,615.13
	5/31/2023	A/P	060523	DBU CONSTRUCTION, INC. MUNICIPAL PARKING LOT PROJECT/33 MEMORIAL ST	59,075.00		1,350,690.13
	6/30/2023	A/P	063023	DBU CONSTRUCTION, INC. MUNICIPAL PARKING LOT PROJECT - 33 MEMORIAL ST/2ND PAYMENT	4,425.00		1,355,115.13
04-9-014-40798-122 Franklin Falls Mixed Use TIF exp Ending Balance					2,131,264.03	776,148.90	1,355,115.13
Report Total					2,131,264.03	776,148.90	1,355,115.13



Mayor

Re: City Manager's Comments

From Mayor@franklinnh.org

To Stacey Marsland & 2 more

Aug 9 at 8:47 PM ✓

Stacey-I knew nothing about this situation, and I doubt any of the councilors did either. This is the first time I have ever seen this letter or knew of its existence.

What has this letter got to do with our meeting? What are you afraid of about talking face to face?

Jo Brown, Mayor
City of Franklin



UNITED STATES DEPARTMENT OF COMMERCE
Economic Development Administration
Robert N.C. Nix Sr. Federal Building and U.S.
Courthouse, Room 602
900 Market Street
Philadelphia, PA 19107

In reply refer to:
EDA Control No. 119182

August 3, 2022

Ms. Judie Milner, City Manager
City of Franklin
316 Central Street
Franklin, NH 03235-1774

Dear Ms. Milner:

The U.S. Economic Development Administration's (EDA) Philadelphia Regional Office is in receipt of your application for the Supporting Economic Prosperity through Increased Tourism and Outdoor Recreation for the Winnepesaukee River Park for a total project cost of \$1,678,051 with an EDA grant of \$1,342,441.

We regret to inform you that your application is non-responsive to the FY 2021 American Rescue Plan Act Travel, Tourism, and Outdoor Recreation Notice of Funding Opportunity (NOFO) (ARPA Tourism NOFO) as well as the Non-Binding Commitment Letter which was not responded to in full. In response to EDA, the application is incomplete. The primary reasons are:

- The consulting firms providing A/E services for this application's construction phase were not procured in accordance with Federal regulations for this application. While it is acknowledged that these firms were procured for the prior design and permitting phases, the construction phase was not considered during that competitive procurement. The prior Request for Qualifications source documentation used to secure these firms did not discuss, nor did it request pricing for, the consultant(s) to perform any future construction activities after their design and permitting contractual obligations were complete. Rather than perform a new solicitation for construction services, those two firms' contracts were extended to include construction related tasks. This non-competitive procurement renders these contracts ineligible for Federal participation.
- The application and responses to the Non-Binding Commitment Letter, demonstrate that the executed contract is not able to meet 2 CFR 200.320 that specifically notes that sealed bid method with lowest price procurement is the preferred method. Given the stage of completion of the construction project it is not feasible to rebid the project to meet EDA procurement standards and execute a construction change order incorporating all federal required documentation into the existing contracts. This would include items such as retroactive Davis-Bacon wage rates, CD-512, EEO requirements and having an EDA Construction sign posted on site.

- EDA was not provided the opportunity to review construction plans and specifications prior to advertisement for construction. This resulted in EDA not being able to provide guidance, input, and comments on the acceptability of the construction package. The construction project would need to be re-bid, which is an improbable event due to the schedule, sequencing, and process for the overall project.
- A security interest cannot be provided on this project as noted in Section D.2 of the ED-900C. For all projects involving the acquisition, construction, or improvement of a building, infrastructure or other real property a Recipient must execute and furnish to EDA a lien, covenant or other statement securing EDA's interest in the property. Since it was indicated that title is not fully held, cannot be held and thus a security interest cannot be provided, EDA's requirement for secured interest cannot be met.

Unfortunately, for the above reasons, EDA has determined that the project in its current state is too far along in the process for EDA to participate.

If you have any further questions, please contact David Cohen, Management/Program Analyst, at (267) 314-3564 or dcohen@eda.gov.

Thank you for your interest in EDA. For more information about our programs and other upcoming funding opportunities, please consult our website at www.eda.gov.

Sincerely,
LINDA CRUZ
CARNALL
Linda Cruz-Carnall
Regional Director

Digitally signed by LINDA CRUZ
CARNALL
Date: 2022.08.03 16:40:21 -04'00'



November 19, 2022

Judith Milner
City Manager
City of Franklin
Franklin City Hall
316 Central Street
Franklin, NH 03235

Dear Ms. Milner

On June 14, 2022, The Community Development Finance Authority Board of Directors (BOD) approved a gross tax credit allocation of \$400,000 to the City of Franklin to construct Whitewater Features 1 and 2 constituting the final phase of development for Mill City Park at Franklin with the following contingency:

Tax Credit award is contingent upon a commitment of funds from the US Economic Development Administration (EDA) as detailed in the tax credit application.

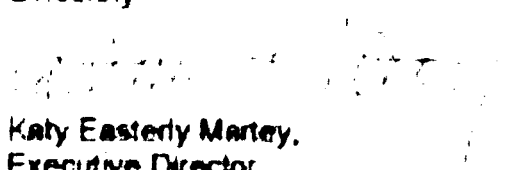
It is our understanding that the City of Franklin did not receive a commitment of funds from EDA and that there is currently no source of funds to replace them.

Without a commitment of \$1,544,000 from EDA as outlined in the application sources and uses table or another source of funding it is not feasible for this phase of the Franklin Whitewater project to move forward. Therefore, we must regrettably inform you that CDFA will withdraw its allocation of \$400,000 in tax credits for this project.

Please note that if the City of Franklin can procure alternative sources of funding which, in combination with CDFA tax credits may complete the final phase of development we would welcome a new application to compete for tax credits in the 2023 round.

CDFA has been and continues to support the completion of the Franklin Whitewater Project along with the positive tourism and economic development opportunities it brings to Downtown Franklin. If you have any questions or we can be of additional assistance please contact George Hunton, Director of the Tax Credit Program.

Sincerely,


Katy Easterly Marney,
Executive Director

FRANKLIN 42531

PEDESTRIAN BRIDGE PROJECT
August 30, 2023

ALTERNATIVE COST ESTIMATES						
	HISTORIC RESTORATION ALTERNATIVES FOR PEDESTRIAN LOADING		NEW PEDESTRIAN BRIDGE & STABILIZE TRESTLE	NO-BUILD & STABILIZE TRESTLE	NO-BUILD & REMOVE TRESTLE	
	REHABILITATE TRESTLE	REPLACE TRESTLE IN-KIND				
TIMBER TRESTLE WORK	\$ 2,400,000	\$ 2,120,000	\$ 1,100,000	\$ 1,100,000	\$ 550,000	
NEW CONCRETE RIVER PIERS (TBD)	\$ 600,000	\$ 600,000	\$ -	\$ -	\$ -	
PEDESTRIAN DESIGN & HISTORIC STYLE RAILING	\$ 690,000	\$ 690,000	\$ -	\$ -	\$ -	
CONTINGENCY	\$ 385,000	\$ 330,000	\$ 250,000	\$ 250,000	\$ 110,000	
MOBILIZATION	\$ 385,000	\$ 330,000	\$ 250,000	\$ 250,000	\$ 110,000	
NEW PEDESTRIAN BRIDGE & FOUNDATIONS	\$ -	\$ -	\$ 1,650,000	\$ -	\$ -	
APPROACH WORK	\$ 85,000	\$ 85,000	\$ 70,000	\$ -	\$ -	
TOTAL CONSTRUCTION COST ESTIMATE	\$ 4,545,000	\$ 4,155,000	\$ 3,320,000	\$ 1,600,000	\$ 770,000	
ENGINEERING, GEOTECHNICAL & PERMITTING	\$ 415,000	\$ 385,000	\$ 265,000	\$ 165,000	\$ 55,000	
CONSTRUCTION ENGINEERING (7% CONSTRUCTION)	\$ 320,000	\$ 290,000	\$ 235,000	\$ 110,000	\$ -	
TOTAL PROJECT ESTIMATE	\$ 5,280,000	\$ 4,830,000	\$ 3,820,000	\$ 1,875,000	\$ 825,000	
MINIMUM CITY SHARE	20%	20%	20%	100%	100%	
MINIMUM CITY COST	\$ 1,056,000	\$ 966,000	\$ 764,000	\$ 1,875,000	\$ 825,000	

CITY COUNCIL MEETING
AGENDA ITEM IV



**CITY OF FRANKLIN
COUNCIL AGENDA REPORT**

City Council Meeting of October 10th, 2023

Subject: Monthly School Board Update

Superintendent Dan LeGallo will provide a monthly update to the Mayor and City Council.

CITY COUNCIL MEETING
AGENDA ITEM V



**CITY OF FRANKLIN
COUNCIL AGENDA REPORT**

City Council Meeting of October 10, 2023

From: Judie Milner, City Manager

Subject: Franklin City Council to consider Resolution #07-24 accepting and appropriating a federal grant from Dept of Transportation Safe Streets for All program for the purpose of creating an Action Plan for Central Street.

Recommended Motions:

September 5, 2023

Councilor moves, "I move the Franklin City Council set a public hearing date for 6:00 p.m. on Tuesday, October 10, 2023, regarding Resolution #07-24 accepting and appropriating a federal grant from Dept of Transportation Safe Streets for All program in the amount of \$80,000 for the purpose of creating an Action Plan for Central Street and authorizing the City Manager to execute all documents relating to the grant."

Mayor calls for a second, discussion, and vote.

October 10, 2023

Councilor moves, "I move that the Franklin City Council adopt Resolution #07-24 accepting and appropriating a federal grant from Dept of Transportation Safe Streets for All program in the amount of \$80,000 for the purpose of creating an Action Plan for Central Street and authorizing the City Manager to execute all documents relating to the grant."

Mayor calls for a second, discussion, and roll call vote.

Discussion:

As was previously discussed with the City Council, the city applied for and received a Safe Streets for All Action Plan Grant from the federal Department of Transportation (DOT) for the purpose of developing an action plan for Central Street for safety upgrades to accommodate pedestrian, bicyclist and motorized traffic. The action plan is required by DOT in order to later apply for implementation funding for the construction of the project.

Concurrences:

City Council is considering appropriation of the required match, \$20,000, on September 5, 2023 as part of Resolution 06-24.

Fiscal Impact:

The total project is \$100,000. \$80,000 federal grant, \$20,000 match.

Attachments:

Resolution 07-24

Federal DOT approved grant agreement



CITY OF FRANKLIN, NEW HAMPSHIRE
"The Three Rivers City"

316 Central Street
Franklin, NH 03235

(603) 934-3900
fax: (603) 934-7413

RESOLUTION #07-24

A Resolution Relating to a Supplemental Appropriation for Fiscal Year 2024.

In the year of our Lord, Two Thousand Twenty-Three,

WHEREAS, the City Council of the City of Franklin, New Hampshire adopted a budget for Fiscal Year 2024 which began July 1, 2023, **and;**

WHEREAS, the City Council of the City of Franklin, New Hampshire understands the City received federal grant funds through the Department of Transportation Safe Streets for All program in the amount of \$80,000 for the development of an action plan for Central Street, **and;**

WHEREAS, the City Council of the City of Franklin, New Hampshire recognizes the need to improve safety of the Central Street corridor for all users, **and;**

WHEREAS, the City Council of the City of Franklin, New Hampshire wishes to accept and appropriate the Safe Street for All grant for the action plan, **Now,**

THEREFORE, BE IT RESOLVED that at the scheduled meeting of the City Council on Tuesday, October 10, 2023 at 6pm the City Council of the City of Franklin, New Hampshire does hereby adopt resolution #07-24 accepting the Safe Streets for All grant through the federal Department of Transportation in the amount of \$80,000, authorizing the City Manager to execute all grant related documents and authorizing a non-lapsing appropriation through an increase in FY2024 revenues:

Federal Grant Acct. No. 01-0-000-33110-000 – Eighty Thousand dollars (\$80,000)

And an increase in FY2024 expenditure accounts,

Economic Development Other Professional Services Acct No. 01-6-511-40390-000 – Eighty Thousand dollars (\$80,000)

By a roll call vote.

Roll Call:

Councilor Chandler	_____	Councilor Desrochers	_____	Councilor Webb	_____
Councilor Dzujna	_____	Councilor Blake	_____	Councilor Trudel	_____
Councilor Ribas	_____	Councilor Starkweather	_____	Councilor Zink	_____

Approved: _____
Mayor

Passed: _____

I certify that said vote has not been amended or repealed and remain in full force and effect as of the date of this Certification and that Michelle Stanyan is the City Clerk for the City of Franklin, Franklin, New Hampshire.

A true copy, attested: _____
City Clerk

Date: _____

**CITY OF FRANKLIN
NOTICE OF PUBLIC HEARING & MEETING**

In accordance with the provision of Chapter 31, Division 2 of the Franklin Municipal Code, notice is hereby given that the City of Franklin will hold a Public Hearing on Tuesday, October 10th, 2023 at 6:00 p.m. in the Franklin High School Cafeteria regarding Resolution #07-24 accepting and appropriating a federal grant from Dept of Transportation Safe Streets for All program in the amount of \$80,000 for the purpose of creating an Action Plan for Central Street and authorizing the City Manager to execute all documents relating to the grant.

Provisions for persons with special needs can be made by contacting the City Manager's office, via telephone or mail at least five days prior to the public hearing.

**City of Franklin
316 Central Street
Franklin, NH 03235
(603) 934-3900**

CITY COUNCIL MEETING
AGENDA ITEM VI



CITY OF FRANKLIN COUNCIL AGENDA REPORT

City Council Meeting of October 10, 2023

From: David Goldstein, Police Chief

Subject: Council to consider accepting and appropriating \$6,600 in federal funding through the New Hampshire Department of Safety, Office of Highway Safety for directed police enforcement patrols.

Suggested Motions:

September 5, 2023

Councilor moves: "I move that the Franklin City Council set a public hearing for Tuesday, October 10, 2023 at 6:00 pm, regarding Resolution #08-24, to accept and appropriate grant funds in the amount of \$6,600 from the Office of Highway Safety for the Franklin Police Department.

Mayor calls for a second, discussion and vote.

October 10, 2023

Councilor moves: "I move that the Franklin City Council adopts Resolution #08-24, to accept and appropriate grant funds in the amount of \$6,600 from the Office of Highway Safety for the Franklin Police Department.

Mayor calls for a second, discussion and roll call vote.

Discussion:

The Franklin Police Department has been awarded a grant from the New Hampshire Department of Safety, Office of Highway Safety for the purpose of participation in National Campaigns and Traffic Enforcement Projects. The Franklin Police Department would like to participate in national highway safety events such as "Operation Safe Commute", "Join the Clique" and "Drive Sober or Get Pulled Over". These patrols will be highly visible and publicized using department social media. The Franklin Police Department will implement an aggressive speed enforcement strategy. The department will conduct multiple 4-hour speed enforcement patrols during peak periods.

The Traffic Enforcement Project: \$6,600 was not included in the FY2024 budget and therefore must be appropriated for FY 2024, via resolution #08-24.

Fiscal Impact:

The grant is a 20% matching grant. The total cost of the Traffic Enforcement Project is \$8,250 with \$6,600 coming from the federal funds and the City of Franklin match in the amount of \$1,650 already appropriated as part of the FY2024 police department budget.

Alternatives:

The City of Franklin declines to approve the grant from the New Hampshire Department of Safety, Office of Highway Safety and the patrols are not completed.

Attachments/Exhibits:

Resolution #08-24
Grant Agreement



CITY OF FRANKLIN, NEW HAMPSHIRE
"The Three Rivers City"

316 Central Street
Franklin, NH 03235

(603) 934-3900
fax: (603) 934-7413

RESOLUTION #08-24

A Resolution Relating to a Supplemental Appropriation for Fiscal Year 2024.

In the year of our Lord, Two Thousand Twenty-Three,

WHEREAS, the City Council of the City of Franklin, New Hampshire adopted a budget for Fiscal Year 2024 which began July 1, 2023, **and**;

WHEREAS, the City Council of the City of Franklin, New Hampshire understands the City received federal grant funds through the New Hampshire Department of Safety, Office of Highway Safety in the amount of \$6,600 for highway safety directed patrols, **and**;

WHEREAS, the City Council of the City of Franklin, New Hampshire wishes to conduct these directed patrols which included speed, DUI, seatbelt and distracted driving enforcement for the safety of Franklin residents, **and**;

WHEREAS, the City Council of the City of Franklin, New Hampshire recognizes the required match of \$1,650 is appropriated in the FY2024 police department budget, **and**;

WHEREAS, the City Council of the City of Franklin, New Hampshire wishes to accept and appropriate the Highway Safety grant for directed patrols, **Now**,

THEREFORE, BE IT RESOLVED that at the scheduled meeting of the City Council on Tuesday, October 10, 2023 at 6pm the City Council of the City of Franklin, New Hampshire does hereby adopt resolution #08-24 accepting the Office of Highway Safety grant through the New Hampshire Department of Safety in the amount of \$6,600, authorizing the City Manager to execute all grant related documents and authorizing a non-lapsing appropriation through an increase in FY2024 revenues:

Federal Grant - Police Acct. No. 01-2-103-33111-000 – Six Thousand Six Hundred dollars (\$6,600)

And an increase in FY2024 expenditure account,

Patrol Overtime Acct No. 01-2-103-40140-000 – Six Thousand Six Hundred dollars (\$6,600)

By a roll call vote.

Roll Call:

Councilor Chandler	_____	Councilor Desrochers	_____	Councilor Webb	_____
Councilor Dzujna	_____	Councilor Blake	_____	Councilor Trudel	_____
Councilor Ribas	_____	Councilor Starkweather	_____	Councilor Zink	_____

Approved: _____
Mayor

Passed: _____

I certify that said vote has not been amended or repealed and remain in full force and effect as of the date of this Certification and that Michelle Stanyan is the City Clerk for the City of Franklin, Franklin, New Hampshire.

A true copy, attested: _____
City Clerk

Date: _____

OFFICE OF HIGHWAY SAFETY GRANT AGREEMENT

The State of New Hampshire and the Subrecipient hereby mutually agree as follows:

GENERAL PROVISIONS

Grant Agreement Title: Franklin PD Highway Safety Grant

Grant Agreement #: 24-063

1. Identification and Definitions.

1.1. State Agency Name New Hampshire Department of Safety Office of Highway Safety		1.2. State Agency Address 33 Hazen Drive, Room 208 Concord, NH 03305	
1.3. Subrecipient Name Franklin Police Department		1.4. Subrecipient Address 5 Hancock Terrace Franklin, NH 03235	
Chief of Police Name: David Goldstein Grant Contact Name: Lt. Ralph Hale		Chief of Police email: dgoldstein@franklinnh.org Grant Contact's email: rhale@franklinnh.org	
1.4.1 Subrecipient Type (State Govt, City/Town Govt, County Govt, College/University, Other (Specify)) City Government		1.4.2 UEI # PSYYABB65ZE5 Exp Date: 11/28/2023	
1.5. Subrecipient Phone # 603-934-7159	1.6. Effective Date 10/01/2023	1.7. Completion Date 09/30/2024	1.8. Grant Limitation \$ 6,600.00 <small>(Total amount of Federal funds obligated to the Subrecipient (2 CFR § 200.331(a)(1)(vii))</small>
1.9. Grant Officer for State Agency Stephen Fisher/James Gilbert		1.10. State Agency Telephone Number 603-271-6708/603-271-2021	
"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." "RSA Chapter 37 - Chairman of Selectmen, Town Manager, Mayor, County Commissioners.			
1.11. Subrecipient Signature 1		1.12. Name & Title of Subrecipient Signor 1	
Subrecipient Signature 2		Name & Title of Subrecipient Signor 2	
Subrecipient Signature 3		Name & Title of Subrecipient Signor 3	
1.13. Acknowledgment: State of New Hampshire, County of _____, on ____ / ____ / ____, before the undersigned officer, personally appeared the person(s) identified in block 1.12., known to me (or satisfactorily proven) to be the person(s) whose name is signed in block 1.11., and acknowledged that he/she executed this document in the capacity indicated in block 1.12.			
1.13.1. Signature of Notary Public or Justice of the Peace (Seal)		1.13.2 Name & Title of Notary Public or Justice of the Peace	
1.14 State Agency Signature 1 X _____ Date: _____		1.15 Name & Title of State Agency Signor 1 Robert L. Quinn, Commissioner - or Designee NH Department of Safety	
1.16. Approval by Attorney General (Form, Substance and Execution) (if G & C approval required)			
By: _____ Assistant Attorney General, On: ____ / ____ / ____			
1.17. 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"), pursuant to RSA 21-P:55-63, the Subrecipient identified in block 1.3 (hereinafter referred to as "the Subrecipient"), shall perform that work identified and more particularly described in the scope of work attached hereto as EXHIBIT B (the scope of work being hereinafter referred to as "the Project").
3. AREA COVERED Except as otherwise specifically provided for herein, the Subrecipient 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 of approval of this Agreement by the Governor and Council of the State of New Hampshire if required (block 1.17), or upon signature by the State Agency as shown in block 1.15.
- 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 A, attached hereto.
- 5.2. The manner of, and schedule of payment shall be as set forth in EXHIBIT A.
- 5.3. In accordance with the provisions set forth in EXHIBIT A, 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 Subrecipient the Grant Amount. The State shall withhold from the amount otherwise payable to the Subrecipient 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 Subrecipient for all expenses, of whatever nature, incurred by the Subrecipient in the performance hereof, and shall be the only, and the complete, compensation to the Subrecipient for the Project. The State shall have no liabilities to the Subrecipient 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 SUBRECIPIENT WITH LAWS AND REGULATIONS In connection with the performance of the Project, the Subrecipient 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 Subrecipient, including the acquisition of any and all necessary permits.
7. RECORDS and ACCOUNTS
- 7.1. Between the Effective Date and the date three (3) years after the Completion Date the Subrecipient 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 three (3) years after the Completion Date, at any time during the Subrecipient's normal business hours, and as often as the State shall demand, the Subrecipient shall make available to the State all records pertaining to matters covered by this Agreement. The Subrecipient 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, "Subrecipient" includes all persons, natural or fictional, affiliated with, controlled by, or under common ownership with, the entity identified as the Subrecipient in block 1.3 of these provisions.
8. PERSONNEL
- 8.1. The Subrecipient shall, at its own expense, provide all personnel necessary to perform the Project. The Subrecipient warrants that all personnel engaged in the project shall be qualified to perform such Project, and shall be properly licensed and authorized to perform such Project under all applicable laws.
- 8.2. The Subrecipient shall not hire, and it shall not permit any subcontractor, sub grantee, or other person, firm or corporation with whom it is engaged in a combined effort to perform the Project, to hire any person who has a contractual relationship with the State, or who is a State officer or employee, elected or appointed.
- 8.3. The Grant Officer shall be the representative of the State hereunder. In the event of any dispute hereunder, the interpretation of this Agreement by the Grant Officer, and his/her decision on any dispute, shall be final.
9. DATA: RETENTION OF DATA: ACCESS
- 9.1. As used in this Agreement, the word "data" shall mean all information and things developed or obtained during the performance of, or acquired or developed by reason of, this Agreement, including, but not limited to, all studies, reports, files, formulae, surveys, maps, charts, sound recordings, video recordings, pictorial reproductions, drawings, analyses, graphic representations, performed, who exercises any functions or responsibilities in the review or 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 Subrecipient 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 Subrecipient notice of such termination.
11. EVENT OF DEFAULT: REMEDIES
- 11.1. Any one or more of the following acts or omissions of the Subrecipient 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 Subrecipient 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 Subrecipient notice of termination; and

11.2.2 Give the Subrecipient 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 Subrecipient during the period from the date of such notice until such time as the State determines that the Subrecipient has cured the Event of Default shall never be paid to the Subrecipient; and

11.2.3 Set off against any other obligation the State may owe to the Subrecipient 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 Subrecipient 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 Subrecipient 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 Subrecipient from any and all liability for damages sustained or incurred by the State as a result of the Subrecipient'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 Subrecipient hereunder, the Subrecipient, may terminate this Agreement without cause upon thirty (30) days written notice.

13. CONFLICT OF INTEREST No officer, member or employee of the Subrecipient, and no representative, officer or employee of the State of New Hampshire or of the governing body of the locality or localities in which the Project is to be performed, who exercises any functions or responsibilities in the review or approval of the undertaking or carrying out of such Project, shall participate in any decision relating to this Agreement which affects his or her personal interest or the interest of any corporation, partnership, or association in which he or she is directly or indirectly interested, nor shall he or she have any personal or pecuniary interest, direct or indirect, in this Agreement or the proceeds thereof.

14. SUBRECIPIENT'S RELATION TO THE STATE In the performance of this Agreement the Subrecipient, its employees, and any subcontractor or subgrantee of the Subrecipient are in all respects independent contractors, and are neither agents nor employees of the State. Neither the Subrecipient 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 Subrecipient 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 Subrecipient other than as set forth in EXHIBIT B without the prior written consent of the State.

16. INDEMNIFICATION The Subrecipient 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 Subrecipient or subcontractor, or subgrantee or other agent of the Subrecipient. Notwithstanding the foregoing, nothing herein contained shall be deemed to constitute a waiver of the sovereign immunity of the State, which immunity is hereby reserved to the State. This covenant shall survive the termination of this agreement.

17. INSURANCE AND BOND

17.1. The Subrecipient 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 workmen's compensation and employees liability insurance for all employees engaged in the performance of the Project, and

17.1.2 Comprehensive public 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. Each policy shall contain a clause prohibiting cancellation or modification of the policy earlier than ten (10) days after written notice thereof has been received by the State.

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 Subrecipient.

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 intent 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.

SPECIAL PROVISIONS

U.S. Department of Transportation/NHTSA Grant Conditions:

As a result of participating in Federal highway safety grant programs administered by National Highway Traffic Safety Administration (NHTSA) and the US Department of Transportation (USDOT), highway safety subrecipients are required to comply with the following documents:

- Subrecipients agree to comply with all applicable elements of NHTSA's Memorandum: Use of NHTSA Highway Safety Grant Funds for Certain Purchases May 18, 2016 and found at the following Web link.: <https://www.nhtsa.gov/highway-safety-grants-program/resources-guide> . Subrecipients should pay particular attention to the sections on (1) allowable costs for equipment, travel, training, and consultant services; and (2) unallowable costs for equipment, facilities and construction, training and program administration.
- Subrecipients agree to comply with all applicable elements of 2 CFR 200 - the **Uniform Administrative Requirement for Grants, Cost Principles, and Audit Requirements** as promulgated by the U.S. Department of Transportation. This document is found at the following Web link <https://www.nhtsa.gov/highway-safety-grants-program/resources-guide> .
- Subrecipients agree to comply with all applicable Federal basic and incentive grant program requirements as outlined in the **Highway Safety Grant Management Manual** found at the following Web link: <https://www.nhtsa.gov/highway-safety-grants-program>. This document provides information on each of the grant programs.

The following additional provisions apply to highway safety subrecipients as a result of certifications and assurances provided to NHTSA by State Highway Safety Offices in their Highway Safety Plan:

GENERAL REQUIREMENTS

The State will comply with applicable statutes and regulations, including but not limited to:

- 23 U.S.C. Chapter 4 Highway Safety Act of 1966, as amended
- Sec. 1906, Pub. L. 109-59, as amended by Sec. 4011, Pub. L. 114-94
- 23 CFR part 1300 Uniform Procedures for State Highway Safety Grant Programs
- 2 CFR part 200 Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards
- 2 CFR part 1201 Department of Transportation, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards

INTERGOVERNMENTAL REVIEW OF FEDERAL PROGRAMS

The State has submitted appropriate documentation for review to the single point of contact designated by the Governor to review Federal programs, as required by Executive Order 12372 (Intergovernmental Review of Federal Programs).

FEDERAL FUNDING ACCOUNTABILITY AND TRANSPARENCY ACT (FFATA)

The State will comply with FFATA guidance, OMB Guidance on FFATA Subaward and Executive Compensation Reporting, August 27, 2010, (https://www.fsrs.gov/documents/OMB_Guidance_on_FFATA_Subaward_and_Executive_Compensation_Reporting_08272010.pdf) by reporting to FSRS.gov for each sub- grant awarded:

- Name of the entity receiving the award;
- Amount of the award;
- Information on the award including transaction type, funding agency, the North American Industry Classification System code or Catalog of Federal Domestic Assistance number (where applicable), program source;

- Location of the entity receiving the award and the primary location of performance under the award, including the city, State, congressional district, and country; and an award title descriptive of the purpose of each funding action;
- Unique entity identifier (generated by SAM.gov);
- The names and total compensation of the five most highly compensated officers of the entity if:
 - (i) the entity in the preceding fiscal year received —
 - (I) 80 percent or more of its annual gross revenues in Federal awards;
 - (II) \$25,000,000 or more in annual gross revenues from Federal awards; and
 - (ii) the public does not have access to information about the compensation of the senior executives of the entity through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a), 78o(d)) or section 6104 of the Internal Revenue Code of 1986;
- Other relevant information specified by OMB guidance.

NONDISCRIMINATION

(applies to subrecipients as well as States)

The State highway safety agency [and its subrecipients] will comply with all Federal statutes and implementing regulations relating to nondiscrimination ("Federal Nondiscrimination Authorities"). These include but are not limited to:

- **Title VI of the Civil Rights Act of 1964** (42 U.S.C. 2000d et seq., 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin);
- **49 CFR part 21** (*entitled Non-discrimination in Federally-Assisted Programs of the Department of Transportation—Effectuation of Title VI of the Civil Rights Act of 1964*);
- **28 CFR section 50.3** (U.S. Department of Justice Guidelines for Enforcement of Title VI of the Civil Rights Act of 1964);
- **The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970**, (42 U.S.C. 4601), (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);
- **Federal-Aid Highway Act of 1973**, (23 U.S.C. 324 et seq.), and **Title IX of the Education Amendments of 1972**, as amended (20 U.S.C. 1681-1683 and 1685-1686) prohibit discrimination on the basis of sex);
- **Section 504 of the Rehabilitation Act of 1973**, (29 U.S.C. 794 et seq.), as amended, (prohibits discrimination on the basis of disability) and 49 CFR part 27;
- **The Age Discrimination Act of 1975**, as amended, (42 U.S.C. 6101 et seq.), (prohibits discrimination on the basis of age);
- **The Civil Rights Restoration Act of 1987**, (Pub. L. 100-209), (broadens scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, The Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms "programs or activities" to include all of the programs or activities of the Federal aid recipients, subrecipients and contractors, whether such programs or activities are Federally-funded or not);
- **Titles II and III of the Americans with Disabilities Act** (42 U.S.C. 12131-12189) (prohibits discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing) and 49 CFR parts 37 and 38;
- **Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations** (preventing discrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations);
- **Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency** (requiring that recipients of Federal financial assistance provide meaningful access for applicants and beneficiaries who have limited English proficiency (LEP));
- **Executive Order 13985, Advancing Racial Equity and Support for Underserved Communities through the Federal Government** (advancing equity across the Federal government); and

1. **Executive Order 13988, Preventing and Combating Discrimination on the Basis of Gender Identity or Sexual Orientation** (clarifying that sex discrimination includes discrimination on the grounds of gender identity or sexual orientation).

General Assurances

In accordance with the Acts, the Regulations, and other pertinent directives, circulars, policy, memoranda, and/or guidance, the Recipient hereby gives assurance that it will promptly take any measures necessary to ensure that:

“No person in the United States shall, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity, for which the Recipient receives Federal financial assistance from DOT, including NHTSA.”

The Civil Rights Restoration Act of 1987 clarified the original intent of Congress, with respect to Title VI of the Civil Rights Act of 1964 and other non-discrimination requirements (the Age Discrimination Act of 1975, and Section 504 of the Rehabilitation Act of 1973), by restoring the broad, institutional-wide scope and coverage of these nondiscrimination statutes and requirements to include all programs and activities of the Recipient, so long as any portion of the program is Federally assisted.

Specific Assurances

More specifically, and without limiting the above general Assurance, the Recipient agrees with and gives the following Assurances with respect to its Federally assisted Highway Safety Grant Program:

1. The Recipient agrees that each “activity,” “facility,” or “program,” as defined in § 21.23(b) and (e) of 49 CFR part 21 will be (with regard to an “activity”) facilitated, or will be (with regard to a “facility”) operated, or will be (with regard to a “program”) conducted in compliance with all requirements imposed by, or pursuant to the Acts and the Regulations.
2. The Recipient will insert the following notification in all solicitations for bids, Requests For Proposals for work, or material subject to the Acts and the Regulations made in connection with all Highway Safety Grant Programs and, in adapted form, in all proposals for negotiated agreements regardless of funding source:

“The [name of Recipient], in accordance with the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252, 42 U.S.C 2000d to 2000d-4) and the Regulations, hereby notifies all bidders that it will affirmatively ensure that in any contract entered into pursuant to this advertisement, disadvantaged business enterprises will be afforded full and fair opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of race, color, or national origin in consideration for an award.”

3. The Recipient will insert the clauses of appendix A and E of this Assurance (also referred to as DOT Order 1050.2A)^[1] in every contract or agreement subject to the Acts and the Regulations.
4. The Recipient will insert the clauses of appendix B of DOT Order 1050.2A, as a covenant running with the land, in any deed from the United States effecting or recording a transfer of real property, structures, use, or improvements thereon or interest therein to a Recipient.
5. That where the Recipient receives Federal financial assistance to construct a facility, or part of a facility, the Assurance will extend to the entire facility and facilities operated in connection therewith.
6. That where the Recipient receives Federal financial assistance in the form of, or for the acquisition of, real property or an interest in real property, the Assurance will extend to rights to space on, over, or under such property.
7. That the Recipient will include the clauses set forth in appendix C and appendix D of this DOT Order 1050.2A, as a covenant running with the land, in any future deeds, leases, licenses, permits, or similar instruments entered into by the Recipient with other parties:
 - a. for the subsequent transfer of real property acquired or improved under the applicable activity, project, or program; and
 - b. for the construction or use of, or access to, space on, over, or under real property acquired or improved under the applicable activity, project, or program.
8. That this Assurance obligates the Recipient for the period during which Federal financial assistance is extended to the program, except where the Federal financial assistance is to provide, or is in the form of, personal property, or real property, or interest therein, or structures or improvements thereon, in which case the Assurance obligates the Recipient, or any transferee for the longer of the following periods:
 - a. the period during which the property is used for a purpose for which the Federal financial assistance is extended, or for another purpose involving the provision of similar services or benefits; or
 - b. the period during which the Recipient retains ownership or possession of the property.
9. The Recipient will provide for such methods of administration for the program as are found by the Secretary of Transportation or the official to whom he/she delegates specific authority to give reasonable guarantee that it, other recipients, sub-recipients, sub-grantees,

contractors, subcontractors, consultants, transferees, successors in interest, and other participants of Federal financial assistance under such program will comply with all requirements imposed or pursuant to the Acts, the Regulations, and this Assurance.

10. The Recipient agrees that the United States has a right to seek judicial enforcement with regard to any matter arising under the Acts, the Regulations, and this Assurance.

By signing this ASSURANCE, the State highway safety agency also agrees to comply (and require any sub-recipients, sub-grantees, contractors, successors, transferees, and/or assignees to comply) with all applicable provisions governing NHTSA's access to records, accounts, documents, information, facilities, and staff. You also recognize that you must comply with any program or compliance reviews, and/or complaint investigations conducted by NHTSA. You must keep records, reports, and submit the material for review upon request to NHTSA, or its designee in a timely, complete, and accurate way. Additionally, you must comply with all other reporting, data collection, and evaluation requirements, as prescribed by law or detailed in program guidance.

The State highway safety agency gives this ASSURANCE in consideration of and for obtaining any Federal grants, loans, contracts, agreements, property, and/or discounts, or other Federal-aid and Federal financial assistance extended after the date hereof to the recipients by the U.S. Department of Transportation under the Highway Safety Grant Program. This ASSURANCE is binding on the State highway safety agency, other recipients, sub-recipients, sub-grantees, contractors, subcontractors and their subcontractors', transferees, successors in interest, and any other participants in the Highway Safety Grant Program. The person(s) signing below is/are authorized to sign this ASSURANCE on behalf of the Recipient.

THE DRUG-FREE WORKPLACE ACT OF 1988 (41 U.S.C. 8103)

The State will 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 the grantee's workplace, and specifying the actions that will be taken against employees for violation of such prohibition;
- b Establishing a drug-free awareness program to inform employees about:
 - 1) The dangers of drug abuse in the workplace;
 - 2) The grantee's policy of maintaining a drug-free workplace;
 - 3) Any available drug counseling, rehabilitation, and employee assistance programs;
 - 4) The penalties that may be imposed upon employees for drug violations occurring in the workplace;
 - 5) Making it a requirement that each employee engaged in the performance of the grant be given a copy of the statement required by paragraph (a);
- c 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;
 - 2) Notify the employer of any criminal drug statute conviction for a violation occurring in the workplace no later than five days after such conviction;
- d Notifying the agency within ten days after receiving notice under subparagraph (c)(2) from an employee or otherwise receiving actual notice of such conviction;
- e Taking one of the following actions, within 30 days of receiving notice under subparagraph (c)(2), with respect to any employee who is so convicted –
 - 1) Taking appropriate personnel action against such an employee, up to and including termination;
 - 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;

- f) Making a good faith effort to continue to maintain a drug-free workplace through implementation of all of the paragraphs above.

POLITICAL ACTIVITY (HATCH ACT)

(applies to subrecipients as well as States)

The State will comply with provisions of the Hatch Act (5 U.S.C. 1501-1508), which limits the political activities of employees whose principal employment activities are funded in whole or in part with Federal funds.

CERTIFICATION REGARDING FEDERAL LOBBYING

(applies to subrecipients as well as States)

Certification for Contracts, Grants, Loans, and Cooperative Agreements

The undersigned certifies, to the best of his or her 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, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement;
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, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions;
3. The undersigned shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including subcontracts, subgrants, and contracts under grant, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

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.

RESTRICTION ON STATE LOBBYING

(applies to subrecipients as well as States)

None of the funds under this program will be used for any activity specifically designed to urge or influence a State or local legislator to favor or oppose the adoption of any specific legislative proposal pending before any State or local legislative body. Such activities include both direct and indirect (e.g., "grassroots") lobbying activities, with one exception. This does not preclude a State official whose salary is supported with NHTSA funds from engaging in direct communications with State or local legislative officials, in accordance with customary State practice, even if such communications urge legislative officials to favor or oppose the adoption of a specific pending legislative proposal.

CERTIFICATION REGARDING DEBARMENT AND SUSPENSION

(applies to subrecipients as well as States)

Instructions for Primary Tier Participant Certification (States)

1. By signing and submitting this proposal, the prospective primary tier participant is providing the certification set out below and agrees to comply with the requirements of 2 CFR parts 180 and 1200.
2. The inability of a person to provide the certification required below will not necessarily result in denial of participation in this covered transaction. The prospective primary tier participant shall submit an explanation of why it cannot provide the certification set out below.

The certification or explanation will be considered in connection with the department or agency's determination whether to enter into this transaction. However, failure of the prospective primary tier participant 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 department or agency determined to enter into this transaction. If it is later determined that the prospective primary tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause or default or may pursue suspension or debarment.
4. The prospective primary tier participant shall provide immediate written notice to the department or agency to which this proposal is submitted if at any time the prospective primary tier participant learns its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
5. The terms *covered transaction*, *civil judgment*, *debarment*, *suspension*, *ineligible*, *participant*, *person*, *principal*, and *voluntarily excluded*, as used in this clause, are defined in 2 CFR parts 180 and 1200. You may contact the department or agency to which this proposal is being submitted for assistance in obtaining a copy of those regulations.
6. The prospective primary tier participant agrees by submitting this proposal 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 proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency entering into this transaction.
7. The prospective primary tier participant further agrees by submitting this proposal that it will include the clause titled "Instructions for Lower Tier Participant Certification" including the "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Covered Transaction," provided by the department or agency entering into this covered transaction, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions and will require lower tier participants to comply with 2 CFR parts 180 and 1200.
8. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant is responsible for ensuring that its principals are not suspended, debarred, or otherwise ineligible to participate in covered transactions. To verify the eligibility of its principals, as well as the eligibility of any prospective lower tier participants, each participant may, but is not required to, check the System for Award Management Exclusions website (<https://www.sam.gov/>).
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 participant 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 participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency may terminate the transaction for cause or default.

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

1. The prospective primary tier participant 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 participating in covered transactions by any Federal department or agency;
 - b. Have not within a three-year period preceding this proposal 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 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 or 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 application/proposal had one or more public transactions (Federal, State, or local) terminated for cause or default.
2. Where the prospective primary tier participant is unable to certify to any of the Statements in this certification, such prospective participant shall attach an explanation to this proposal.

Instructions for Lower Tier Participant Certification

1. By signing and submitting this proposal, the prospective lower tier participant is providing the certification set out below and agrees to comply with the requirements of 2 CFR parts 180 and 1200.
2. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension or debarment.
3. The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
4. The terms *covered transaction*, *civil judgment*, *debarment*, *suspension*, *ineligible*, *participant*, *person*, *principal*, and *voluntarily excluded*, as used in this clause, are defined in 2 CFR parts 180 and 1200. You may contact the person to whom this proposal is submitted for assistance in obtaining a copy of those regulations.
5. The prospective lower tier participant agrees by submitting this proposal 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 proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.
6. The prospective lower tier participant further agrees by submitting this proposal that it will include the clause titled "Instructions for Lower Tier Participant Certification" including the "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Covered Transaction," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions and will require lower tier participants to comply with 2 CFR parts 180 and 1200.
7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant is responsible for ensuring that its principals are not suspended, debarred, or otherwise ineligible to participate in covered transactions. To verify the eligibility of its principals, as well as the eligibility of any prospective lower tier participants, each participant may, but is not required to, check the System for Award Management Exclusions website (<https://www.sam.gov/>).
8. 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 participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
9. Except for transactions authorized under paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension or debarment.

Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion -- Lower Tier Covered Transactions:

1. The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in covered transactions by any Federal department or agency.
2. Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

BUY AMERICA ACT

(applies to subrecipients as well as States)

The State and each subrecipient will comply with the Buy America requirement (23 U.S.C. 313) when purchasing items using Federal funds. Buy America requires a State, or subrecipient, to purchase with Federal funds only steel, iron and manufactured products produced in the United States, unless the Secretary of Transportation determines that such domestically produced items would be inconsistent with the public interest, that such materials are not reasonably available and of a satisfactory quality, or that inclusion of domestic materials will increase the cost of the overall project contract by more than 25 percent. In order to use Federal funds to purchase foreign produced items, the State must submit a waiver request that provides an adequate basis and justification for approval by the Secretary of Transportation.

Certification on Conflict of Interest

(Applies to Subrecipients as Well as States)

General Requirements

No employee, officer or agent of a State or its subrecipient who is authorized in an official capacity to negotiate, make, accept or approve, or to take part in negotiating, making, accepting or approving any subaward, including contracts or subcontracts, in connection with this grant shall have, directly or indirectly, any financial or personal interest in any such subaward. Such a financial or personal interest would arise when the employee, officer, or agent, any member of his or her immediate family, his or her partner, or an organization which employs or is about to employ any of the parties indicated herein, has a financial or personal interest in or a tangible personal benefit from an entity considered for a subaward. Based on this policy:

1. The recipient shall maintain a written code or standards of conduct that provide for disciplinary actions to be applied for violations of such standards by officers, employees, or agents.
 - a. The code or standards shall provide that the recipient's officers, employees, or agents may neither solicit nor accept gratuities, favors, or anything of monetary value from present or potential subawardees, including contractors or parties to subcontracts.
 - b. The code or standards shall establish penalties, sanctions or other disciplinary actions for violations, as permitted by State or local law or regulations.
2. The recipient shall maintain responsibility to enforce the requirements of the written code or standards of conduct.

Disclosure Requirements

No State or its subrecipient, including its officers, employees or agents, shall perform or continue to perform under a grant or cooperative agreement, whose objectivity may be impaired because of any related past, present, or currently planned interest, financial or otherwise, in organizations regulated by NHTSA or in organizations whose interests may be substantially affected by NHTSA activities. Based on this policy:

1. The recipient shall disclose any conflict of interest identified as soon as reasonably possible, making an immediate and full disclosure in writing to NHTSA. The disclosure shall include a description of the action which the recipient has taken or proposes to take to avoid or mitigate such conflict.
2. NHTSA will review the disclosure and may require additional relevant information from the recipient. If a conflict of interest is found to exist, NHTSA may
 - (a) terminate the award, or
 - (b) determine that it is otherwise in the best interest of NHTSA to continue the award and include appropriate provisions to mitigate or avoid such conflict.
3. Conflicts of interest that require disclosure include all past, present or currently planned organizational, financial, contractual or other interest(s) with an organization regulated by NHTSA or with an organization whose interests may be substantially affected by NHTSA activities, and which are related to this award. The interest(s) that require disclosure include those of any recipient, affiliate, proposed consultant, proposed subcontractor and key personnel of any of the above. Past interest shall be limited to within one year of the date of award. Key personnel shall include any person owning more than a 20 percent interest in a recipient, and the officers, employees or agents of a recipient who are responsible for making a decision or taking an action under an award where the decision or action can have an economic or other impact on the interests of a regulated or affected organization.

PROHIBITION ON USING GRANT FUNDS TO CHECK FOR HELMET USAGE

(applies to subrecipients as well as States)

The State and each subrecipient will not use 23 U.S.C. Chapter 4 grant funds for programs to check helmet usage or to create checkpoints that specifically target motorcyclists.

POLICY ON SEAT BELT USE

In accordance with Executive Order 13043, Increasing Seat Belt Use in the United States, dated April 16, 1997, the Grantee is encouraged to adopt and enforce on-the-job seat belt use policies and programs for its employees when operating company-owned, rented, or personally-owned vehicles. The National Highway Traffic Safety Administration (NHTSA) is responsible for providing leadership and guidance in support of this Presidential initiative. For information and resources on traffic safety programs and policies for employers,

please contact the Network of Employers for Traffic Safety (NETS), a public-private partnership dedicated to improving the traffic safety practices of employers and employees. You can download information on seat belt programs, costs of motor vehicle crashes to employers, and other traffic safety initiatives at www.trafficsafety.org. The NHTSA website (www.nhtsa.gov) also provides information on statistics, campaigns, and program evaluations and references.

POLICY ON BANNING TEXT MESSAGING WHILE DRIVING

In accordance with Executive Order 13513, Federal Leadership On Reducing Text Messaging While Driving, and DOT Order 3902.10, Text Messaging While Driving, States are encouraged to adopt and enforce workplace safety policies to decrease crashes caused by distracted driving, including policies to ban text messaging while driving company-owned or rented vehicles, Government-owned, leased or rented vehicles, or privately-owned vehicles when on official Government business or when performing any work on or behalf of the Government. States are also encouraged to conduct workplace safety initiatives in a manner commensurate with the size of the business, such as establishment of new rules and programs or re-evaluation of existing programs to prohibit text messaging while driving, and education, awareness, and other outreach to employees about the safety risks associated with texting while driving.

SECTION 402 REQUIREMENTS

1. To the best of my personal knowledge, the information submitted in the annual grant application in support of the State's application for a grant under 23 U.S.C. 402 is accurate and complete.
2. The Governor is the responsible official for the administration of the State highway safety program, by appointing a Governor's Representative for Highway Safety who shall be responsible for a State highway safety agency that has adequate powers and is suitably equipped and organized (as evidenced by appropriate oversight procedures governing such areas as procurement, financial administration, and the use, management, and disposition of equipment) to carry out the program. (23 U.S.C. 402(b)(1)(A))
3. At least 40 percent of all Federal funds apportioned to this State under 23 U.S.C. 402 for this fiscal year will be expended by or on behalf of political subdivisions of the State in carrying out local highway safety programs (23 U.S.C. 402(b)(1)(C)) or 95 percent by and on behalf of Indian tribes (23 U.S.C. 402(h)(2)), unless this requirement is waived in writing. (This provision is not applicable to the District of Columbia, Puerto Rico, the U.S. Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.)
4. The State's highway safety program provides adequate and reasonable access for the safe and convenient movement of physically handicapped persons, including those in wheelchairs, across curbs constructed or replaced on or after July 1, 1976, at all pedestrian crosswalks. (23 U.S.C. 402(b)(1)(D))
5. As part of a comprehensive program, the State will support a data-based traffic safety enforcement program that fosters effective community collaboration to increase public safety, and data collection and analysis to ensure transparency, identify disparities in traffic enforcement, and inform traffic enforcement policies, procedures, and activities. (23 U.S.C. 402(b)(1)(E))
6. The State will implement activities in support of national highway safety goals to reduce motor vehicle related fatalities that also reflect the primary data-related crash factors within the State, as identified by the State highway safety planning process, including:
 - Participation in the National high-visibility law enforcement mobilizations as identified annually in the NHTSA Communications Calendar, including not less than 3 mobilization campaigns in each fiscal year to –
 - Reduce alcohol-impaired or drug-impaired operation of motor vehicles; and
 - Increase use of seat belts by occupants of motor vehicles;
 - Sustained enforcement of statutes addressing impaired driving, occupant protection, and driving in excess of posted speed limits;
 - An annual Statewide seat belt use survey in accordance with 23 CFR part 1340 for the measurement of State seat belt use rates, except for the Secretary of Interior on behalf of Indian tribes;
 - Development of Statewide data systems to provide timely and effective data analysis to support allocation of highway safety resources;
 - Coordination of triennial Highway Safety Plan, data collection, and information systems with the State strategic highway safety plan, as defined in 23 U.S.C. 148(a); and
 - Participation in the Fatality Analysis Reporting System (FARS), except for American Samoa, Guam, the Commonwealth of the Northern Mariana Islands, or the United States Virgin Islands. (23 U.S.C. 402(b)(1)(F))
7. The State will actively encourage all relevant law enforcement agencies in the State to follow the guidelines established for vehicular pursuits issued by the International Association of Chiefs of Police that are currently in effect. (23 U.S.C. 402(j))
8. The State will not expend Section 402 funds to carry out a program to purchase, operate, or maintain an automated traffic enforcement system, except in a work zone or school zone. (23 U.S.C. 402(c)(4))

§ 200.216 Prohibition on certain telecommunications and video surveillance services or equipment.

(a) Recipients and subrecipients are prohibited from obligating or expending loan or grant funds to:

(1) Procure or obtain;

(2) Extend or renew a contract to procure or obtain; or

(3) Enter into a contract (or extend or renew a contract) to procure or obtain equipment, services, or systems that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system. As described in Public Law 115–232, section 889, covered telecommunications equipment is telecommunications equipment produced by Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate of such entities).

(i) For the purpose of public safety, security of government facilities, physical security surveillance of critical infrastructure, and other national security purposes, video surveillance and telecommunications equipment produced by Hytera Communications Corporation, Hangzhou Hikvision Digital Technology Company, or Dahua Technology Company (or any subsidiary or affiliate of such entities).

(ii) Telecommunications or video surveillance services provided by such entities or using such equipment.

(iii) Telecommunications or video surveillance equipment or services produced or provided by an entity that the Secretary of Defense, in consultation with the Director of the National Intelligence or the Director of the Federal Bureau of Investigation, reasonably believes to be an entity owned or controlled by, or otherwise connected to, the government of a covered foreign country.

(b) In implementing the prohibition under Public Law 115–232, section 889, subsection (f), paragraph (1), heads of executive agencies administering loan, grant, or subsidy programs shall prioritize available funding and technical support to assist affected businesses, institutions and organizations as is reasonably necessary for those affected entities to transition from covered communications equipment and services, to procure replacement equipment and services, and to ensure that communications service to users and customers is sustained.

(c) See Public Law 115-232, section 889 for additional information.

(d) See also § 200.471.

§ 200.317 Procurements by states.

When procuring property and services under a Federal award, a State must follow the same policies and procedures it uses for procurements from its non-Federal funds. The State will comply with §§ 200.321, 200.322, and 200.323 and ensure that every purchase order or other contract includes any clauses required by § 200.327. All other non-Federal entities, including subrecipients of a State, must follow the procurement standards in §§ 200.318 through 200.327.

§ 200.318 General procurement standards.

(a) The non-Federal entity must have and use documented procurement procedures, consistent with State, local, and tribal laws and regulations and the standards of this section, for the acquisition of property or services required under a Federal award or subaward. The non-Federal entity's documented procurement procedures must conform to the procurement standards identified in §§ 200.317 through 200.327.

(b) Non-Federal entities must maintain oversight to ensure that contractors perform in accordance with the terms, conditions, and specifications of their contracts or purchase orders.

(c)

(1) The non-Federal entity must maintain written standards of conduct covering conflicts of interest and governing the actions of its employees engaged in the selection, award and administration of contracts. No employee, officer, or agent may participate in the selection, award, or administration of a contract supported by a Federal award if he or she has a real or apparent conflict of interest. Such a conflict of interest would arise when the employee, officer, or agent, any member of his or her immediate family, his or her partner, or an organization which employs or is about to employ any of the parties indicated herein, has a financial or other interest in or a tangible personal benefit from a firm considered for a contract. The officers, employees, and agents of the non-Federal entity may neither solicit nor accept gratuities, favors, or anything of monetary value from contractors or parties to subcontracts. However, non-Federal entities may set standards for situations in which the financial interest is not substantial or the gift is an unsolicited item of nominal value. The standards of conduct must provide for disciplinary actions to be applied for violations of such standards by officers, employees, or agents of the non-Federal entity.

(2) If the non-Federal entity has a parent, affiliate, or subsidiary organization that is not a State, local government, or Indian tribe, the non-Federal entity must also maintain written standards of conduct covering organizational conflicts of interest.

Organizational conflicts of interest means that because of relationships with a parent company, affiliate, or subsidiary organization, the non-Federal entity is unable or appears to be unable to be impartial in conducting a procurement action involving a related organization.

(d) The non-Federal entity's procedures must avoid acquisition of unnecessary or duplicative items. Consideration should be given to consolidating or breaking out procurements to obtain a more economical purchase. Where appropriate, an analysis will be made of lease versus purchase alternatives, and any other appropriate analysis to determine the most economical approach.

(e) To foster greater economy and efficiency, and in accordance with efforts to promote cost-effective use of shared services across the Federal Government, the non-Federal entity is encouraged to enter into state and local intergovernmental agreements or inter-entity agreements where appropriate for procurement or use of common or shared goods and services. Competition requirements will be met with documented procurement actions using strategic sourcing, shared services, and other similar procurement arrangements.

(f) The non-Federal entity is encouraged to use Federal excess and surplus property in lieu of purchasing new equipment and property whenever such use is feasible and reduces project costs.

(g) The non-Federal entity is encouraged to use value engineering clauses in contracts for construction projects of sufficient size to offer reasonable opportunities for cost reductions. Value engineering is a systematic and creative analysis of each contract item or task to ensure that its essential function is provided at the overall lower cost.

(h) The non-Federal entity must award contracts only to responsible contractors possessing the ability to perform successfully under the terms and conditions of a proposed procurement. Consideration will be given to such matters as contractor integrity, compliance with public policy, record of past performance, and financial and technical resources. See also § 200.214.

(i) The non-Federal entity must maintain records sufficient to detail the history of procurement. These records will include, but are not necessarily limited to, the following: Rationale for the method of procurement, selection of contract type, contractor selection or rejection, and the basis for the contract price.

(j)

(1) The non-Federal entity may use a time-and-materials type contract only after a determination that no other contract is suitable and if the contract includes a ceiling price that the contractor exceeds at its own risk. Time-and-materials type contract means a contract whose cost to a non-Federal entity is the sum of:

(i) The actual cost of materials; and

(ii) Direct labor hours charged at fixed hourly rates that reflect wages, general and administrative expenses, and profit.

(2) Since this formula generates an open-ended contract price, a time-and-materials contract provides no positive profit incentive to the contractor for cost control or labor efficiency. Therefore, each contract must set a ceiling price that the contractor exceeds at its own risk. Further, the non-Federal entity awarding such a contract must assert a high degree of oversight in order to obtain reasonable assurance that the contractor is using efficient methods and effective cost controls.

(k) The non-Federal entity alone must be responsible, in accordance with good administrative practice and sound business judgment, for the settlement of all contractual and administrative issues arising out of procurements. These issues include, but are not limited to, source evaluation, protests, disputes, and claims. These standards do not relieve the non-Federal entity of any contractual responsibilities under its contracts. The Federal awarding agency will not substitute its judgment for that of the non-Federal entity unless the matter is primarily a Federal concern. Violations of law will be referred to the local, state, or Federal authority having proper jurisdiction.

[85 FR 49543, Aug. 13, 2020, as amended at 86 FR 10440, Feb. 22, 2021]

§ 200.319 Competition.

(a) All procurement transactions for the acquisition of property or services required under a Federal award must be conducted in a manner providing full and open competition consistent with the standards of this section and § 200.320

(b) In order to ensure objective contractor performance and eliminate unfair competitive advantage, contractors that develop or draft specifications, requirements, statements of work, or invitations for bids or requests for proposals must be excluded from competing for such procurements. Some of the situations considered to be restrictive of competition include but are not limited to:

(1) Placing unreasonable requirements on firms in order for them to qualify to do business;

(2) Requiring unnecessary experience and excessive bonding;

(3) Noncompetitive pricing practices between firms or between affiliated companies;

(4) Noncompetitive contracts to consultants that are on retainer contracts;

(5) Organizational conflicts of interest;

(6) Specifying only a "brand name" product instead of allowing "an equal" product to be offered and describing the performance or other relevant requirements of the procurement; and

(7) Any arbitrary action in the procurement process.

(c) The non-Federal entity must conduct procurements in a manner that prohibits the use of statutorily or administratively imposed state, local, or tribal geographical preferences in the evaluation of bids or proposals, except in those cases where applicable Federal statutes expressly mandate or encourage geographic preference. Nothing in this section preempts state licensing laws. When contracting for architectural and engineering (A/E) services, geographic location may be a selection criterion provided its application leaves an appropriate number of qualified firms, given the nature and size of the project, to compete for the contract.

The non-Federal entity must have written procedures for procurement transactions. These procedures must ensure that all solicitations:

(1) Incorporate a clear and accurate description of the technical requirements for the material, product, or service to be procured. Such description must not, in competitive procurements, contain features which unduly restrict competition. The description may include a statement of the qualitative nature of the material, product or service to be procured and, when necessary, must set forth those minimum essential characteristics and standards to which it must conform if it is to satisfy its intended use. Detailed product specifications should be avoided if at all possible. When it is impractical or uneconomical to make a clear and accurate description of the technical requirements, a "brand name or equivalent" description may be used as a means to define the performance or other salient requirements of procurement. The specific features of the named brand which must be met by offers must be clearly stated; and

(2) Identify all requirements which the offerors must fulfill and all other factors to be used in evaluating bids or proposals.

(e) The non-Federal entity must ensure that all prequalified lists of persons, firms, or products which are used in acquiring goods and services are current and include enough qualified sources to ensure maximum open and free competition. Also, the non-Federal entity must not preclude potential bidders from qualifying during the solicitation period.

(f) Noncompetitive procurements can only be awarded in accordance with § 200.320(c).

§ 200.320 Methods of procurement to be followed.

The non-Federal entity must have and use documented procurement procedures, consistent with the standards of this section and §§ 200.317, 200.318, and 200.319 for any of the following methods of procurement used for the acquisition of property or services required under a Federal award or sub-award.

(a) *Informal procurement methods.* When the value of the procurement for property or services under a Federal award does not exceed the simplified acquisition threshold (SAT), as defined in § 200.1, or a lower threshold established by a non-Federal entity, formal procurement methods are not required. The non-Federal entity may use informal procurement methods to expedite the completion of its transactions and minimize the associated administrative burden and cost. The informal methods used for procurement of property or services at or below the SAT include:

(1) *Micro-purchases –*

(i) **Distribution.** The acquisition of supplies or services, the aggregate dollar amount of which does not exceed the micro-purchase threshold (See the definition of *micro-purchase* in § 200.1). To the maximum extent practicable, the non-Federal entity should distribute micro-purchases equitably among qualified suppliers.

(ii) **Micro-purchase awards.** Micro-purchases may be awarded without soliciting competitive price or rate quotations if the non-Federal entity considers the price to be reasonable based on research, experience, purchase history or other information and documents it files accordingly. Purchase cards can be used for micro-purchases if procedures are documented and approved by the non-Federal entity.

(iii) **Micro-purchase thresholds.** The non-Federal entity is responsible for determining and documenting an appropriate micro-purchase threshold based on internal controls, an evaluation of risk, and its documented procurement procedures. The micro-purchase threshold used by the non-Federal entity must be authorized or not prohibited under State, local, or tribal laws or regulations. Non-Federal entities may establish a threshold higher than the Federal threshold established in the Federal Acquisition Regulations (FAR) in accordance with paragraphs (a)(1)(iv) and (v) of this section.

(iv) **Non-Federal entity increase to the micro-purchase threshold up to \$50,000.** Non-Federal entities may establish a threshold higher than the micro-purchase threshold identified in the FAR in accordance with the requirements of this section. The non-Federal entity may self-certify a threshold up to \$50,000 on an annual basis and must maintain documentation to be made available to the Federal awarding agency and auditors in

accordance with § 200.334. The self-certification must include a justification, clear identification of the threshold, and supporting documentation of any of the following:

- (A) A qualification as a low-risk auditee, in accordance with the criteria in § 200.520 for the most recent audit;
- (B) An annual internal institutional risk assessment to identify, mitigate, and manage financial risks; or,
- (C) For public institutions, a higher threshold consistent with State law.

(v) **Non-Federal entity increase to the micro-purchase threshold over \$50,000.** Micro-purchase thresholds higher than \$50,000 must be approved by the cognizant agency for indirect costs. The non-federal entity must submit a request with the requirements included in paragraph (a)(1)(iv) of this section. The increased threshold is valid until there is a change in status in which the justification was approved.

(2) *Small purchases –*

(i) **Small purchase procedures.** The acquisition of property or services, the aggregate dollar amount of which is higher than the micro-purchase threshold but does not exceed the simplified acquisition threshold. If small purchase procedures are used, price or rate quotations must be obtained from an adequate number of qualified sources as determined appropriate by the non-Federal entity.

(ii) **Simplified acquisition thresholds.** The non-Federal entity is responsible for determining an appropriate simplified acquisition threshold based on internal controls, an evaluation of risk and its documented procurement procedures which must not exceed the threshold established in the FAR. When applicable, a lower simplified acquisition threshold used by the non-Federal entity must be authorized or not prohibited under State, local, or tribal laws or regulations.

(b) **Formal procurement methods.** When the value of the procurement for property or services under a Federal financial assistance award exceeds the SAT, or a lower threshold established by a non-Federal entity, formal procurement methods are required. Formal procurement methods require following documented procedures. Formal procurement methods also require public advertising unless a non-competitive procurement can be used in accordance with § 200.319 or paragraph (c) of this section. The following formal methods of procurement are used for procurement of property or services above the simplified acquisition threshold or a value below the simplified acquisition threshold the non-Federal entity determines to be appropriate:

(1) **Sealed bids.** A procurement method in which bids are publicly solicited and a firm fixed-price contract (lump sum or unit price) is awarded to the responsible bidder whose bid, conforming with all the material terms and conditions of the invitation for bids, is the lowest in price. The sealed bids method is the preferred method for procuring construction, if the conditions.

(i) In order for sealed bidding to be feasible, the following conditions should be present:

- (A) A complete, adequate, and realistic specification or purchase description is available;
- (B) Two or more responsible bidders are willing and able to compete effectively for the business; and
- (C) The procurement lends itself to a firm fixed price contract and the selection of the successful bidder can be made principally on the basis of price.

(ii) If sealed bids are used, the following requirements apply:

- (A) Bids must be solicited from an adequate number of qualified sources, providing them sufficient response time prior to the date set for opening the bids, for local, and tribal governments, the invitation for bids must be publicly advertised;
- (B) The invitation for bids, which will include any specifications and pertinent attachments, must define the items or services in order for the bidder to properly respond;
- (C) All bids will be opened at the time and place prescribed in the invitation for bids, and for local and tribal governments, the bids must be opened publicly;
- (D) A firm fixed price contract award will be made in writing to the lowest responsive and responsible bidder. Where specified in bidding documents, factors such as discounts, transportation cost, and life cycle costs must be considered in determining which bid is lowest. Payment discounts will only be used to determine the low bid when prior experience indicates that such discounts are usually taken advantage of; and
- (E) Any or all bids may be rejected if there is a sound documented reason.

(2) **Proposals.** A procurement method in which either a fixed price or cost-reimbursement type contract is awarded. Proposals are generally used when conditions are not appropriate for the use of sealed bids. They are awarded in accordance with the following requirements:

- (i) Requests for proposals must be publicized and identify all evaluation factors and their relative importance. Proposals must be solicited from an adequate number of qualified offerors. Any response to publicized requests for proposals must be considered to the maximum extent practical;
- (ii) The non-Federal entity must have a written method for conducting technical evaluations of the proposals received and making selections;
- (iii) Contracts must be awarded to the responsible offeror whose proposal is most advantageous to the non-Federal entity, with price and other factors considered; and
- (iv) The non-Federal entity may use competitive proposal procedures for qualifications-based procurement of architectural/engineering (A/E) professional services whereby offeror's qualifications are evaluated and the most qualified offeror is selected, subject to negotiation of fair and reasonable compensation. The method, where price is not used as a selection factor, can only be used in procurement of A/E professional services. It cannot be used to purchase other types of services though A/E firms that are a potential source to perform the proposed effort.

(c) **Noncompetitive procurement.** There are specific circumstances in which noncompetitive procurement can be used. Noncompetitive procurement can only be awarded if one or more of the following circumstances apply:

- (1) The acquisition of property or services, the aggregate dollar amount of which does not exceed the micro-purchase threshold (see paragraph (a)(1) of this section);
- (2) The item is available only from a single source;
- (3) The public exigency or emergency for the requirement will not permit a delay resulting from publicizing a competitive solicitation;
- (4) The Federal awarding agency or pass-through entity expressly authorizes a noncompetitive procurement in response to a written request from the non-Federal entity; or
- (5) After solicitation of a number of sources, competition is determined inadequate.

§ 200.321 Contracting with small and minority businesses, women's business enterprises, and labor surplus area firms.

(a) The non-Federal entity must take all necessary affirmative steps to assure that minority businesses, women's business enterprises, and labor surplus area firms are used when possible.

(b) Affirmative steps must include:

- (1) Placing qualified small and minority businesses and women's business enterprises on solicitation lists;
- (2) Assuring that small and minority businesses, and women's business enterprises are solicited whenever they are potential sources;
- (3) Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority businesses, and women's business enterprises;
- (4) Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority businesses, and women's business enterprises;
- (5) Using the services and assistance, as appropriate, of such organizations as the Small Business Administration and the Minority Business Development Agency of the Department of Commerce; and
- (6) Requiring the prime contractor, if subcontracts are to be let, to take the affirmative steps listed in paragraphs (b)(1) through (5) of this section.

§ 200.322 Domestic preferences for procurements.

(a) As appropriate and to the extent consistent with law, the non-Federal entity should, to the greatest extent practicable under a Federal award, provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States (including but not limited to iron, aluminum, steel, cement, and other manufactured products). The requirements of this section must be included in all subawards including all contracts and purchase orders for work or products under this award.

(b) For purposes of this section:

- (1) "Produced in the United States" means, for iron and steel products, that all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States.

(2) "Manufactured products" means items and construction materials composed in whole or in part of non-ferrous metals such as aluminum; plastics and polymer-based products such as polyvinyl chloride pipe; aggregates such as concrete; glass, including optical fiber; and lumber.

§ 200.323 Procurement of recovered materials.

A non-Federal entity that is a state agency or agency of a political subdivision of a state and its contractors must comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired during the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

§ 200.340 Termination

(a) The Federal award may be terminated in whole or in part as follows:

- (1) By the Federal awarding agency or pass-through entity, if a non-Federal entity fails to comply with the terms and conditions of a Federal award;
- (2) By the Federal awarding agency or pass-through entity, to the greatest extent authorized by law, if an award no longer effectuates the program goals or agency priorities;
- (3) By the Federal awarding agency or pass-through entity with the consent of the non-Federal entity, in which case the two parties must agree upon the termination conditions, including the effective date and, in the case of partial termination, the portion to be terminated;
- (4) By the non-Federal entity upon sending to the Federal awarding agency or pass-through entity written notification setting forth the reasons for such termination, the effective date, and, in the case of partial termination, the portion to be terminated. However, if the Federal awarding agency or pass-through entity determines in the case of partial termination that the reduced or modified portion of the Federal award or subaward will not accomplish the purposes for which the Federal award was made, the Federal awarding agency or pass-through entity may terminate the Federal award in its entirety; or
- (5) By the Federal awarding agency or pass-through entity pursuant to termination provisions included in the Federal award.

(b) A Federal awarding agency should clearly and unambiguously specify termination provisions applicable to each Federal award, in applicable regulations or in the award, consistent with this section.

(c) When a Federal awarding agency terminates a Federal award prior to the end of the period of performance due to the non-Federal entity's material failure to comply with the Federal award terms and conditions, the Federal awarding agency must report the termination to the OMB-designated integrity and performance system accessible through SAM (currently FAPIIS).

(1) The information required under paragraph (c) of this section is not to be reported to designated integrity and performance system until the non-Federal entity either—

- (i) Has exhausted its opportunities to object or challenge the decision, see § 200.342; or
- (ii) Has not, within 30 calendar days after being notified of the termination, informed the Federal awarding agency that it intends to appeal the Federal awarding agency's decision to terminate.

(2) If a Federal awarding agency, after entering information into the designated integrity and performance system about a termination, subsequently:

- (i) Learns that any of that information is erroneous, the Federal awarding agency must correct the information in the system within three business days;
- (ii) Obtains an update to that information that could be helpful to other Federal awarding agencies, the Federal awarding agency is strongly encouraged to amend the information in the system to incorporate the update in a timely way.

(3) Federal awarding agencies, must not post any information that will be made publicly available in the non-public segment of designated integrity and performance system that is covered by a disclosure exemption under the Freedom of Information Act. If the non-Federal entity asserts within seven calendar days to the Federal awarding agency who posted the information, that some of the information made publicly available is covered by a

disclosure exemption under the Freedom of Information Act, the Federal awarding agency who posted the information must remove the posting within seven calendar days of receiving the assertion. Prior to reposting the releasable information, the Federal agency must resolve the issue in accordance with the agency's Freedom of Information Act procedures.

(d) When a Federal award is terminated or partially terminated, both the Federal awarding agency or pass-through entity and the non-Federal entity remain responsible for compliance with the requirements in §§ 200.344 and 200.345.

§ 200.414 Indirect (F&A) costs.

(a) **Facilities and administration classification.** For major Institutions of Higher Education (IHE) and major nonprofit organizations, indirect (F&A) costs must be classified within two broad categories: "Facilities" and "Administration." "Facilities" is defined as depreciation on buildings, equipment and capital improvement, interest on debt associated with certain buildings, equipment and capital improvements, and operations and maintenance expenses. "Administration" is defined as general administration and general expenses such as the director's office, accounting, personnel and all other types of expenditures not listed specifically under one of the subcategories of "Facilities" (including cross allocations from other pools, where applicable). For nonprofit organizations, library expenses are included in the "Administration" category; for IHEs, they are included in the "Facilities" category. Major IHEs are defined as those required to use the Standard Format for Submission as noted in appendix III to this part, and Rate Determination for Institutions of Higher Education paragraph C. 11. Major nonprofit organizations are those which receive more than \$10 million dollars in direct Federal funding.

(b) **Diversity of nonprofit organizations.** Because of the diverse characteristics and accounting practices of nonprofit organizations, it is not possible to specify the types of cost which may be classified as indirect (F&A) cost in all situations. Identification with a Federal award rather than the nature of the goods and services involved is the determining factor in distinguishing direct from indirect (F&A) costs of Federal awards. However, typical examples of indirect (F&A) cost for many nonprofit organizations may include depreciation on buildings and equipment, the costs of operating and maintaining facilities, and general administration and general expenses, such as the salaries and expenses of executive officers, personnel administration, and accounting.

(c) **Federal Agency Acceptance of Negotiated Indirect Cost Rates.** (See also § 200.306.)

(1) The negotiated rates must be accepted by all Federal awarding agencies. A Federal awarding agency may use a rate different from the negotiated rate for a class of Federal awards or a single Federal award only when required by Federal statute or regulation, or when approved by a Federal awarding agency head or delegate based on documented justification as described in paragraph (c)(3) of this section.

(2) The Federal awarding agency head or delegate must notify OMB of any approved deviations.

(3) The Federal awarding agency must implement, and make publicly available, the policies, procedures and general decision-making criteria that their programs will follow to seek and justify deviations from negotiated rates.

(4) As required under § 200.204, the Federal awarding agency must include in the notice of funding opportunity the policies relating to indirect cost rate reimbursement, matching, or cost share as approved under paragraph (e)(1) of this section. As appropriate, the Federal agency should incorporate discussion of these policies into Federal awarding agency outreach activities with non-Federal entities prior to the posting of a notice of funding opportunity.

(d) Pass-through entities are subject to the requirements in § 200.332(a)(4).

(e) Pass-through entities are subject to the requirements in § 200.332(a)(4).

(1) Appendix III to Part 200—Indirect (F&A) Costs Identification and Assignment, and Rate Determination for Institutions of Higher Education (IHEs);

(2) Appendix IV to Part 200—Indirect (F&A) Costs Identification and Assignment, and Rate Determination for Nonprofit Organizations;

(3) Appendix V to Part 200—State/Local Governmentwide Central Service Cost Allocation Plans;

(4) Appendix VI to Part 200—Public Assistance Cost Allocation Plans;

(5) Appendix VII to Part 200—States and Local Government and Indian Tribe Indirect Cost Proposals; and

(6) Appendix IX to Part 200—Hospital Cost Principles.

(f) In addition to the procedures outlined in the appendices in paragraph (e) of this section, any non-Federal entity that does not have a current negotiated (including provisional) rate, except for those non-Federal entities described in appendix VII to this part, paragraph D.1.b, may elect to charge a de minimis rate of 10% of modified total direct costs (MTDC) which

may be used indefinitely. No documentation is required to justify the 10% de minimis indirect cost rate. As described in § 200.403, costs must be consistently charged as either indirect or direct costs, but may not be double charged or inconsistently charged as both. If chosen, this methodology once elected must be used consistently for all Federal awards until such time as a non-Federal entity chooses to negotiate for a rate, which the non-Federal entity may apply to do at any time

(g) Any non-Federal entity that has a current federally-negotiated indirect cost rate may apply for a one-time extension of the rates in that agreement for a period of up to four years. This extension will be subject to the review and approval of the cognizant agency for indirect costs. If an extension is granted the non-Federal entity may not request a rate review until the extension period ends. At the end of the 4-year extension, the non-Federal entity must re-apply to negotiate a rate. Subsequent one-time extensions (up to four years) are permitted if a renegotiation is completed between each extension request.

(h) The federally negotiated indirect rate, distribution base, and rate type for a non-Federal entity (except for the Indian tribes or tribal organizations, as defined in the Indian Self Determination, Education and Assistance Act, 25 U.S.C. 450b(1)) must be available publicly on an OMB-designated Federal website.

[78 FR 78608, Dec. 26, 2013, as amended at 79 FR 75886, Dec. 19, 2014; 85 FR 49563, Aug. 13, 2020]

Appendix II to Part 200 - Contract Provisions for Non-Federal Entity Contracts Under Federal Awards

In addition to other provisions required by the Federal agency or non-Federal entity, all contracts made by the non-Federal entity under the Federal award must contain provisions covering the following, as applicable.

(A) Contracts for more than the simplified acquisition threshold, which is the inflation adjusted amount determined by the Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) as authorized by 41 U.S.C. 1908, must address administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as appropriate.

(B) All contracts in excess of \$10,000 must address termination for cause and for convenience by the non-Federal entity including the manner by which it will be effected and the basis for settlement.

(C) Equal Employment Opportunity. Except as otherwise provided under 41 CFR Part 60, all contracts that meet the definition of "federally assisted construction contract" in 41 CFR Part 60-1.3 must include the equal opportunity clause provided under 41 CFR 60-1.4(b), in accordance with Executive Order 11246, "Equal Employment Opportunity" (30 FR 12319, 12935, 3 CFR Part, 1964-1965 Comp., p. 339), as amended by Executive Order 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," and implementing regulations at 41 CFR part 60, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor."

D) Davis-Bacon Act, as amended (40 U.S.C. 3141-3148). When required by Federal program legislation, all prime construction contracts in excess of \$2,000 awarded by non-Federal entities must include a provision for compliance with the Davis-Bacon Act (40 U.S.C. 3141-3144, and 3146-3148) as supplemented by Department of Labor regulations (29 CFR Part 5, "Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction"). In accordance with the statute, contractors must be required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, contractors must be required to pay wages not less than once a week. The non-Federal entity must place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation. The decision to award a contract or subcontract must be conditioned upon the acceptance of the wage determination. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency. The contracts must also include a provision for compliance with the Copeland "Anti-Kickback" Act (40 U.S.C. 3145), as supplemented by Department of Labor regulations (29 CFR Part 3, "Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States"). The Act provides that each contractor or subrecipient must be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency.

(E) Contract Work Hours and Safety Standards Act (40 U.S.C. 3701-3708). Where applicable, all contracts awarded by the non-Federal entity in excess of \$100,000 that involve the employment of mechanics or laborers must include a provision for compliance with 40 U.S.C. 3702 and 3704, as supplemented by Department of Labor regulations (29 CFR

Part 5). Under 40 U.S.C. 3702 of the Act, each contractor must be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of 40 U.S.C. 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.

(F) Rights to Inventions Made Under a Contract or Agreement. If the Federal award meets the definition of "funding agreement" under 37 CFR § 401.2 (a) and the recipient or subrecipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that "funding agreement," the recipient or subrecipient must comply with the requirements of 37 CFR Part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," and any implementing regulations issued by the awarding agency.

(G) Clean Air Act (42 U.S.C. 7401–7671q.) and the Federal Water Pollution Control Act (33 U.S.C. 1251–1387), as amended—Contracts and subgrants of amounts in excess of \$150,000 must contain a provision that requires the non-Federal award to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401–7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251–1387). Violations must be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).

(H) Debarment and Suspension (Executive Orders 12549 and 12689)—A contract award (see 2 CFR 180.220) must not be made to parties listed on the governmentwide exclusions in the System for Award Management (SAM), in accordance with the OMB guidelines at 2 CFR 180 that implement Executive Orders 12549 (3 CFR part 1986 Comp., p. 189) and 12689 (3 CFR part 1989 Comp., p. 235), "Debarment and Suspension." SAM Exclusions contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549.

(I) Byrd Anti-Lobbying Amendment (31 U.S.C. 1352)—Contractors that apply or bid for an award exceeding \$100,000 must file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier must also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the non-Federal award.

(J) See § 200.323.

(K) See § 200.216.

(L) See § 200.322.

[78 FR 78608, Dec. 26, 2013, as amended at 79 FR 75888, Dec. 19, 2014; 85 FR 49577, Aug. 13, 2020]

I understand that failure to comply with applicable Federal statutes and regulations may subject State officials to civil or criminal penalties and/or place the State in a high risk grantee status in accordance with 2 CFR 200.

I sign these Certifications and Assurances based on personal knowledge, after appropriate inquiry, and I understand that the Government will rely on these representations in awarding grant funds.

Authorized Contract Signatory:

Date:

Signors Printed Name:

Signors Title:

EXHIBIT A

OHS Grant Award		
Project Titles	Federal Budget	Minimum Match Required
SPEED ENFORCEMENT PATROLS	\$1,600.00	\$400.00
DUI ENFORCEMENT	\$1,600.00	\$400.00
DISTRACTED DRIVING	\$0.00	\$0.00
PEDESTRIAN BICYCLE	\$0.00	\$0.00
JOIN THE NH CLIQUE	\$850.00	\$212.50
DRIVE SOBER OR GET PULLED OVER	\$1,700.00	\$425.00
U DRIVE, U TEXT, U PAY	\$850.00	\$212.50
E-CRASH EQUIPMENT (MDT)	\$0.00	\$0.00
E-CRASH EQUIPMENT (Printers/Scanners/Receivers/Software)	\$0.00	\$0.00
SPEED EQUIPMENT	\$0.00	\$0.00
C.A.R. EQUIPMENT	\$0.00	\$0.00
C.A.R. TRAINING	\$0.00	\$0.00
EMERGENCY MEDICAL SERVICES (Fire Extrication Equipment)	\$0.00	\$0.00
Community Outreach & Betterment (COB) Grant	\$0.00	\$0.00
Total Total amount Federal funds obligated to the subrecipient, (2 CFR § 200.331(a)(1)(vii)) Project Costs: 80% Federal Funds, 20% Applicant Share (Minimum Match Required).	\$ 6,600.00	\$1,650.00

Awarding Agency: Office of Highway Safety (OHS)
Federal Awarding Agency: National Highway Traffic Safety Administration (NHTSA), US DOT NHTSA Region 1 55 Broadway, RTV-8E Cambridge, MA 02142
Budget period (new) – 10/01/2023 to 09/30/2024
Is This a Research and Development Project: NO

EXHIBIT B
GRANT REQUIREMENTS AND INFORMATION

- Officers funded during these overtime enforcement grants shall be dedicated in total to traffic law enforcement, except in the case of a criminal offense committed in the officer's presence, in the case of response to an officer in distress, or in the case of a riot where all available personnel must divert their attention.
- Officers may pull over drivers for any driving offense during patrols. This includes, but is not limited to, suspected drunk driving, speeding, school bus violations, CPS violations, traffic light/stop sign running, and distracted driving.
- Nothing in this grant shall be interpreted as a requirement, formal or informal that a law enforcement officer issue a specified or predetermined number of summons in pursuance of the department's obligation associated with the grant.
- If an officer makes an arrest during the patrol shift, but does not complete the arrest before the shift is scheduled to end, the officer can continue working under the grant to complete that arrest even if the time exceeds the scheduled patrol shift; however, the total request for reimbursement must not exceed the approved budget in the Grant Agreement.
- An officer who stops working a Highway Safety grant to assist with a Non-Highway Safety Grant related issue (i.e. crash, domestic dispute, criminal complaint, etc.), must not count such hours as hours worked on a Highway Safety Grant.
- Full-time officers will be reimbursed at an overtime rate of pay as established by the department and/or municipality for hours worked during the enforcement patrols. Part-time officers will be reimbursed at their normal hourly rate of pay.
- The Patrol Activity Report (HS-200) must be signed and dated by an authorized signatory (Police Chief or designee). Individuals working the enforcement patrol may not sign off on the Patrol Activity Report for themselves and if the Chief Law Enforcement Officer (CLEO) works an overtime enforcement patrol, they must comply with 29 CFR Part 541 as it relates to "exempt employees". This will require that the CLEO provide a waiver of 29 CFR, Part 541 from their governing body with any reimbursement requests in which the CLEO has worked. Additionally, the CLEO may not sign off on their own HS200 or that of a spouse, child or sibling who may work an enforcement patrol.
- If weather impedes a particular enforcement detail, this should be noted on the Patrol Activity Report (HS-200).
- Command staff may participate in and be compensated for enforcement details if acting in a traffic enforcement role rather than acting exclusively in a supervisory role overseeing officers engaged in traffic enforcement.
- Failure to comply with reporting requirements may result in non-reimbursement of funds or suspension of grant award.
- Non-participation or non-compliance with the performance measures may result in grant agreement suspension, termination and/non-reimbursement of expenses.

Reimbursement Schedule and Required Paperwork

- Reimbursements are due no later than 15 days after the close of the quarter. Due dates are as follows:
 1. **January 15th** for October-December (Quarter 1)
 2. **April 15th** for January-March (Quarter 2)
 3. **July 15th** for April-June (Quarter 3)
 4. **October 15th** for July-September (Quarter 4)
- See link for all the required forms - <https://www.nh.gov/hsafety/publications/index.htm>
- Over-Time enforcement patrol reimbursements shall include the following:
 1. Reimbursement Request Cover Letter (HS-1);
 2. Overtime Payroll Reimbursement Form (HS-20) for each project;
 3. Match Tracking Form (HS-22) for each project;
 4. Quarterly Summary Report (HS-100 QSR) for each project;
 5. Patrol Activity Reports (HS-200) for each project; and
 6. Updated Grant Application/Performance Tracking Tool (App/PTT)
- Equipment reimbursements shall include the following:
 1. Reimbursement Request Cover Letter (HS-1). **Note:** if submitting equipment reimbursement along with overtime enforcement patrol reimbursements only one (1) Reimbursement Request Cover Letter (HS-1) shall be submitted.
 2. Copy of the detailed equipment invoice (with all Serial #'s);
 3. Match Tracking Form (HS-22);
 4. Copy of Cancelled Check; and
 5. Final Equipment Report (HS-8E) (with all Serial #'s)

- Over-Time COB Grant reimbursements shall include the following:
 1. Reimbursement Request Cover Letter (HS-1);
 2. COB Grant Activity Overtime Payroll Reimbursement Form (HS-20) found within COB Grant Excel Workbook;
 3. COB Grant Activity Match Tracking Form (HS-22) found within COB Grant Excel Workbook;
 4. COB Grant Excel Workbook File updated with quarterly COB activity and related expenses.
 5. Copies of all COB Grant related invoices and/or receipts.
- If no enforcement patrols took place during the quarter you are required to submit the Reimbursement Cover Letter (HS-1) indicating that you are not seeking reimbursement by placing \$0 in the projects where you were awarded funding.
- Failure to file required reports by the submission due dates can result in grant termination or denial of future grants.
- All publications, public information, or publicity released in conjunction with this project shall state "This project is being supported in part through a grant from the NH Office of Highway Safety, with Federal funds provided by the National Highway Traffic Safety Administration" or related social media tag provided by our office.
- Grant agreements shall terminate in the event funds are exhausted and/or not made available by the federal government for this program. If the grantee makes obligations in anticipation of receiving funds under this grant, the grantee does so at their peril and the State of New Hampshire will be under no obligation to make payments for such performance.

SPECIAL PROVISION-NH OFFICE OF HIGHWAY SAFETY

- (A) In the event of any conflict or ambiguity between the provisions of the Subrecipient's application and the provisions of the Office of Highway Safety Grant Agreement, including applicable EXHIBITS A and B, the provisions of the Grant Agreement shall govern.
- (B) The New Hampshire Office of Highway Safety (OHS) will review all reports and certifications received to ensure compliance. If findings specific to Highway Safety Programs are detected within an agency's Single Audit, appropriate action shall be taken to ensure that identified sub recipient risks are being timely and appropriately corrected.

CASH MANAGEMENT

Cash draw-downs will be initiated only when actually needed for disbursement (i.e., as close as possible to the time of making disbursements). Cash disbursements and balances will be reported in a timely manner as required by NHTSA. 2 CFR Part 200.305.

For subrecipients, recipients must establish reasonable procedures to ensure the receipt of reports on subrecipients' cash balances and cash disbursements in sufficient time to enable them to prepare complete and accurate cash transactions reports to the awarding agency. Recipients must monitor cash draw-downs by their subrecipients to assure that they conform substantially to the same standards of timing and amount as apply to advances to the recipients. 2 CFR 200.305.

Failure to adhere to these provisions may result in the termination of draw-down privileges.

OFFICE OF MANAGEMENT AND BUDGET GRANT CONDITIONS

The following documents issued by the Office of Management and Budget (OMB) apply to all Federal grants regardless of the Federal Department making them available:

- **Audit Requirement of Federal Funds:** (2 CFR § 200.332(a)(5)) 2 CFR part 200, subpart F (formerly known as OMB Circular A-133) – These requirements apply to each non-profit organization, each institution of higher education, and local governments as a whole when they or one of their departments receives federal funds. Any non-profit organization, institution of higher education, or local government spending more than \$750,000 in federal funds from all sources within a 12-month period must have an audit performed on the use of the funds. OGR defines the 12-month period as July 1 to June 30. The following link provides the full text of this basic federal grant requirement: <https://www.nhtsa.gov/highway-safety-grants-program/resources-guide>.
- **Cost Principles for Federal Grants to State and Local Governments**
 - 2 CFR 200 subpart E – These requirements apply only to state and local government subrecipients. These regulations list and define general categories of costs that are both allowable and unallowable. Examples include the following:
 - The cost of alcoholic beverages is unallowable.
 - Costs incurred by advisory councils are allowable.

- Audit costs are allowable.
- Compensation costs are allowable so long as they are consistent with that paid for similar work in other activities of the local government.
- Entertainment costs are unallowable.
- Equipment costs are allowable with the prior approval of the HSO. Equipment having a useful life of more than one year or a current per-unit fair market value of \$5,000 or more must be tracked. When replacing equipment purchased with federal funds, the equipment to be replaced may be used as a trade-in or can be sold with the proceeds used to offset the cost of the replacement equipment. In addition, during the period of the contract with HSO, insurance on the equipment is allowable.
- Travel costs are allowable if pre-approved by the HSO and so long as they are consistent with those normally allowed in like circumstances for non-federally funded activities.
- **Cost Principles for Federal Grants to Non-Profit Organizations and Institutions of Higher Education** - These requirements apply to only the non-profit and higher education sub recipients. These document list and define general categories of costs that are allowable and unallowable. The link below provides the full text of these two basic federal grant requirements.
 - eCFR :: 2 CFR Part 200 Subpart E -- Cost Principles

I sign these Grant Requirements based on personal knowledge, after appropriate inquiry, and I understand that the Government will rely on these representations in reimbursing grant funds.

Authorized Contract Signatory:

Date:

Signors Printed Name:

Signors Title:

Project Titles, PSP & Task, ALN, and FAIN Numbers (FFY24)
SPEED ENFORCEMENT PATROLS PSP & Task 24-02-04 FAST Act 402/Bil/Sup ASSISTANCE LISTING NUMBER: 20.600 FAIN Number (Subaward): 69A37521300004020NH0, 69A37522300004020NH0, 69A37523300004020NH0, 69A3752400004020NH0, 69A3752230SUP4020NH0, 69A3752330SUP4020NH0
SPEED EQUIPMENT PSP & Task 24-02-04 FAST Act 402/Bil/Sup ASSISTANCE LISTING NUMBER: 20.600 FAIN Number (Subaward): 69A37521300004020NH0, 69A37522300004020NH0, 69A37523300004020NH0, 69A3752400004020NH0, 69A3752230SUP4020NH0, 69A3752330SUP4020NH0
DUI ENFORCEMENT PSP & Task 24-07-04 FAST Act 402/Bil/Sup ASSISTANCE LISTING NUMBER: 20.600 FAIN Number (Subaward): 69A37521300004020NH0, 69A37522300004020NH0, 69A37523300004020NH0, 69A3752400004020NH0, 69A3752230SUP4020NH0, 69A3752330SUP4020NH0
DISTRACTED DRIVING PSP & Task 24-04-04 FAST Act 402/Bil/Sup ASSISTANCE LISTING NUMBER: 20.600 FAIN Number (Subaward): 69A37521300004020NH0, 69A37522300004020NH0, 69A37523300004020NH0, 69A3752400004020NH0, 69A3752230SUP4020NH0, 69A3752330SUP4020NH0
PEDESTRIAN BICYCLE PSP & Task 24-06-04 FAST Act 402/Bil/Sup ASSISTANCE LISTING NUMBER: 20.600 FAIN Number (Subaward): 69A37521300004020NH0, 69A37522300004020NH0, 69A37523300004020NH0, 69A3752400004020NH0, 69A3752230SUP4020NH0, 69A3752330SUP4020NH0
JOIN THE NH CLIQUE PSP & Task 24-01-04 FAST Act 402/Bil/Sup ASSISTANCE LISTING NUMBER: 20.600 FAIN Number (Subaward): 69A37521300004020NH0, 69A37522300004020NH0, 69A37523300004020NH0, 69A3752400004020NH0, 69A3752230SUP4020NH0, 69A3752330SUP4020NH0
DRIVE SOBER OR GET PULLED OVER PSP & Task 24-07-11 FAST Act 402/Bil/Sup ASSISTANCE LISTING NUMBER: 20.600 FAIN Number (Subaward): 69A37521300004020NH0, 69A37522300004020NH0, 69A37523300004020NH0, 69A3752400004020NH0, 69A3752230SUP4020NH0, 69A3752330SUP4020NH0
U DRIVE, U TEXT, U PAY PSP & Task 24-04-11 FAST Act 402/Bil/Sup ASSISTANCE LISTING NUMBER: 20.600 FAIN Number (Subaward): 69A37521300004020NH0, 69A37522300004020NH0, 69A37523300004020NH0, 69A3752400004020NH0, 69A3752230SUP4020NH0, 69A3752330SUP4020NH0
E-CRASH EQUIPMENT (MDT) PSP & Task 24-03-06 FAST Act 402/Bil/Sup ASSISTANCE LISTING NUMBER: 20.600 FAIN Number (Subaward): 69A37521300004020NH0, 69A37522300004020NH0, 69A37523300004020NH0, 69A3752400004020NH0, 69A3752230SUP4020NH0, 69A3752330SUP4020NH0
E-CRASH EQUIPMENT (Printers/Scanners/Receivers/C.A.R. Equipment/C.A.R. Training) PSP & Task 24-03-06 FAST Act 402/Bil/Sup ASSISTANCE LISTING NUMBER: 20.600 FAIN Number (Subaward): 69A37521300004020NH0, 69A37522300004020NH0, 69A37523300004020NH0, 69A3752400004020NH0, 69A3752230SUP4020NH0, 69A3752330SUP4020NH0
EMERGENCY MEDICAL SERVICES (Fire Extrication Equipment) PSP & Task 24-10-03 FAST Act 402/Bil/Sup ASSISTANCE LISTING NUMBER: 20.600 FAIN Number (Subaward): 69A37521300004020NH0, 69A37522300004020NH0, 69A37523300004020NH0, 69A3752400004020NH0, 69A3752230SUP4020NH0, 69A3752330SUP4020NH0
COMMUNITY OUTREACH & BETTERMENT (COB) GRANT PSP & Task 24-09-03 FAST Act 402/Bil/Sup ASSISTANCE LISTING NUMBER: 20.600 FAIN Number (Subaward): 69A37521300004020NH0, 69A37522300004020NH0, 69A37523300004020NH0, 69A3752400004020NH0, 69A3752230SUP4020NH0, 69A3752330SUP4020NH0

Scope of Work

SPEED ENFORCEMENT

For additional grant requirements please familiarize yourself with the section of the grant agreement titled, "Grant Requirements and Information".

- The locations as well as time and days of the Speed overtime enforcement patrols should support the problem statement identified in your grant application.
- Speed enforcement patrols should be no more than **4-hours** in duration. These hours shall be run consecutively without interruption.
- If the last stop of a grant-funded patrol results in an arrest that requires the patrol to exceed 4-hours, OHS will consider payment, after review of the dispatch log and Patrol Activity Report (HS-200). The dispatch log must show the arrest as the last stop of the patrol as well as showing the time the arrest was cleared.
- The OHS has an expectation that Departments will have a minimum of three documented stops/contacts per hour. Documented stops/contacts are defined as any grant-funded patrol officer contact with motorists, pedestrians, and/or bicyclists, during the grant-funded patrol periods. Contacts are required to be supported by written or electronic records maintained at the police department. These records must be maintained in a manner that guarantees their accountability during a monitoring review. If fewer than three stops/contacts per hour are made during a grant-funded patrol, an explanation must be provided on note section of the HS-200/Patrol Activity Report.
- To maximize grant funding, patrols must consist of **one grant-funded officer per cruiser**; however, multiple cruisers may be out at one time.
- All vehicles stopped should be visually checked for violations of the Child Passenger Restraint law. The total number of visual checks and any action taken should be noted on the HS-200 Patrol Activity Report.
- The NHOHS Highway Safety Commander may, and in their prolonged absence, the NHOHS program manager may, in consultation and conjunction with the Chief of Police, at their discretion, authorize adjustments in the duration of patrols and focus efforts in both location and area of enforcement, to help maximize the potential for success in meeting objectives and achieving overall goals.

Grantee Initials: _____
Date: _____

Grantee Initials: _____
Date: _____

Grantee Initials: _____
Date: _____

Scope of Work

Impaired Driving Enforcement (DUI)

For additional grant requirements please familiarize yourself with the section of the grant agreement titled, "Grant Requirements and Information".

- The locations as well as time and days of the Impaired Driving enforcement overtime patrols shall support the problem statement identified in your grant application.
- DUI enforcement patrols, including DUI saturation patrols, can be a minimum of **4-hours** or a maximum of **6-hours** in duration. These hours shall be run consecutively without interruption.
- With **written**, pre-approval, from the Office of Highway Safety, departments may conduct 6-hour Sobriety Check Points.
- If the last stop of a grant-funded patrol results in an arrest that requires the patrol to exceed 4-hours, OHS will consider payment, after review of the dispatch log and Patrol Activity Report (HS-200). The dispatch log must show the arrest as the last stop of the patrol as well as showing the time the arrest was cleared.
- The OHS has an expectation that Departments will have a minimum of three documented stops/contacts per hour. Documented stops/contacts are defined as any grant-funded patrol officer contact with motorists, pedestrians, and/or bicyclists, during the grant-funded patrol period. Contacts are required to be supported by written or electronic records maintained at the police department. These records must be maintained in a manner that guarantees their accountability during a monitoring review. If fewer than three stops/contacts per hour are made during a grant-funded patrol, an explanation must be provided on note section of the HS-200/Patrol Activity Report.
- To maximize grant funding, patrols must consist of **one grant-funded officer per cruiser**; however, multiple cruisers may be out at one time.
- All vehicles stopped should be visually checked for violations of the Child Passenger Restraint law. The total number of visual checks and any action taken should be noted on the HS-200 Patrol Activity Report.
- The NHOHS Highway Safety Commander may, and in their prolonged absence, the NHOHS program manager may, in consultation and conjunction with the Chief of Police, at their discretion, authorize adjustments in the duration of patrols and focus efforts in location, to help maximize the potential for success in meeting objectives and achieving overall goals.

Grantee Initials: _____
Date: _____

Grantee Initials: _____
Date: _____

Grantee Initials: _____
Date: _____

Scope of Work

High Visibility Mobilizations

Departments have an allowable budget to conduct overtime enforcement during each of the time periods listed below. Unspent funds from a campaign period cannot be rolled over into any other enforcement activity.

Grant-funded overtime enforcement activity shall occur on the required dates and primary enforcement efforts should be project specific; departments are encouraged to use their own internal data to conduct enforcement activity in their community hotspots.

The OHS has an expectation that Departments will have a minimum of three documented stops/contacts per hour. Documented stops/contacts are defined as any grant-funded patrol officer contact with motorists, pedestrians, and/or bicyclists, during the grant-funded patrol periods. Contacts are required to be supported by written or electronic records maintained at the police department. These records must be maintained in a manner that guarantees their accountability during a monitoring review. If fewer than three stops/contacts per hour are made during a grant-funded patrol, an explanation must be provided on note section of the HS-200/Patrol Activity Report.

NOTE: Please e-mail your Field Representatives at HWYSAFETYMAIL@dos.nh.gov, in advance, if a mobilization effort will not be conducted.

Join the NH Clique Enforcement Patrols- \$850 total: The purpose of this mobilization is to enforce the Child Restraint Law for anyone under 18 years of age, as well as to educate unbelted occupants 18 years and older regarding the importance of wearing seatbelts. Patrols must be conducted during daylight hours at locations such as elementary schools, high schools, shopping centers, and/or locations where drivers and passengers up to the age of 18 are known to frequent. Officers conducting the "Join the NH Clique Patrols", are highly recommended to complete an Online training course; "Child Passenger", sponsored by Police Standards and Training.

- **Required Dates:**
 - One 3-4 hour patrol conducted on kickoff day - **TBD**
 - The remaining patrol hours shall be conducted between - **TBD, 3rd Quarter**

Drive Sober or Get Pulled Over-\$850 each: The purpose of these **two** mobilizations will focus on the apprehension of the impaired driver. **Unspent funds from the first DSOGPO campaign may be rolled over to the second DSOGPO campaign.**

- **\$850- Required Dates of the first mobilization:**
 - One 3-4 hour patrol conducted on kickoff day - **TBD**
 - The remaining patrol hours shall be conducted between - **TBD, 1st Quarter**
- **\$850- Required Dates of the second mobilization:**
 - One 3-4 hour patrol conducted on kickoff day - **TBD**
 - The remaining patrol hours shall be conducted between - **TBD, 4th Quarter**

U Drive, U Text, U Pay-\$850 total: The purpose of this mobilization is to enforce New Hampshire's Hands Free Electronic Device Law, as well as other activities that occur behind the wheel that cause the driver to be distracted.

- **Required Dates:**
 - One 3-4 hour patrol conducted on kickoff day - **TBD**
 - The remaining patrol hours shall be conducted between - **TBD, 3rd Quarter**

Grantee Initials: _____
Date: _____

Grantee Initials: _____
Date: _____

Grantee Initials: _____
Date: _____

**CITY OF FRANKLIN
NOTICE OF PUBLIC HEARING & MEETING**

In accordance with the provision of Chapter 31, Division 2 of the Franklin Municipal Code, notice is hereby given that the City of Franklin will hold a Public Hearing on Tuesday, October 10th, 2023 at 6:00 p.m. in the Franklin High School Cafeteria regarding Resolution #08-24, to accept and appropriate grant funds in the amount of \$6,600 from the Office of Highway Safety for the Franklin Police Department.

Provisions for persons with special needs can be made by contacting the City Manager's office, via telephone or mail at least five days prior to the public hearing.

**City of Franklin
316 Central Street
Franklin, NH 03235
(603) 934-3900**

CITY COUNCIL MEETING
AGENDA ITEM VII



**CITY OF FRANKLIN
COUNCIL AGENDA REPORT**

for October 10, 2023

Date: For October 10, 2023 City Council Meeting

From: Seth Creighton, Director of Planning & Zoning

Subject: Trestle Bridge Grant Updates

Recommended Motion:

Councilor moves, "I move that the Franklin City Council choose the option to _____ the Trestle Bridge."

Mayor calls for a second, discussion, and roll call vote.

Discussion: As you know, the City was awarded a grant from NH DOT for approximately \$600,000 in 2019 to rehab the Trestle Bridge and add a pedestrian walkway to the top of it; \$120,000 of that amount is required match – thankfully for the City, the non-profit Mill City Park guaranteed to pay the match on behalf of the City. The \$600,000 was estimated to be the total cost to finish the project.

Unfortunately, the \$600,000 project cost estimate was grossly underestimated; revised estimates call for \$4.5 to \$5 million dollar rebuild/rehab.

Several public hearings have been held since 2019, but no decision has been made yet by the City. But now NH DOT is requiring the City to decide. Most recently, on August 21st, the City Council held a public meeting regarding this matter. Much of the public present vocalized support to keep the Trestle Bridge, or a new version of a trestle bridge, as long as 80% matching funds for the total project could be found.

On August 28th City Staff phoned NH DOT and explained the public's desire. NH DOT said they would support the project moving forward if the City Council picks an option and commits to funding the required 20% match. Staff asked NH DOT if they (NH DOT) would be able to commit to 80% funding; NH DOT said they would fight for this project and believe they can find the 80% funding.

Tonight, September 5th, Council should ask any remaining questions, review any updated cost estimates, and set a public hearing for a vote in October at which they will state the desired option and commit to doing all they can to secure funding for 20% of the project (if they choose to proceed with the project).

Fiscal Impact: Costs to the City will vary depending upon what option City Council chooses.

Alternatives: Several

Attachments/Exhibits:

2 updated series of Cost Estimates for each option
Deed for Trestle Bridge

City of Franklin, New Hampshire
Trestle Bridge Options (Cost & Funding Breakdown)
September 2023

Reference	Task	Options				
		Historic Restoration Alternatives for Pedestrian Loading		New Pedestrian Bridge & Stabilize Trestle		
		Rehabilitate Trestle	Replace Trestle In Kind	Bridge & Stabilize Trestle	No Build & Stabilize Trestle	No Build & Remove Trestle
A1	Where we are now: Engineering Study - current contract	\$ 88,318.54	\$ 88,318.54	\$ 88,318.54	\$ 88,318.54	\$ 88,318.54
A2	If the Council moves Forward with an option other than "No Build" on 10/10/23: Preliminary Engineering	200,000.00	200,000.00	200,000.00	-	-
A = A1 + A2	Total Costs to Point Where Council can still say "no build" and keep the grant 80% reimbursement	\$ 288,318.54	\$ 288,318.54	\$ 288,318.54	\$ 88,318.54	\$ 88,318.54
Costs after Final Council Decision:						
B1	Final Engineering	215,000.00	185,000.00	65,000.00	165,000.00	55,000.00
B2	Construction:					
B3	Construction Engineering	320,000.00	290,000.00	235,000.00	110,000.00	-
B = B1+B2+B3	Construction	4,545,000.00	4,155,000.00	3,320,000.00	1,600,000.00	770,000.00
	Total Cost After Point Council Can Say No Build	\$ 5,080,000.00	\$ 4,630,000.00	\$ 3,620,000.00	\$ 1,875,000.00	\$ 825,000.00
C = A + B	Total Project Cost	\$ 5,368,318.54	\$ 4,918,318.54	\$ 3,908,318.54	\$ 1,963,318.54	\$ 913,318.54
Proof of Total Project Cost:						
	Engineering Study	\$ 88,318.54	\$ 88,318.54	\$ 88,318.54	\$ 88,318.54	\$ 88,318.54
	Franklin 42531 Pedestrian Bridge Project August 30, 2023					
	Total Project Estimate (provided by McFarland Johnson)	5,280,000.00	4,830,000.00	3,820,000.00	1,875,000.00	825,000.00
	Total Project Cost	\$ 5,368,318.54	\$ 4,918,318.54	\$ 3,908,318.54	\$ 1,963,318.54	\$ 913,318.54
		TRUE	TRUE	TRUE	TRUE	TRUE
Costs By Funding Source:						
A	Breakdown of Total Costs to the Point of No Return:					
	Grant	\$230,654.83	\$230,654.83	\$230,654.83	\$70,654.83	\$70,654.83
	Match	\$57,663.71	\$57,663.71	\$57,663.71	\$17,663.71	\$17,663.71
	Total	\$288,318.54	\$288,318.54	\$288,318.54	\$88,318.54	\$88,318.54
B	Breakdown of Total Costs After the Point of No Return:					
	Grant	\$4,064,000.00	\$3,704,000.00	\$2,896,000.00	\$0.00	\$0.00
	Match	\$1,016,000.00	\$926,000.00	\$724,000.00	\$1,875,000.00	\$825,000.00
	Total	\$5,080,000.00	\$4,630,000.00	\$3,620,000.00	\$1,875,000.00	\$825,000.00
C	Breakdown Total Project Cost:					
	Grant	\$4,294,654.83	\$3,934,654.83	\$3,126,654.83	\$70,654.83	\$70,654.83
	Match	\$1,073,663.71	\$983,663.71	\$781,663.71	\$1,892,663.71	\$842,663.71
	Total	\$5,368,318.54	\$4,918,318.54	\$3,908,318.54	\$1,963,318.54	\$913,318.54

FRANKLIN 42531

PEDESTRIAN BRIDGE PROJECT
August 30, 2023

ALTERNATIVE COST ESTIMATES						
	HISTORIC RESTORATION ALTERNATIVES FOR PEDESTRIAN LOADING		NEW PEDESTRIAN BRIDGE & STABILIZE TRESTLE	NO-BUILD & STABILIZE TRESTLE	NO-BUILD & REMOVE TRESTLE	
	REHABILITATE TRESTLE	REPLACE TRESTLE IN-KIND				
TIMBER TRESTLE WORK	\$ 2,400,000	\$ 2,120,000	\$ 1,100,000	\$ 1,100,000	\$ 550,000	
NEW CONCRETE RIVER PIERS (TBD)	\$ 600,000	\$ 600,000	\$ -	\$ -	\$ -	
PEDESTRIAN DESIGN & HISTORIC STYLE RAILING	\$ 690,000	\$ 690,000	\$ -	\$ -	\$ -	
CONTINGENCY	\$ 385,000	\$ 330,000	\$ 250,000	\$ 250,000	\$ 110,000	
MOBILIZATION	\$ 385,000	\$ 330,000	\$ 250,000	\$ 250,000	\$ 110,000	
NEW PEDESTRIAN BRIDGE & FOUNDATIONS	\$ -	\$ -	\$ 1,650,000	\$ -	\$ -	
APPROACH WORK	\$ 85,000	\$ 85,000	\$ 70,000	\$ -	\$ -	
TOTAL CONSTRUCTION COST ESTIMATE	\$ 4,545,000	\$ 4,155,000	\$ 3,320,000	\$ 1,600,000	\$ 770,000	
ENGINEERING, GEOTECHNICAL & PERMITTING	\$ 415,000	\$ 385,000	\$ 265,000	\$ 165,000	\$ 55,000	
CONSTRUCTION ENGINEERING (7% CONSTRUCTION)	\$ 320,000	\$ 290,000	\$ 235,000	\$ 110,000	\$ -	
TOTAL PROJECT ESTIMATE	\$ 5,280,000	\$ 4,830,000	\$ 3,820,000	\$ 1,875,000	\$ 825,000	
MINIMUM CITY SHARE	20%	20%	20%	100%	100%	
MINIMUM CITY COST	\$ 1,056,000	\$ 966,000	\$ 764,000	\$ 1,875,000	\$ 825,000	

QUITCLAIM DEED

B1298P201

KNOW ALL MEN BY THESE PRESENTS that the State of New Hampshire through its agent, the New Hampshire Public Utilities Commission by Alexander J. Kalinski, Chairman, under authority of RSA 372-A:4 (supp) and vote of the Governor and Council dated February 9, 1977, for consideration paid grants to the City of Franklin, State of New Hampshire, the following described parcels of property including the improvements thereon and therein situated in Franklin, County of Merrimack and State of New Hampshire:

TRACT 1: Main Line (so-called)

All of the State of New Hampshire's right, title and interest acquired from the Boston and Maine Corporation, Debtor, and others, in and to that portion of the property shown on railroad valuation sheets, so-called, No. V31/1, V31/2 and V31/3, recorded in the Merrimack County Registry of Deeds as Plan No. 4176, which is located between the Merrimack River on the west near Station 12 + 30 and the Winnepesaukee River on the east near Station 121 + 40, which property the State of New Hampshire acquired from the Boston and Maine Corporation, Debtor, and others, by condemnation on October 30, 1975, being a portion of those premises described in the Notice of Condemnation recorded in the Merrimack County Registry of Deeds, Book 1260, Page 227.

TRACT 2: Spur Line (so-called)

All of the State of New Hampshire's right, title and interest acquired from the Boston and Maine Corporation, Debtor, and others, in and to that portion of the property shown on railroad valuation sheets, so-called, No. V31/1, V31/2 and V31/3, recorded in the Merrimack County Registry of Deeds as Plan No. 4176, which is bounded on the south by Tract 1 near Station 65 + 00 and bounded on the north by the southerly boundary of Lot No. 39 near the junction of River and Winnipisogee Streets, which property the State of New Hampshire acquired from the Boston and Maine Corporation, Debtor, and others, by condemnation on October 30, 1975, being a portion of those premises described in the Notice of Condemnation recorded in the Merrimack County Registry of Deeds, Book 1260, Page 227.

Said property is hereby conveyed without covenants.

IN WITNESS WHEREOF the State of New Hampshire has caused its name to be set and its seal to be hereunto affixed by Alexander J.

B1298P201

B1298P202

- 2 -

Kalinski, Chairman of the Public Utilities Commission, duly authorized,
this 31st day of May, 1977.

THE STATE OF NEW HAMPSHIRE

Don S. D'Ambrosio
Witness

By Alexander J. Kalinski
Alexander J. Kalinski, Chairman
Public Utilities Commission

THE STATE OF NEW HAMPSHIRE
Merrimack, SS.

The foregoing instrument was acknowledged before me this 31st
day of May, 1977, by Alexander J. Kalinski, Chairman, New
Hampshire Public Utilities Commission.

Don S. D'Ambrosio
Justice of the Peace/Notary Public

MERRIMACK COUNTY RECORDS
Recorded June 30, 10-30A.M. 1977

B1298P202

Kathleen M. Guay
REGISTER

FRANKLIN, N.H.

RIGHT-OF-WAY AND TRACK MAP
FRANKLIN & TILTON R.R.
Operated by the
BOSTON AND MAINE R.R.
STATION 83-345 TO STATION 140-143
SCALE 1" = 100 FT. JUNE 20, 1904.
Office of Station Engineer.

	REVISED TO	
PARTIAL FEATURES	and NLS	
Nov 1972	Aug 1980	
	above range	
	May 1985	
	Nov. 1986	

Sheet No 8 of fine sands of Franklin & Miller R.R. Southern
Division Franklin & Miller Branch, from survey station 373-394.6
to survey station 400-446.6

1997

MCRD

[illegible]

**CITY OF FRANKLIN
NOTICE OF PUBLIC HEARING & MEETING**

In accordance with the provision of Chapter 31, Division 2 of the Franklin Municipal Code, notice is hereby given that the City of Franklin will hold a Public Hearing on Tuesday, October 10th, 2023 at 6:00 p.m. in the Franklin High School Cafeteria regarding the options for the Trestle Bridge.

Provisions for persons with special needs can be made by contacting the City Manager's office, via telephone or mail at least five days prior to the public hearing.

**City of Franklin
316 Central Street
Franklin, NH 03235
(603) 934-3900**

CITY COUNCIL MEETING
AGENDA ITEM VIII



**CITY OF FRANKLIN
COUNCIL AGENDA REPORT**

October 10, 2023

From: Dan LeGallo, Superintendent

Subject: 2023-2024 Appropriations Fund Balance and New Revenue and
Portrait of a Graduate Grant Funding

Recommendation:

To allow the Franklin School District to appropriate additional funding from increased adequacy aid and additional fund balance. The total amount of additional funding is \$374,129. **Also,**

To allow the Franklin School District to appropriate a Portrait of a Graduate grant funding from the Barr Foundation. The total amount of grant funding is \$150,000.

Suggested Motions:

October 10, 2023

Councilor moves, "I move that the Franklin City Council set a public hearing at 6pm on November 6, 2023 for Resolution 09-24 appropriating \$374,129 to the Franklin School District fiscal year 2024 budget and appropriating \$150,000 to the Franklin School District for the Portrait of a Graduate grant from the Barr Foundation.

Mayor calls for a second, discussion and vote.

November 6, 2023

Councilor moves, "I move that the Franklin City Council adopts Resolution 09-24 appropriating \$374,129 to the Franklin School District fiscal year 2024 budget and appropriating \$150,000 to the Franklin School District for the Portrait of a Graduate grant from the Barr Foundation.

Mayor calls for a second, discussion and roll call vote.

Discussion:

Due to the final calculation of the new adequacy aid formula based on final end of year ADM (Average Daily Membership) the amount increased to \$8,924,961. This caused a net increase of \$201,809 from original budget projection. Also, due to final year end calculations there was an additional \$172,320 of FY2023 fund balance. The total amount of additional funding

for the school district is \$374,129. The intent of this additional funding would be to carry it over to support the FY25 budget development.

Franklin School District also was awarded a continuing grant from the Barr Foundation to continue the work of the Portrait of a Graduate program started in FY21. Total new grant funding is \$150,000. This funding will continue the program involving teachers, students, parents and community members to work collaboratively to re-imagine the learning experience in Franklin.

Fiscal Impact:

This amount will have no effect on the taxes raised by the City of Franklin as this is excess funds to be received by the district from other sources.

Alternatives:

Do not appropriate at this time or use the funds for another purpose.

Attachments/Exhibits:

Resolution 09-24

Franklin School District Revenue Estimate Updated FY24.



CITY OF FRANKLIN, NEW HAMPSHIRE
"The Three Rivers City"

316 Central Street
Franklin, NH 03235

Phone: (603) 934-3900
Fax: (603) 934-7413

RESOLUTION # 09-24

A Resolution Granting Authority to Accept and Appropriate \$374,129 of Additional Adequacy Aid and Fund Balance Funding and \$150,000 in Grant Funding for the Franklin School District for Fiscal Year 2024.

In the year of our Lord, Two Thousand Twenty-Three,

WHEREAS, the City Council of the City of Franklin, New Hampshire recognizes that the school district will receive additional adequacy aid of \$201,809 from the final updated calculation of ADM; and,

WHEREAS, the City Council of the City of Franklin, New Hampshire recognizes that the school district has identified additional year end fund balance of \$172,320; and,

WHEREAS, the City Council of the City of Franklin, New Hampshire recognizes that the school district will receive a grant award of \$150,000 entitled Portrait of a Graduate from the Barr Foundation; and,

WHEREAS, the City Council of the City of Franklin would like to appropriate an additional \$374,129 to preserve potential fund balance from the 2024 year to be carried over to the 2025 fiscal year. Due to the challenges and uncertainties regarding the adequacy funding formula and the expiration of the Elementary and Secondary Schools Emergency Relief (ESSER) grants, these funds could help support the next budget cycle. And City Council of the City of Franklin would like to appropriate \$150,000 of the Portrait of a Graduate grant funding from the Barr Foundation; **Now**,

THEREFORE, BE IT RESOLVED, *that at a regularly scheduled meeting of the City Council on November 6, 2023, the City Council of Franklin New Hampshire does hereby vote to adopt resolution #09-24 to formally accept and appropriate \$524,129 of additional revenues for the Franklin School District as follows:*

An Increase in Revenues:

Adequacy Education Aid – Two Hundred One Thousand, Eight Hundred Nine Dollars (\$201,809)

Use of Fund Balance – One Hundred Seventy-Two Thousand, Three Hundred Twenty Dollars (\$172,320)

Grant Revenue – Portrait of a Graduate – One Hundred Fifty Thousand Dollars (\$150,000),

An Increase in Expenditures:

School District Expenditures – Three Hundred Seventy-Four Thousand, One Hundred Twenty-Nine Dollars (\$374,129)

Franklin School District
Revenue Projection
Fiscal Year 2023/2024

Source	21-22 Actuals	22-23 Budgeted	23-24 Estimates	Difference
General Fund:				
Revenue from State Sources				
Special Education Aid	191,886	145,000	145,000	c 0
Charter School Aid	55,296	45,000	40,000	(5,000)
Vocational Transportation Aid	5,182	5,000	5,000	0
Adequate Education Grant	8,269,483	8,291,709	8,924,961	633,252
NHRS Refund	0	92,215	0	(92,215)
EFA Phaseout Grant	0	8,054	3,000	(5,054)
Extraordinary Grant	0	360,165	0	(360,165)
Building Aid	81,944	81,944	81,944	0
Indirect Costs	93,555	69,000	90,000	21,000
Revenue from Federal Sources				
Medicaid Reimbursement	149,348	160,000	160,000	0
E-Rate Funding	30,633	47,173	31,000	(16,173)
Local Revenue Other than Taxes				
Tuition	17,908	0	0	0
Earnings on Investments	2,053	2,500	16,000	13,500
Other Local Revenue	15,213	2,000	2,000	0
Insurance Premium Holidays	155,579	105,685	29,313	(76,372)
Athletic Receipts	2,678	3,500	3,000	(500)
NH Charitable Foundation (Aware)	0	0	0	0
Unreserved Fund Balance	1,211,997	1,281,870	1,066,276	(215,594)
Total Revenues and Credits	10,282,753	10,700,814	10,597,494	(103,321)
District Appropriation	4,595,004	4,943,755	5,384,379	440,624
Education Tax	1,190,971	1,224,669	1,217,843	(6,826)
Additional Voted By City Council	0	0	0	0
Total General Fund	16,068,728	16,869,238	17,199,716	330,477
Food Service Transfer	980,313	600,000	600,000	0
Total General Fund and Food Service Revenues	17,049,041	17,469,238	17,799,716	330,477
Grant Funds	1,789,053	1,969,593	1,690,052	(279,541)
ESSER/GOFERR Funding	1,628,316	1,300,000	5,000,000	3,700,000
Grand Total Revenues	20,466,410	20,738,831	24,489,768	3,750,937
		Updated Appropriations	24,489,768	
			HVAC Project Estimated \$3.7 million	

CITY COUNCIL MEETING
AGENDA ITEM IX



CITY OF FRANKLIN COUNCIL AGENDA REPORT

City Council Meetings of October 10, 2023 and November 6, 2023

From: Seth Creighton, Director of Planning & Zoning

Subject: Permission needed to accept grant award and for the City Manager to represent the City on U.S. Environmental Protection Agency (EPA) Brownfield Cleanup Grant (for cleanup of Map-Lot 117-142, Stanley / Ferrari Mill on Memorial St)

Recommended Motions:

October 10, 2023

Councilor moves, "I move that the Franklin City Council set a public hearing date for 6:00 p.m. on Monday, November 6, 2023, regarding Resolution #10-24, accepting and appropriating the U.S. Environmental Protection Agency Brownfield Cleanup Grant for the Stanley Mill site in the amount of \$1,923,850 and authorizing the City Manager to execute all documents relating to the grant."

Mayor calls for a second, discussion, and vote.

November 6, 2023

Councilor moves, "I move that the Franklin City Council adopt Resolution #10-24, accepting and appropriating the U.S. Environmental Protection Agency Brownfield Cleanup Grant for the Stanley Mill site in the amount of \$1,923,850 and authorizing the City Manager to execute all documents relating to the grant."

Mayor calls for a second, discussion, and roll call vote.

Discussion: Over the last several months, the City Council authorized Staff to apply for several grants that are intended to be used to demolish structure(s) and remediate contamination at the now City-owned parcel on Memorial St, Map-Lot 117-142 which is commonly referred to as the "Stanley/Ferrari Mill". One of the grants applied for, and since awarded, is the U.S. EPA Brownfield Cleanup Up Grant. A copy of a portion of the grant award is attached.

Fiscal Impact: There are no anticipated costs to the City related to this, the grant awards are 100%, with no match requirement.

Alternatives: The Council can choose to not continue with this grant, thereby drastically reducing the ability to cleanup this contaminated property.

Attachments:

Resolution 10-24 & Grant Award



CITY OF FRANKLIN, NEW HAMPSHIRE
"The Three Rivers City"

316 Central Street
Franklin, NH 03235

(603) 934-3900
fax: (603) 934-7413

RESOLUTION #10-24

A Resolution Relating to a Supplemental Appropriation for Fiscal Year 2024.

In the year of our Lord, Two Thousand Twenty-Three,

WHEREAS, the City Council of the City of Franklin, New Hampshire adopted a budget for Fiscal Year 2024 which began July 1, 2023, **and;**

WHEREAS, the City Council of the City of Franklin, New Hampshire understands the Stanley Mill property (Map/Lot 117-142) is an extensive environmental clean-up project, **and;**

WHEREAS, the City Council of the City of Franklin, New Hampshire understands the City received federal grant funds through the Environmental Protection Agency Brownfield Program in the amount of \$1,923,850 for the purposes of hazard mitigation and environmental clean-up of the Stanley Mill Property, **and;**

WHEREAS, the City Council of the City of Franklin, New Hampshire wishes to appropriate the grant, **Now,**

THEREFORE, BE IT RESOLVED that at the scheduled meeting of the City Council on Monday, November 6, 2023 at 6pm the City Council of the City of Franklin, New Hampshire does hereby adopt resolution #10-24 accepting the Brownfield Program grant through the federal Environmental Protection Agency in the amount of \$1,923,850 grant, authorizing the City Manager to execute all grant related documents and authorizing a non-lapsing appropriation through an increase in FY2024 revenues:

Federal Grant Brownfield Acct. No. 01-0-000-33110-413 – One Million Nine Hundred Twenty-Three Thousand Eight Hundred Fifty dollars (\$1,923,850)

And an increase in FY2024 expenditure accounts,

Nuisance Abatement Brownfield Acct No. 01-1-302-40491-413 – One Million Nine Hundred Twenty-Three Thousand Eight Hundred Fifty dollars (\$1,923,850),

By a roll call vote.

Roll Call:

Councilor Chandler _____ Councilor Desrochers _____ Councilor Webb _____

Councilor Dzujna _____ Councilor Blake _____ Councilor Trudel _____

Councilor Ribas _____ Councilor Starkweather _____ Councilor Zink _____

Approved: _____
Mayor

Passed: _____

I certify that said vote has not been amended or repealed and remain in full force and effect as of the date of this Certification and that Michelle Stanyan is the City Clerk for the City of Franklin, Franklin, New Hampshire.

A true copy, attested: _____
City Clerk

Date: _____

1. **Award No.**
693JJ32345004
2. **Effective Date**
See No. 17 Below
3. **Assistance Listings No.**
20.939
4. **Award To**
City of Franklin
316 Central Street
Franklin, NH 03235-1774

Unique Entity Id.: PSYYABB65ZE5
TIN No.: 02-6000292
5. **Sponsoring Office**
U.S. Department of Transportation
Federal Highway Administration
Office of Safety
1200 New Jersey Avenue, SE
HSSA-1, Mail Drop E71-117
Washington, DC 20590
6. **Period of Performance**
Effective Date of Award - 24
Months
7. **Total Amount**
Federal Share: \$80,000
Recipient Share: \$20,000
Other Federal Funds: \$0
Other Funds: \$0
Total: \$100,000
8. **Type of Agreement**
Action Planning Grant
9. **Authority**
Section 24112 of the Infrastructure Investment
and Jobs Act (Pub. L. 117-58, November 15,
2021; also referred to as the "Bipartisan
Infrastructure Law" or "BIL")
10. **Procurement Request No.**
HSSP230149PR
11. **Federal Funds Obligated**
\$0
12. **Submit Payment Requests To**
See article 20.
13. **Payment Office**
See article 20.
14. **Accounting and Appropriations Data**
15X0173E50.0000.055SR10500.5592000000.41010.61006600
15. **Description of Project**
Development of an action plan for the redesign of Central Street, which is the main street through
downtown, to address safety concerns with pedestrians, bicycles, and motor traffic.

RECIPIENT

16. **Signature of Person Authorized to Sign**

Signature Date
Name: Judie Milner
Title: City Manager

FEDERAL HIGHWAY ADMINISTRATION

17. **Signature of Agreement Officer**

Signature Date
Name: Kyle R. Griggs
Title: Agreement Officer

U.S. DEPARTMENT OF TRANSPORTATION

GRANT AGREEMENT UNDER THE FISCAL YEAR 2022 SAFE STREETS AND ROADS FOR ALL GRANT PROGRAM

This agreement is between the [United States Department of Transportation (the “USDOT”)] [Federal Highway Administration (the “FHWA”) and the City of Franklin, NH (the “Recipient”).

This agreement reflects the selection of the Recipient to receive a Safe Streets and Roads for All (“SS4A”) Grant for the City of Franklin, NH SS4A Action Plan.

The parties therefore agree to the following:

ARTICLE 1 GENERAL TERMS AND CONDITIONS

1.1 General Terms and Conditions.

- (a) In this agreement, “**General Terms and Conditions**” means the content of the document titled “General Terms and Conditions Under the Fiscal Year 2022 Safe Streets and Roads for All Grant Program,” dated February 8, 2023, which is available at <https://www.transportation.gov/grants/ss4a/grant-agreements>. Articles 7–30 are in the General Terms and Conditions. The General Terms and Conditions are part of this agreement.
- (b) The Recipient states that it has knowledge of the General Terms and Conditions. Recipient also states that it is required to comply with all applicable Federal laws and regulations including, but not limited to, the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (2 CFR part 200); National Environmental Policy Act (NEPA) (42 U.S.C. § 4321 et seq.); and Build America, Buy America Act (BIL, div. G §§ 70901-27).
- (c) The Recipient acknowledges that the General Terms and Conditions impose obligations on the Recipient and that the Recipient’s non-compliance with the General Terms and Conditions may result in remedial action, termination of the SS4A Grant, disallowing costs incurred for the Project, requiring the Recipient to refund to the FHWA the SS4A Grant, and reporting the non-compliance in the Federal-government-wide integrity and performance system.

ARTICLE 2
APPLICATION, PROJECT, AND AWARD

2.1 Application.

Application Title: City of Franklin Action Plan

Application Date: September 15, 2022

2.2 Award Amount.

SS4A Grant Amount: \$80,000

2.3 Award Dates.

Period of Performance End Date: See Section 6 on Page 1

2.4 Budget Period

Budget Period End Date: See Section 6 on Page 1

2.5 Action Plan Grant or Implementation Grant Designation.

Designation: Action Plan

2.6 Federal Award Identification Number. The Federal Award Identification Number is listed on page 1, line 1.

ARTICLE 3 SUMMARY PROJECT INFORMATION

3.1 Summary of Project's Statement of Work.

The award will be used by the City of Franklin to develop a comprehensive safety action plan.

3.2 City of Franklin, NH SS4A Action Plan Project's Estimated Schedule.

Milestone	Schedule Date
Planned Draft Action Plan Completion Date:	9/30/2024
Planned Action Plan Completion Date:	12/31/2024
Planned Action Plan Adoption Date:	3/31/2025
Planned SS4A Final Report Date:	4/30/2025

3.3 Project's Estimated Costs.

(a) Eligible Project Costs

Eligible Project Costs	
SS4A Grant Amount:	\$80,000
Other Federal Funds:	\$0.00
State Funds:	\$0.00
Local Funds:	\$0.00
In-Kind Match:	\$20,000
Other Funds:	\$0.00
Total Eligible Project Cost:	\$100,000

(b) Supplemental Estimated Budget

Cost Element	Federal Share	Non-Federal Share	Total Budget Amount
Direct Labor	\$0.00	\$0.00	\$0.00
Fringe Benefits	\$0.00	\$0.00	\$0.00
Travel	\$0.00	\$0.00	\$0.00
Equipment	\$0.00	\$0.00	\$0.00
Supplies	\$0.00	\$0.00	\$0.00
Contractual/Consultant	\$80,000.00	\$0.00	\$80,000.00
Other	\$0.00	\$20,000.00	\$20,000.00
Indirect Costs	\$0.00	\$0.00	\$0.00
Total Budget	\$80,000.00	\$20,000.00	\$100,000.00

ARTICLE 4
RECIPIENT INFORMATION

4.1 Recipient's Unique Entity Identifier.

PSYYABB65ZE5

4.2 Recipient Contact(s).

Judie Milner
City Manager
City of Franklin, NH
316 Central Street, Franklin, NH 03235-1774
603-934-3900 ext. 251
citymgr@franklinnh.org

4.3 Recipient Key Personnel.

Name	Title or Position
Judie Milner	City Manager
Justin Hanscom	Municipal Services Director
Seth Creighton	Planning & Zoning Director
David Goldstein	Police Chief
Michael Foss	Fire Chief

4.4 USDOT Project Contact(s).

Caroline Truman
Safe Streets and Roads for All Program Manager
Federal Highway Administration
Office of Safety
HSSA-1, Mail Stop: E71-117
1200 New Jersey Avenue, S.E.
Washington, DC 20590
(603)734-1946
Caroline.Truman@dot.gov

and

Ashley Cucchiarelli
Agreement Officer (AO)
Federal Highway Administration
Office of Acquisition and Grants Management
HCFA-33, Mail Stop E62-310
1200 New Jersey Avenue, S.E.
Washington, DC 20590
(720) 963-3589
ashley.cucchiarelli@dot.gov

and

Ashley Cucchiarelli
Agreement Officer (AO)
Federal Highway Administration
Office of Acquisition and Grants Management
HCFA-33, Mail Stop E62-310
1200 New Jersey Avenue, S.E.
Washington, DC 20590
(720) 963-3589
ashley.cucchiarelli@dot.gov

and

Division Administrator
Agreement Officer's Representative (AOR)
New Hampshire Division Office
53 Pleasant Street, Suite 2200
Concord, NH 03301

and

Lucas Siik
NH Division Office Point of Contact
ITS/Area Engineer
Federal Highway Administration
53 Pleasant Street, Suite 2200
Concord, NH 03301
(603)410-4868
Lucas.Siik@dot.gov

ARTICLE 5

USDOT ADMINISTRATIVE INFORMATION

5.1 Office for Subaward and Contract Authorization.

USDOT Office for Subaward and Contract Authorization: FHWA Office of Acquisition and Grants Management

SUBAWARDS AND CONTRACTS APPROVAL

Note: See 2 CFR § 200.331, Subrecipient and contractor determinations, for definitions of subrecipient (who is awarded a subaward) versus contractor (who is awarded a contract).

Note: Recipients with a procurement system deemed approved and accepted by the Government or by the AO are exempt from the requirements of this clause. See 2 CFR 200.317 through 200.327.

Note: This clause is only applicable to Action Plan Grants.

Unless described in the application and funded in the approved award, the Recipient must obtain prior written approval from the AO for the subaward, transfer, or contracting out of any work under this award above the Simplified Acquisition Threshold. This provision does not apply to the acquisition of supplies, material, equipment, or general support services. Approval of each subaward or contract is contingent upon the Recipient's submittal of a written fair and reasonable price determination, and approval by the AO for each proposed contractor/sub-recipient. Consent to enter into subawards or contracts will be issued through written notification from the AO or a formal amendment to the Agreement.

The following subawards and contracts are currently approved under the Agreement by the AO. This list does not include supplies, material, equipment, or general support services which are exempt from the pre-approval requirements of this clause.

(Fill in at award or by amendment)

5.2 Reimbursement Requests

- (a) The Recipient may request reimbursement of costs incurred in the performance of this agreement if those costs do not exceed the funds available under section 2.2 and are allowable under the applicable cost provisions of 2 C.F.R. Part 200, Subpart E. The Recipient shall not request reimbursement more frequently than monthly.
- (b) The Recipient shall use the DELPHI eInvoicing System to submit requests for reimbursement to the payment office. When requesting reimbursement of costs incurred or credit for cost share incurred, the Recipient shall electronically submit supporting cost detail with the SF 271 (Outlay Report and Request for Reimbursement for Construction Programs) to clearly document all costs incurred.

- (c) The Recipient's supporting cost detail shall include a detailed breakout of all costs incurred, including direct labor, indirect costs, other direct costs, travel, etc., and the Recipient shall identify the Federal share and the Recipient's share of costs. If the Recipient does not provide sufficient detail in a request for reimbursement, the AO may withhold processing that request until the Recipient provides sufficient detail.
- (d) The USDOT shall not reimburse costs unless the Agreement Officer's Representative (the "AOR") reviews and approves the costs to ensure that progress on this agreement is sufficient to substantiate payment.
- (e) The USDOT may waive the requirement that the Recipient use the DELPHI eInvoicing System. The Recipient may obtain waiver request forms on the DELPHI eInvoicing website (<http://www.dot.gov/cfo/delphi-einvoicing-system.html>) or by contacting the AO. A Recipient who seeks a waiver shall explain why they are unable to use or access the Internet to register and enter payment requests and send a waiver request to

Director of the Office of Financial Management
US Department of Transportation,
Office of Financial Management B-30, Room W93-431
1200 New Jersey Avenue SE
Washington DC 20590-0001

or

DOTElectronicInvoicing@dot.gov.

If the USDOT grants the Recipient a waiver, the Recipient shall submit SF 271s directly to:

DOT/FAA
P.O. Box 268865
Oklahoma City, OK 73125-8865
Attn: Agreement Specialist

- (f) The requirements set forth in these terms and conditions supersede previous financial invoicing requirements for Recipients.

ARTICLE 6
SPECIAL GRANT TERMS

- 6.1** SS4A funds must be expended within five years after the grant agreement is executed and DOT obligates the funds, which is the budget period end date in section 10.3 of the Terms and Conditions and section [wherever the date it is in this agreement].
- 6.2** The Recipient acknowledges that the Action Plan will be made publicly available, and the Recipient agrees that it will publish the final Action Plan on a publicly available website.
- 6.3** The Recipient demonstrates compliance with civil rights obligations and nondiscrimination laws, including Titles VI of the Civil Rights Act of 1964, the Americans with Disabilities Act (ADA), and Section 504 of the Rehabilitation Act, and accompanying regulations. Recipients of Federal transportation funding will also be required to comply fully with regulations and guidance for the ADA, Title VI of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973, and all other civil rights requirements.
- 6.4** There are no other special grant requirements for this award.

ATTACHMENT A
PERFORMANCE MEASUREMENT INFORMATION

Study Area: Central Street - from Town of Tilton town line to intersection at Main Street in Franklin.

Baseline Measurement Date: 01/15/2024

Baseline Report Date: 03/15/2024

Table 1: Performance Measure Table

Measure	Category and Description	Measurement Frequency
Equity	Percent of Funds to Underserved Communities: Funding amount (of total project amount) benefitting underserved communities, as defined by USDOT	End of period of performance
Costs	Project Costs: Quantification of the cost of each eligible project carried out using the grant	End of period of performance
Lessons Learned and Recommendations	Lessons Learned and Recommendations: Description of lessons learned and any recommendations relating to future projects of strategies to prevent death and serious injury on roads and streets.	End of period of performance

ATTACHMENT B CHANGES FROM APPLICATION

INSTRUCTIONS FOR COMPLETING ATTACHMENT B: Describe all material differences between the scope, schedule, and budget described in the application and the scope, schedule, and budget described in Article 3. The purpose of this attachment B is to document the differences clearly and accurately in scope, schedule, and budget to establish the parties' knowledge and acceptance of those differences. See section 10.1.

Scope:

Schedule:

Budget:

The table below provides a summary comparison of the project budget.

Fund Source	Application		Section 3.3	
	\$	%	\$	%
Previously Incurred Costs (Non-Eligible Project Costs)				
Federal Funds				
Non-Federal Funds				
Total Previously Incurred Costs				
Future Eligible Project Costs				
SS4AFunds				
Other Federal Funds				
Non-Federal Funds				
Total Future Eligible Project Costs				
Total Project Costs				

ATTACHMENT C
RACIAL EQUITY AND BARRIERS TO OPPORTUNITY

1. Efforts to Improve Racial Equity and Reduce Barriers to Opportunity.

The Recipient states that rows marked with “X” in the following table are accurate:

	A racial equity impact analysis has been completed for the Project. <i>(Identify a report on that analysis or, if no report was produced, describe the analysis and its results in the supporting narrative below.)</i>
	The Recipient or a project partner has adopted an equity and inclusion program/plan or has otherwise instituted equity-focused policies related to project procurement, material sourcing, construction, inspection, hiring, or other activities designed to ensure racial equity in the overall delivery and implementation of the Project. <i>(Identify the relevant programs, plans, or policies in the supporting narrative below.)</i>
	The Project includes physical-barrier-mitigating land bridges, caps, lids, linear parks, and multimodal mobility investments that either redress past barriers to opportunity or that proactively create new connections and opportunities for underserved communities that are underserved by transportation. <i>(Identify the relevant investments in the supporting narrative below.)</i>
	The Project includes new or improved walking, biking, and rolling access for individuals with disabilities, especially access that reverses the disproportional impacts of crashes on people of color and mitigates neighborhood bifurcation. <i>(Identify the new or improved access in the supporting narrative below.)</i>
	The Project includes new or improved freight access to underserved communities to increase access to goods and job opportunities for those underserved communities. <i>(Identify the new or improved access in the supporting narrative below.)</i>
	The Recipient has taken other actions related to the Project to improve racial equity and reduce barriers to opportunity, as described in the supporting narrative below.
	The Recipient has not yet taken actions related to the Project to improve racial equity and reduce barriers to opportunity but, before beginning construction of the project, will take relevant actions described in the supporting narrative below
X	The Recipient has not taken actions related to the Project to improve racial equity and reduce barriers to opportunity and will not take those actions under this award.

2. Supporting Narrative.

N/A

CITY COUNCIL MEETING
AGENDA ITEM X



**CITY OF FRANKLIN
COUNCIL AGENDA REPORT**
City Council Meeting October 10, 2023

From: Michelle Stanyan, City Clerk
Subject: Council to consider changing Ward 2 polling location to the Franklin High School Cafeteria

Recommended Motions:

1. Councilor moves:
"I move that the Franklin City Council change the Ward 2 polling location to the Franklin High School Cafeteria":
2. Mayor asks for a second, discussion, and calls the vote.

Background:

As the council is aware, Soldier's Memorial Hall (City Hall) currently does not have an assembly permit and should not be used for elections going forward until such permit is obtained. While not likely to occur for city elections, state and federal elections will likely exceed 99 persons (requiring an assembly permit) in the building at one time, especially, during busy times during the voting day. Therefore, the elections starting in 2024 will need to be relocated to a new location until City Hall is running at full capacity. Due to all the schools in Franklin being closed on election days and Ward Three currently votes at the Franklin Middle School, the High School Cafeteria located in Ward 2 will have availability with no students present for security reasons. Superintendent LeGallo is onboard with this solution.

Attachments/Exhibits:

1. RSA 658:9

Preparation of Polling Place

Section 658:9

658:9 Arrangement. –

I. The selectmen of each town and ward shall provide for a suitable place in which to hold state elections and shall see that the same is warmed, lighted, and furnished with proper supplies and conveniences. Such supplies and conveniences shall include a ballot box and a sufficient number of pens with machine-readable ink or soft black lead pencils and booths with shelves to enable the voter to mark his or her ballot screened from all observation as to the manner in which he or she does so. Each place in which state elections are held shall be easily accessible as provided in RSA 658:9-a to all persons including persons with disabilities and elderly persons who are otherwise qualified to vote in the choice of any officer or officers to be elected or upon any question submitted at such election. The selectmen of each town and ward shall be charged with the responsibility to see that the flag of the United States is displayed inside and, weather conditions permitting, flown outside the polling place on election day. A guardrail shall be so constructed and placed so that only such persons as are inside such rail can approach within 6 feet of the ballot box and of the voting booths. The arrangements shall be such that the voting booths can be reached only by passing within the guardrail.

II. The voting booths shall be in plain view of the election officers, and both they and the ballot box shall be in plain view of those outside the guardrail. Each of said booths shall have 3 sides enclosed, one side in front to open and shut by a door swinging outward or to be enclosed with a curtain. Each side of the booths shall be not less than 6 feet high. The booth shall be between 28 and 36 inches wide, and between 28 and 36 inches deep. The door or curtain shall extend to within 2 feet of the floor and shall be closed while the voter is marking his or her ballot. Each booth shall be well lighted and shall contain a shelf between 12 and 15 inches wide running the width of the booth at a convenient height for writing.

III. In addition to the voting booths described in paragraph II, each polling place shall have at least one voting booth which is easily accessible to elderly persons and to persons with physical disabilities. Each booth shall have 3 sides enclosed, one side in front to open and shut by a door swinging outward or to be enclosed with a curtain. The entrance to the booth shall have a clear opening of at least 60 inches and shall have clearances that comply with the New Hampshire building code, RSA 155-A, and with standards implementing the Americans with Disabilities Act of 1990, 28 C.F.R. part 36. Each side of the booths shall be not less than 6 feet high. The booth shall be at least 60 inches wide at its front, at least 60 inches deep, and at least 60 inches wide along the back wall. The door or curtain shall extend to within 2 feet of the floor and shall be closed while the voter is marking his or her ballot. Each booth shall be well lighted and shall contain a shelf or table at a height of between 30 and 32 inches which shall be convenient for writing with at least 28 inches of unobstructed space from the floor to the bottom of the shelf. The secretary of state shall include a diagram of an accessible booth that satisfies the requirements of this section in the election laws and procedures manual issued pursuant to RSA 652:22.

IV. In addition to the voting booths described in paragraphs II and III, each polling place shall have table-top voting screens available for use in an election. Each voting screen shall consist of 3 panels, to be positioned on a table or similar surface so that when a voter is marking a ballot he or she is provided privacy. Each panel of the screen shall be at least 17 inches high and 15 inches wide.

V. (a) Each polling place shall have available for use in an election at least 2 of the voting booths

described in paragraph II, one of the voting booths described in paragraph III, and 2 of the voting screens described in paragraph IV.

(b) The minimum number of voting booths and screens that shall be erected for an election shall be as follows:

(1) For a general election where votes will be cast for president, one for every 100 voters on the checklist. This requirement may be modified with the approval of the secretary of state and the attorney general for specific polling places, if conditions within the polling place will not permit the required number of voting booths. Under no circumstances shall the required number of voting booths drop below one booth for every 125 voters for a general election where votes will be cast for president.

(2) For a general election where votes will not be cast for president, one for every 125 voters on the checklist.

(3) For all other state elections, including the state primary election, one for every 150 voters on the checklist.

(4) For all city, town, school district, and village district elections, one for every 200 voters on the checklist.

(c) The minimum requirements established in subparagraph (b) may be satisfied with any combination of booths or screens, provided that no more than 50 percent of the minimum requirement is satisfied by voting screens and that the requirements of subparagraph (a) are also met. The moderator may require that booths or screens exceeding the minimum number be erected or available at the polling place. This section shall not be interpreted to mandate the erection of voting screens if there are sufficient booths to satisfy the requirements of subparagraph V(b).

VI. In addition to or in lieu of voting booths described in paragraphs II, III, and IV, portable booths set up in pods of up to 4 voting stations may be used. Each pod shall meet the requirements of paragraph II except as described in this paragraph. Each voting station in the pod shall have 2 sides enclosed that are at least 32 inches long and meet at a right angle. A table top shall fit into the corner of the enclosed sides with the edges of the table top that contact the sides being at least 14 inches deep, and the edge of the table facing the voter no less than 25 inches in width. The third, open side of the voting station shall be enclosed by a curtain large enough, and designed in a way, to give the voter privacy.

Source. 1979, 436:1. 1987, 210:1. 1998, 110:1. 2007, 312:1. 2008, 66:1. 2014, 105:1. 2015, 196:1, eff. July 6, 2015.

Section 658:9-a

658:9-a Accessibility. –

Every polling place in which state elections are held shall be easily accessible to all persons, including persons with disabilities and elderly persons who are otherwise qualified to vote in the choice of any officer or officers to be elected or upon any question submitted at such election. In order for a polling place to be considered accessible to elderly persons and to persons with physical disabilities, the following conditions shall be met; provided, however, that the provisions of paragraph I may be adopted by each municipality on an optional basis:

I. Where parking is provided for the polling place, there shall be at least one van-accessible parking space that is in compliance with the New Hampshire building code, RSA 155-A, and with standards implementing the Americans with Disabilities Act of 1990, 28 C.F.R. part 36 and designated with the international symbol of accessibility. The van-accessible parking space shall be at least 8 feet wide with an adjacent and parallel access aisle that is at least 8 feet wide and located on a level surface as close as

possible to the accessible entrance. There shall be a clear path of travel without curbs or steps to the accessible entrance of the polling place from the van-accessible parking.

II. The paths of travel to and from the polling place shall comply with the accessible route requirements of the New Hampshire building code, RSA 155-A, and with standards implementing the Americans with Disabilities Act of 1990, 28 C.F.R. part 36.

III. If there is a curb in a path of travel to the accessible entrance to the polling place, there shall be a curb ramp that complies with the New Hampshire building code, RSA 155-A, and with standards implementing the Americans with Disabilities Act of 1990, 28 C.F.R. part 36.

IV. Where a ramp is provided, the ramp shall comply with the New Hampshire building code, RSA 155-A, and with standards implementing the Americans with Disabilities Act of 1990, 28 C.F.R. part 36.

V. Entrances, doors, and doorways shall comply with the New Hampshire building code, RSA 155-A, with standards implementing the Americans with Disabilities Act of 1990, 28 C.F.R. part 36, and with the following requirements:

(a) There shall be at least one primary entrance to the polling place accessible to elderly persons and persons with disabilities and clearly marked with the international symbol of accessibility.

(b) If there are entrances that are not accessible, they shall have signs posted directing voters to the accessible entrance.

VI. The path of travel in the interior of the polling place shall comply with the accessible route requirements of the New Hampshire building code, RSA 155-A, and with standards implementing the Americans with Disabilities Act of 1990, 28 C.F.R. part 36.

Source. 1987, 210:2. 2007, 312:2, eff. Sept. 1, 2008.

Additional Polling Places

Section 658:10

658:10 In Towns. – If any town shall so vote, the selectmen shall provide one or more additional polling places in such town and shall, at least 30 days before the next following general election, determine the boundaries of the voting district to be served by each such additional polling place.

Source. 1979, 436:1, eff. July 1, 1979.

Section 658:11

658:11 Central Polling Place. – The polling place presided over by the moderator of the town or ward shall be known as the central polling place and all other polling places shall be known as additional polling places.

Source. 1979, 436:1, eff. July 1, 1979.

CITY COUNCIL MEETING
AGENDA ITEM XI



**CITY OF FRANKLIN
COUNCIL AGENDA REPORT**

October 10, 2023 City Council Meeting

Subject: Council to consider approval of parking lease agreement with the Lofts at Shepard Block Condominiums

Recommended Motion:

Councilor moves, "I move that the Franklin City Council rescinds the parking easement dated May 21, 2020 with PermaCityLife for 361 Central Street parking in the municipally owned Franklin Street parking lot and approves the parking lease with the Lofts at Shepard Block Condominium 12 municipal parking spaces in the Franklin Street Parking Lot located at tax map 117-161-00, and to authorize City Manager Milner to duly execute the lease on behalf of the city."

Mayor calls for a second, discussion and vote.

Discussion:

Several years ago, PermaCityLife (PCL), the nonprofit who purchased 7 buildings in the downtown to incubate them for highest and best use, catapulted the economic development movement in the downtown. In May of 2020, PCL sought and obtained an easement through the city council for parking spaces in the Franklin Street parking lot to support the restaurant incubator and high-end apartments in the Shepard block to make all more attractive for sale.

Since then, each of the three floors of the Shepard Block have been purchased and the owners formed a condominium with the adjacent building (with the thrift shop) called Lofts at Shepard Block Condominium. The Condominium approached me about setting up a lease agreement similar to the Chinburg and recent IFA Realty Holdings – Franklin LLC agreements with the condo homeowners association which now includes 2 other spaces in the adjoining building and rescinding the easement with PCL.

This lease agreement is the same as the one recently executed with IFA Realty Holdings – Franklin LLC and has been vetted by Attorney Fitzgerald as well as the Condo's Attorney.

Attachments:

Current Easement

Proposed Lease Agreement

Return To:
City of Franklin
City Manager
316 Central Street
Franklin, NH 03235

Recording Fee: \$ _____
Transfer Tax/Stamp: \$ _____
LCHIP Surcharge Fee: \$25.00

**THE ABOVE SPACE IS FOR THE EXCLUSIVE USE OF THE
MERRIMACK COUNTY REGISTRY OF DEEDS
(FOR PLACEMENT OF TRANSFER TAX STAMPS & RECORDING INFORMATION)**

***Easement Deed
(Parking and Dumpster Area)***

The **City of Franklin**, a municipal corporation with a usual place of business at 316 Central Street, Franklin, Merrimack County, State of New Hampshire 03235 ("Grantor"), grants to **PermaCityLife**, a State of New Hampshire non-profit corporation, having an address of 361 Central Street, Franklin, Merrimack County, State of New Hampshire 03235 ("Grantee"), the exclusive right and easement for 25 years to use 8 parking spaces in the **Franklin Street** Parking Lot, tax map number of N8-117-59, owned by the City of Franklin, for the purposes of parking for tenants of the second floor of 361 Central Street (2 spaces), the third floor of 361 Central Street (2 spaces), 355 Central Street (2 spaces), and 2 spaces, in a location subject to mutual agreement, for a dumpster and associated screening to be used by the restaurant in the first floor of 361 Central Street exclusive of ADA space. The parking spaces shall be the closest spaces to the south side of 361 Central Street. The City reserves the right to assign the designated parking spaces to another City parcel in the event that the City needs to better consolidate one or more leased parking areas into a better layout configuration. The cost of these 8 spaces shall be \$200.00 per year, per space,

with the fee waived for the first two years of the twenty-five year term. PermaCityLife, or assigns, holds the rights of first refusal to renew this parking and dumpster easement at market rate upon conclusion of the twenty five year term. In the event of non-payment, the number of parking spaces unpaid shall revert back to the City and that portion of the easement shall be null and void.

The aforementioned parking spaces are shown on a plan titled "Boundary Line Adjustment and Parking Easement Plan between PermaCityLife and City of Franklin", dated December 16, 2019, prepared by GCE Associates, to be recorded herewith at the Merrimack County Registry of Deeds.

The burden of maintenance of the parking lots will be borne by the City through the regular maintenance of the parking lot. The City, through the Municipal Services Department, reserves the right to winter-time based regulations on when cars need to be removed from, or otherwise consolidated into one area of, the lot for maintenance purposes. The restaurant tenant in the first floor of 361 Central Street will be solely responsible for maintaining the dumpster area in a condition acceptable to the City's Code Department. In the event there is no tenant in the first floor of Toad Hall, PermaCityLife will bear the responsibilities of maintenance of the dumpster area.

The Easement granted herein is conveyed subject to all matters of record, as of the date hereof. The easement granted herein shall run with the land of Grantor. All references to Grantor and Grantee shall also apply to their respective successors and assigns.

EXECUTION

IN WITNESS WHEREOF, the parties hereto have executed this Agreement in triplicate, on this 21st day of MAY, 2020.

CITY OF FRANKLIN


By: 

Judie Milner
City Manager
Duly Authorized

Date

5/21/2020
State of New Hampshire
County of Merrimack

Subscribed and sworn to Before Me
This 21st day of May, 2020

By  Public Notary
Commission Expires June 21, 2022

Official Seal
Audrey Lanzillo
Notary Public - New Hampshire
My Commission Expires
June 21, 2022

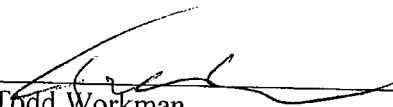
Authority for the City Manager to enter in this Agreement and License was granted by the City Council on FEB 3, 2020, and is hereby incorporated into this Agreement by reference.

PermaCityLife accepts this Easement Deed and the terms contained therein.

PERMACITYLIFE

Date 2-11-20

By: _____


Todd Workman
Executive Director
Duly Authorized

LEASE AGREEMENT

This Lease is effective October ___, 2023, by and between the **CITY OF FRANKLIN**, a municipal corporation, with a principal place of business at 316 Central Street Franklin, New Hampshire, hereafter "Lessor," and **THE LOFTS AT SHEPARD BLOCK, CONDOMINIUM** a New Hampshire corporation formed, with a mailing address of Post Office Box 453, Franklin, New Hampshire 03235, and the grantors, successors and assigns, hereafter, the "Lessee."

ARTICLE I

LEASED PREMISES

The Leased Premises (the "Premises") are ten (10) parking spaces and two (2) dumpster spaces, which will be enclosed, within the Lessor's parking lot situate at Franklin Street, Franklin, New Hampshire as identified on **Exhibit A**. The exact location of the Premises is identified on **Exhibit A** which shall be a plan showing the exact location of the Premises.

ARTICLE II

TERM OF LEASE

The Lease shall be for an initial base term of twenty (20) years beginning on the date of this Agreement and shall include three 5-year extension options to be exercised at Lessee's sole discretion. Lessee shall exercise an extension option by giving Lessor written notice on or before the expiration of the Lease term, as extended. In the event, Lessee fails to give written notice, the Lease will continue on a year-to-year basis, unless otherwise terminated by Lessee.

This Lease may be modified at the sole option of the Lessor in the event that the Lessee acquires ownership of other property within the City of Franklin which could accommodate all or some of the equivalent leased parking spaces and is within reasonable walking distance of any portion of the leased premises. "Reasonable walking distance" shall be defined as a distance normally traversed by a pedestrian at a normal pace within three minutes. The term "Lessee" for purposes of this section shall include any entity which would be an approved assignation as defined in Article VII, hereafter.

ARTICLE III

RENT

Year 1: \$10 per space per month for a total of \$120 per month or \$1,440.00 per year increased by 2% annually.

Rent shall be payable annually on the first day of June at the Office of the City Manager, 316 Central Street, Franklin, NH 03235.

The Lessee shall timely pay all real estate taxes assessed against the leased premises pursuant to RSA72:23(b).

ARTICLE IV

QUIET ENJOYMENT

Lessee and Lessee's tenants, employees and contractors shall have exclusive Twenty-Four (24) hour possession of the Premises during the term of this Lease.

ARTICLE V

REPAIR AND MAINTENANCE

The Lessor shall keep the Premises in good and orderly repair as reasonably expected for use as commercial parking facility. The Lessor shall not cause the same to suffer any unreasonable or unnecessary harm, waste, damage or neglect, other than normal wear and tear. The Lessor is responsible for plowing, striping and lighting the Premises.

The Lessee shall have the right to place signage on the Premises designating its exclusive use and stating Lessee's enforcement rights, including but not limited to towing or booting an unauthorized vehicle parking on the Premises. Lessee shall be responsible for the repair, maintenance, and replacement of any signs marking the Premises.

ARTICLE VI

SECURITY OF THE PREMISE

The Lessor is not responsible for articles stolen from vehicles, stolen/damaged vehicles or injury or damage to persons or property on the Premises.

ARTICLE VII

ASSIGNMENT AND SUB-LEASING

The Lessee may not assign or sub-let this Lease, in whole or in part, without the prior written consent of the City Manager, such consent not to be unreasonably withheld. However, Lessee shall have the right to assign the Lease to an entity owned or controlled by Lessee without Lessor's approval; provided 51% of the new entity is owned or controlled by the Lessee or the same members of Lessee.

ARTICLE VIII

INDEMNIFICATION

The parties shall fully defend, indemnify, and hold harmless each other from any and all claims, lawsuits, demands and causes of action, liability, loss, damage and/or injury of any kind whatsoever (including without limitation all claims for monetary loss, property damage, equitable relief, personal injury, and/or wrongful death), whether brought by an individual or other entity, or imposed by a court of competent jurisdiction or by administrative action of any federal, state, or local government body or agency, arising out of, in any way whatsoever, any acts, omissions, negligence, or other misconduct related to a party's use of the Premises, unless caused by the negligent or willful misconduct of the other party, its agents, employees or contractors. This indemnification applies to and includes, without limitation, the payment of all penalties, fines, judgments, awards, decrees, attorneys' fees, and related costs or expenses.

ARTICLE IX

LEGAL COMPLIANCE

The Lessee recognizes and agrees that it is responsible for compliance with any and all applicable local, state, and federal laws and regulations while making use of the Premise. The Lessee acknowledges that the Premise location upon municipal property does not exempt it from compliance with any of the above-named laws and regulations.

ARTICLE X

ENTIRE AGREEMENT

This Agreement constitutes the entire agreement between the Parties related to the matters specified herein, and supersedes all prior oral or written statements or agreements between the Parties related to such matter.

ARTICLE XI

NOTICES

All communications related to this Lease to Lessor shall be delivered to the Office of the City Manager, 316 Central Street, Franklin, NH 03235. All communications related to this Lease to Lessee shall be delivered to The Lofts at Shepard Block, Condominium with a mailing address of Post Office Box 453, Franklin, New Hampshire 03235.

ARTICLE XII

AUTHORITY

Each of the persons executing this Lease on behalf of the parties, and the parties thereto, hereby covenants and represents that it has the authority to enter into this Lease and that such action does not violate any other agreement or law, and that such Lease is binding on all parties.

ARTICLE XIII

LEASEHOLD MORTGAGE

Lessee may at any time execute and deliver one or more mortgages, deeds to secure debt or deeds of trust (any such mortgage, deed to secure debt or deed of trust is herein called a "Leasehold Mortgage") granting a lien or security interest in Lessee's leasehold estate and rights hereunder without the consent of Lessor; provided, however, that Lessee shall remain liable hereunder for the payment of Rent and for performance of all the obligations of Lessee under this Lease. In no event shall any such Leasehold Mortgage encumber Lessor's interest in the Premises. If either Lessee or the holder of any such Leasehold Mortgage notifies Lessor of the existence of such Leasehold Mortgage and the address of the holder thereunder for the service of notices, such holder shall be deemed to be a "Leasehold Mortgagee" as such term is used in this Lease.

ARTICLE XIV

NOTICE OF LEASE

Lessee agrees that it will not record this Lease, but the parties agree to execute and record a Notice of Lease in the form attached as **Exhibit B**.

ARTICLE XI

DEFAULT

Lessor shall be deemed to be in default of the Lease if it fails to perform its obligations within (10) ten days written notice of a violation from Lessee.

Lessee shall be deemed to be in default of the Lease, if it fails to pay rent within (7) days after written demand or fails to comply with its obligations under this Lease within (10) days written notice of a violation of the Lease.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first written above.

CITY OF FRANKLIN

Witness

By: _____
Judie Milner, City Manager
Duly authorized

THE LOFTS AT SHEPARD BLOCK

Witness

By: _____
Christy L. Blouin Mank, its President
Duly authorized

EXHIBIT A

PREMISES LOCUS PLAN

EXHIBIT B

SEE ATTACHED NOTICE OF LEASE

NOTICE OF LEASE

THIS NOTICE OF LEASE is made by the **CITY OF FRANKLIN**, a municipal corporation, with a principal place of business at 316 Central Street, Franklin, New Hampshire, hereafter "Lessor," and **THE LOFTS AT SHEPARD BLOCK, CONDOMINIUM** a New Hampshire corporation, with a mailing address of Post Office Box 453, Franklin, New Hampshire 03235.

WITNESSETH:

The parties hereto entered into a written Lease dated June __, 2023 (for the premises known and designated as _____, Franklin, Merrimack County, New Hampshire consisting of ten (10) parking spaces and (2) dumpster spaces, together with all appurtenant rights and privileges, for a term of twenty (20) running from and including the date of _____, 2023 through and including the _____ 2043. Lessee shall have the right and option to extend the Lease for three with additional five-year periods upon the same terms and conditions, for a total rental period, including extensions of thirty-five (35) years.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first written above.

CITY OF FRANKLIN

Witness

By: _____
Judie Milner, City Manager
Duly authorized

THE LOFTS AT SHEPARD BLOCK

Witness

By: _____
Christy L. Blouin Mank, its President
Duly authorized

CITY COUNCIL MEETING
AGENDA ITEM XII



**CITY OF FRANKLIN
COUNCIL AGENDA REPORT**

City Council meeting October 10, 2023

From: Judie Milner – City Manager

Subject: Repurchase of Tax Deeded Property by previous owner – **John C Jones Jr, 9 Trail Street**

Recommended Motion

Councilor moves, "I move the Franklin City Council deed 9 Trail Street Map/Lot #078-006-009 back to John C. Jones Jr."

Mayor calls for a second, discussion, and vote.

Discussion

The property was tax deeded to the City of Franklin for failure to pay property taxes. Mr. Jones was able to secure funding to pay the back taxes of \$5,322.44, which is the total amount due, to the city. The \$4,960 penalty equivalent to 10% of assessed value at the time of the deeding is waived per State statute as this is Mr. Jones' primary residence.

Attachments

Original Repurchase letter



CITY OF FRANKLIN, NEW HAMPSHIRE
"The Three Rivers City"

316 Central Street
Franklin, NH 03235

(603) 934-3900
fax: (603) 934-7413
citymgr@franklinnh.org

August 2, 2023

Via Certified Mail – Address Service Requested - Return Receipt Requested

John Calvin Jones, Jr.
9 Trail Street
Franklin, NH 03235

Re: Disposal of Tax Deeded Property
9 Trail Street – Map/Lot 078-006-009

Dear Mr. Jones:

This notice is being provided to you pursuant to RSA 80:89 as notification of the City's intention to sell real estate (hereafter "the property") located at 9 Trail Street (Tax Map 078, Lot 006-009) by sealed bid or public auction or disposition on or about November 1, 2023. The property was acquired by the City pursuant to a Tax Collector's Deed dated July 19, 2023 which was recorded in the Merrimack County Registry of Deeds at Book 3832, Page 487 on July 24, 2023.

You are listed as the former owner of the property.

In accordance with RSA 80:89-I, you, as the former owner, have the right to repurchase the property prior to the City disposing of said property. You may repurchase the property from the City for the sum of **\$10,282.44 (Ten Thousand Two Hundred Eighty-Two Dollars and Forty-Four Cents) ***. This figure has been determined as follows:

- **\$4,373.10** representing all taxes assessed but unpaid as of the date of the tax deed, together with all taxes which would thereafter otherwise have been assessed against such property based on its valuation, but for its ownership by the municipality. See RSA 80:90, I(a);
- **\$650.34** representing all statutory interest actually accrued on all back taxes as of the date of the tax deed, together with all statutory interest which would otherwise thereafter have accrued on all taxes listed in subparagraph (a), but for the property's ownership by the municipality. See RSA 80:90, I(b);
- **\$74.00** for all fees associated with notice and recording in connection with the tax collection process. See RSA 80:90, I(c);

- **\$150.00** for all legal costs incurred by the municipality in connection with the property, including those connected with the municipality's sale or the former owner's repurchase. See RSA 80:90 I(d);
- **\$75.00** representing the incidental and consequential costs incurred by the City in connection with the ownership and disposition of the property. See RSA 80:90, I(e);
- **\$4,960.00** representing the statutory penalty of 10% of the assessed value of the property as of the date of the tax deed, adjusted by the equalization ratio for the year of assessment. See RSA 80:90, I(f); and

If you intend to exercise your right to repurchase the property for the amount specified above, you must inform the City of your intention within thirty (30) days of this notice (09/05/2023). See RSA 80:89, II. Notification to the City of your intention to repurchase must be by certified mail and shall indicate that you are ready, willing, and able to pay all back taxes, interest, costs and penalties, as defined in RSA 80:90, except that if the property is the former owner's principal residence, or was the former owner's principal residence at the time of execution of the tax deed under RSA 80:76, the additional penalty under RSA 80:90, I(f) shall not apply. See RSA 80:89, II. Within 15 days after notifying the City of your intention to repurchase the property, you must tender the repurchase amount by certified or bank check to the City for \$10,282.44 See RSA 80:89, II.

If you fail to notify the City of your intention to repurchase the property within the time prescribed above or if you fail to tender required payment within fifteen (15) days after notifying the City of your intention to repurchase, the City will proceed with its offering for sale by sealed bid or public auction and disposition of the property. See RSA 80:89, II.

If you should have any questions in this matter you may contact me at the address on this letterhead or by telephone at (603) 934-3900.

Sincerely,

Judie Milner
City Manager

Cc:
Michelle Stanyan, Tax Collector

CITY COUNCIL MEETING
AGENDA ITEM XIII



CITY OF FRANKLIN
COUNCIL AGENDA REPORT
October 10, 2023

Subject: Council to Consider/Discuss putting specific city property into Conservation.

Councilor Desrochers is requesting that certain city property be put into Conservation.

Map-Lot = Acres

121-402 = 39 acres

121-404 = 22 acres

103-010 = 3.4 acres

123-403.1 = 16.64 acres

123-403 = 52.38 acres

Attachments:

City maps with highlighted parcels for consideration



City owned land near State Sewer Treatment Plant on River St. Map-Lot: 121-404; 121-402; 103-010; 123-403-01; 123-403

Franklin, NH

CAI Technologies
Precision Mapping. Proven Solutions.

September 19, 2023

1 inch = 550 Feet

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CITY COUNCIL MEETING
AGENDA ITEM XIV



**CITY OF FRANKLIN
COUNCIL AGENDA REPORT**

City Council Meeting of October 10th, 2023

Subject: Other Business

- 1. Mayor & Council Appointments**
- 2. Committee Reports**
- 3. City Manager's Update**
- 4. Late Items**

Adjournment

Councilor Appointments

Recommended Motions:

“I move that the Franklin City Council re-appoint Kathy Fuller to the Capital Improvements Plan Committee, seat CI8, term of service to October 2027.”

“I move that the Franklin City Council re-appoint Leigh Webb to the Capital Improvements Plan Committee, seat CI9, term of service to October 2028.”

“I move that the Franklin City Council accept the resignation of Marsha Palazzolo from the Library Board of Trustees, seat LT3, effective immediately.”

“I move that the Franklin City Council appoint Pam Desrochers to the Library Board of Trustees, seat LT3, to fulfill the remaining term of service to January 2025.”

Attachments:

Resignation Letter – Marsha Palazzolo

Prospective Appointee Profile – Pam Desrochers

Lisa Jones

From: Rob Sargent <rob.sargent@franklin.lib.nh.us>
Sent: Friday, September 29, 2023 9:03 AM
To: Lisa Jones
Subject: Fwd: Resignation

Marsha Palazzolo's resignation letter.

Get [Outlook for iOS](#)

From: paljoey@metrocast.net <paljoey@metrocast.net>
Sent: Thursday, September 28, 2023 5:06:02 PM
To: Rob Sargent <rob.sargent@franklin.lib.nh.us>
Subject: Resignation

Dear Rob:

I would like to inform you and the Franklin Public Library Trustees that I can no longer continue as a board member because of medical reasons. I want to thank all the members and wish them well.

Thank You

Marsha L.Palazzolo



CITY OF FRANKLIN, NEW HAMPSHIRE

"The Three Rivers City"

316 Central Street
Franklin NH 03235

Tel: (603) 934-3900

Fax: (603) 934-7413

PROSPECTIVE APPOINTEE PROFILE

Name: Pam Desrochers

Address: 19 Mark Rd. Franklin NH 03235
Street Address City State Zip Code

Telephone: (603) 934-2245 (603) 455-5139
(Home Phone) (Work Phone) (Cell Phone) (email)

You must be a Franklin resident to sit on any board or committee within the City! If at any time you do not reside in Franklin, then you shall submit a letter of resignation for your position.

Franklin Resident: ☒ Yes For how long? _____

Employer: Hill School District

Address: 32 Crescent St. Hill NH 03243
Street Address City State Zip Code

Interested in appointment to: Board of Library Trustees

Please list below any specific skills, knowledge or experience you believe to be relevant:

I am on The Friends of the Hill Library

Please state briefly why you are interested in this Board/Committee:

I am an avid reader and supporter of the library. I would like to see more patrons utilizing the library and its resources.

Pam Desrochers
Signature

9/27/23
Date

Thank you for your willingness to provide us with this information.



**CITY OF FRANKLIN
COUNCIL AGENDA REPORT**

City Council Meeting October 10, 2023

Date: **October 4, 2023**
From: **Judie Milner, City Manager**
Subject: **City Manager's Update**

- Contingent Grant Line Activity –
- Trust fund for school funding –
- Congratulations:
- Committee Meetings – October:
- Media contacts –
- City letter to Representatives and Senator – State mandated voting machines
- Stanley Mill update -
- City Hall Update –
- Workshop -
- Grant Submissions – Cyber Security
- Broadband Study Update