

**TOWN of YARMOUTH  
COVID-19  
EMERGENCY  
JOB RETENTION and JOB CREATION  
SMALL BUSINESS GRANT**

**DRAFT GRANT AGREEMENT**

**This Agreement** made \_\_\_\_\_ day of \_\_\_\_\_, 2020, (“Agreement”) by and between the Town of Yarmouth, a municipal corporation with an address of 1146 Route 28, South Yarmouth, MA acting through its Department of Community Development, (“Town” or “Grantor”) and \_\_\_\_\_, with a business address of \_\_\_\_\_ (“Business Applicant”).

**SECTION 1. RECITALS**

1.1 Effective July 1, 1994 and each subsequent year, the Town entered into an agreement with the Department of Housing and Urban Development (hereinafter “HUD” or “Granting Authority”) providing for federal assistance under the Block Grant Program established by Title I of the Housing and Community Development Act of 1974, as amended, codified as 42 USC 5301 et. seq. and subject to 24 CFR Part 570.

1.2 The Town has established a program to provide business assistance to qualified businesses from its Community Development Block Grant (“Program”) for the purpose of retaining and creating jobs held by low and moderate income employees.

1.3 The Business Applicant has applied for and, based on the information provided by the Business Applicant, is qualified to receive Program funding.

1.4 The Town has agreed to provide the Business Applicant with a total grant for business working capital assistance of up to \_\_\_\_\_ **Thousand Dollars and no Cents (\$\_\_\_\_\_.00)** (the “Grant”) to assist the Business Applicant in maintaining business operations at \_\_\_\_\_ **Massachusetts** (“the Business Property”) subject to and in accordance with the conditions and covenants set forth herein.

**SECTION 2. AGREEMENT**

2.1 In consideration of the covenants and agreements herein contained, and for other good and valuable consideration, the Parties hereby agree that the Town will provide a Grant to the Business upon and subject to all general conditions, terms, covenants and agreements herein set forth, including but not limited to the requirements set forth in Attachment 1.

**SECTION 3. DEFINITIONS**

3.1 Each reference in this Agreement to the following terms shall be deemed to have the following meanings:

Agreement: This Grant Agreement, including Exhibits and Attachments

Area Median Income: The Area Median Income for Barnstable County set by U.S. HUD on an annual basis and adjusted for household size.

CDBG: Community Development  
Block Grant Program, 24 CFR 570

Town's Address: Town of Yarmouth  
CDBG Program  
1146 Route 28  
South Yarmouth, MA 02664

Eligible Project Costs: All costs set forth on Exhibit B, attached hereto, which may be amended from time to time by mutual agreement of the Business Applicant and Town.

Business Applicant's Address: \_\_\_\_\_, MA

HUD: The United States Department of Housing and Urban Development.

Grant: The Grant of \_\_\_\_\_ **Thousand Dollars** to the Business Applicant by the Town pursuant to this Agreement to be used by Business Applicant solely for the Project, an Eligible Project Cost.

Grant Amount: \$ \_\_\_\_\_ .00

Grant Documents: The Emergency Grant Application and this Agreement, including all Exhibits and Attachments.

Project: Grant to assist to Business Applicant a small business owner, with working capital to retain and create low to moderate income jobs in order to sustain the small business during this period of COVID-19 health crisis economic slow down.

Property: The parcel of land and building thereon, situated at, \_\_\_\_\_, in Yarmouth, Massachusetts, where the business is located and operates.

Regulations: The regulations promulgated by HUD as set forth in **Attachment 1** attached hereto, as the same may be amended from time to time.

## **SECTION 4. CONDITIONS PRECEDENT**

The obligation of the Town to make the Grant is subject to the following conditions precedent:

4.1 The Business Applicant has applied for assistance from the Program and, relying on the Business Applicant's information provided, the Town has determined that the Business Applicant is a small business owner at risk of long term business closure. The business is eligible for assistance under one of two categories:

- (a) The Business Applicant qualifies as a Microenterprise. To be eligible under this category, the Business Applicant must have five (5) or fewer employees including the Business Applicant, and meet income eligibility standards.
- (b) The Business Applicant qualifies as a Small Business. To be eligible under this category, the Business Applicant must have between six (6) and ten (10) employees including the Business Applicant, and meet income eligibility standards.

4.2 The Business Applicant shall duly execute or caused to be duly executed by the parties hereto, and have the originals or copies of the following documents (which shall include any and all exhibits and attachments thereto) delivered to the Town:

- (a) This Agreement;
- (b) The following documents, as may be required and approved by the Town: (1) Job Retention and Job Creation Program Application (2) documentation evidencing that the Business Applicant is eligible to receive the Grant and that the Business and Project satisfy the Town and HUD requirements for assisted businesses, including income eligibility and those set for in the Regulations; (3) compliance of the Project with all applicable health, building, zoning, subdivision, licensing, historic preservation, environmental, planning and land-use laws and regulations; and (4) documentation that the Business Applicant has paid all taxes and other fees owed to the Town; and
- (c) Other due diligence documents as may be reasonably required by Town.

## **SECTION 5. PROJECT REQUIREMENTS**

5.1 The Business Applicant shall maintain complete records relating to this grant assistance for three (3) years, commencing on the date of this signed agreement and shall provide said records to the Town for inspection and copying upon the Town's request.

5.2 The Business Applicant shall provide the Town with such reports and information as the Town may reasonably request in order to allow the Town to comply with the Regulations and any and all applicable requirements of the granting authority.

5.3 The Business Applicant will provide the Town with small business job creation or job retention, income certification, small business or microenterprise forms completed by employees as required and appropriate. These forms will be provided to the Business Applicant by the Town.

## **SECTION 6. TERM, REPAYMENT AND SECURITY**

6.1 Except for the provision found in Section 5.1 of the Agreement pertaining to records retention, if the Business Applicant complies with all other requirements set forth herein, this Agreement shall terminate one (1) year after the date of this agreement, whereupon all obligations of the Business Applicant for repayment of funds shall cease. Notwithstanding the foregoing, the Town expressly reserves and does not waive its rights to recover any damages arising from or relating to the Borrower's breach of any of the Grant Documents, including but not limited to this Agreement and/or any attachment hereto which occurred (in whole or in part) before said termination.

6.2 If the Business Applicant fails to comply with all the requirements set forth herein, said failure to comply shall be deemed an Event of Default, as described below, and the Business Applicant shall immediately repay the amount of the Grant in full and such additional requirements as set forth herein.

## **SECTION 7. EVENTS OF DEFAULT**

7.1 An "Event of Default" shall arise under this Agreement upon the occurrence of any one or more of the following:

7.1.1 The Business Applicant assigns this Agreement or any money advanced hereunder or any interest herein.

7.1.2 The Business is sold, conveyed, assigned, leased, or otherwise transferred (collectively "Convey"), within 12 months of this agreement without prior written notification to the Town.

7.1.3 Any representation or warranty made herein or in any report, certificate, financial statement or other instrument furnished in connection with this Agreement or the Grant shall prove to be false in any material respect.

7.1.4 The Business Applicant utilizes grant funds for payments not on the eligible grant uses list or on the prohibited list in Exhibit A, and/or the Business Applicant fails to provide required submissions listed in Exhibit A and continues such default for thirty (30) days after written notice thereof from the Town to the Business Applicant is provided.

7.1.5 Failure to pay and keep current all local taxes, state and federal income taxes and such other taxes as may be owed, notwithstanding any grace period allowed by state and federal governments. Business Applicant represents that it is current with all taxes owed to the Town.

## **SECTION 8. RIGHTS ON DEFAULT**

Upon the occurrence of any one or more of the Events of Default enumerated in the foregoing Section 7, and at any time thereafter, then:

8.1 The Business Applicant shall re-pay to the Town amount of the Grant as set forth in Section 6.2, plus Interest and Costs, as defined in this Section.

8.1.1 The Borrower's payment required by Section 8.1 above, shall be paid in full within seven (7) business days of the date of conveyance. Payment shall be made in lawful U.S. currency in immediately available funds either mailed or delivered to the Town of Yarmouth, CDBG Program, 1146 Route 28, South Yarmouth, MA, or such other address as the Town may in writing designate.

8.1.2 Any payment made after said seven (7) days shall accrue interest at a rate of 12% per annum computed on the basis of the actual number of days elapsed over a year of 360 days.

8.1.3 In addition to the Grant principal and interest, the Business Applicant shall pay all reasonable costs and attorney fees, (collectively "Costs") incurred in connection with the enforcement of this Agreement. The term "Costs" shall also include any and all amounts assessed against the Town by the granting authority resulting from said Event of Default.

8.1.4 The Town shall first apply payments from the Business Applicant to Costs, if any, and second to the payment of interest, and third to reduction of the outstanding balance of the Grant principal.

8.2 The Town may at its sole option and in addition to other remedies (i) declare and cause all or any portion of the payments or other obligations owed to it to be immediately due and payable, (ii) decline to honor the credit of the Business Applicant or may refuse to make further payments to the Borrower, (iii) apply to any outstanding obligations any deposits or other sums at any time credited by or due from the Town to the Borrower, whether arising from these Grant Documents, or otherwise, and (iv) treat the Grant Documents as being in default and may exercise any and all rights and remedies thereunder as it deems appropriate.

8.3 Upon the occurrence of an Event of Default, the rights, powers and privileges provided in this Section 8 and all other remedies available to the Town under this Agreement, under any of the Grant Documents or at law or in equity, may be exercised by the Town, including but not limited to the commencement of an action seeking specific performance under any Grant Document, whether or not the indebtedness evidenced and secured by the Grant Documents otherwise shall be due and payable, and whether or not the Town shall have instituted action for the enforcement of its rights under any of the Grant Documents. Failure of the Town to exercise any rights or remedies at any time shall not constitute a waiver of any of the rights or remedies of the Town.

8.4 In amplification, and not in restriction of the provisions hereof, it is intended and agreed that the Town shall be deemed an intended beneficiary of the agreements and covenants of the Business Applicant and his/her successors and assigns provided in the Grant Documents, both in its own right and also for the purpose of protecting the interests of the community and other parties, public or private, in whose favor or for whose benefit such agreements and covenants shall run in favor of the Town for the entire period during which such agreements and covenants

shall be in force and effect, without regard to whether the Town has at any time been, remains or is an owner of any land or interest therein to or in favor of which such agreement and covenants relate. The Town shall have the right, in the event of the default of any such agreement or covenant, to exercise all the rights and remedies, and to maintain any actions or suits at law or in equity or other proceedings to enforce the curing of such breach of agreement or covenant, to which it or any other beneficiaries of such agreement or covenant may be entitled.

8.5 For the purposes of carrying out the provisions and exercising the rights, powers and privileges Granted by this Section 8, the Business Applicant hereby irrevocably constitutes and appoints the Town its true and lawful attorney-in-fact, with full power of substitution, to execute, acknowledge and deliver any instruments and do and perform any acts which are referred to in this Section 8, in the name and on behalf of the Business Applicant. The power vested in said attorney-in-fact is, and shall be deemed to be, coupled with an interest and irrevocable.

## **SECTION 9. MISCELLANEOUS**

9.1 The Business Applicant shall not assign or attempt to assign directly or indirectly, any of its rights under this Agreement or under any instrument referred to herein without the prior written consent of the Town in each instance. Any assignee shall be bound by all the terms of the assigned documents.

9.2 Any notice, request, instruction or other document to be given hereunder to either party by the other shall be in writing and delivered personally or sent by recognized overnight courier, receipt confirmed or sent by certified mail, postage prepaid, to the addresses set forth in this Agreement. Either party may change the address to which notices are to be sent to it by giving written notice of such change of address to the other party in the manner herein provided for giving notice. Any such notice, request, instruction or other document shall be conclusively deemed to have been received and be effective on the day on which personally delivered or, if sent by certified mail, on the day on which mailed or if sent by overnight courier, on the day after delivered to such courier.

Notwithstanding any provision in the Grant Documents to the contrary, the Business Applicant agrees that the failure or delay by the Town in giving any notice or statement hereunder or under any other Grant Document, or any inaccuracy therein or incompleteness thereof, shall not in any way alter or affect the absolute and unconditional obligation of the Business Applicant to pay and perform, in full, the obligations set forth hereunder, but any action taken or not taken by the Business Applicant as a direct result of such lack or delay of notice, or of the Borrower's good faith reliance upon a material inaccuracy therein or the material incompleteness thereof, as the case may be, shall not in and of itself, and to the extent thereof, constitute an Event of Default hereunder, so long as the Business Applicant does not otherwise have or receive notice or knowledge of the material contents or substance of such notice, or of the intended substance of any inaccurate or incomplete notice, as the case may be, and the Business Applicant acts, at all times, in good faith.

9.3 Business Applicant agrees to execute such further documents as may be required by law or prepared by the Town to confirm Business Applicant's agreement.

9.4 The Business Applicant and the Town each binds itself, its partners, successors, legal representatives, and assigns of such other party in respect to all covenants of this Agreement.

9.5 The Business Applicant represents and warrants that the financial data, reports and other information on the Project, the Business and the Business Applicant furnished to the Town by the Business Applicant are accurate and complete and, as to financial disclosures, fairly present the financial position of the Borrower.

9.6 The Grant Documents shall be construed in accordance with and governed by the laws of the Commonwealth of Massachusetts, without giving effect to its provisions regarding choice of laws.

9.7 The Business Applicant shall perform all its obligations and agreements under the documents governing the Grant Documents, the organizational documents of Business Applicant and any other agreements or instruments to which the Business Applicant is a party and which relate to the Grant, to the Project or to the Business. The Business Applicant shall give notice to the Town of any notices received by it from a holder of any Senior Loans which may impact the continued operation of the Business.

9.8 The Business Applicant hereby shall indemnify and hold harmless the Town and its officers, agents or employees from any and all liability, loss, cost, damage and expense, including attorney's fees, which it may or shall incur in connection with the Project, Grant or the Grant Documents or by reason of any good faith action taken by the Town in relation thereto. This provision shall survive the termination of this Agreement.

9.9 The Business Applicant shall use Grant proceeds solely for working capital of the Business applied for, and that the proceeds of the Grant will not be loaned, granted or assigned to any party and shall in no event be used for any purpose prohibited by the Grant Documents or the Regulations. No Grant proceeds may be used for the purchase of property, or construction of existing property.

9.10 The payment to the Business Applicant is subject to the availability of funding and to the continued eligibility of the Town to receive such funds.

9.11 All activities authorized by this Agreement shall be subject to and performed in accordance with the provisions of the terms and conditions of the Agreement between the Town, the Regulations, all applicable federal, state, and municipal laws, ordinances regulations, orders and guidelines, including but not limited to any applicable regulations issued by HUD.

9.12 The Business Applicant shall maintain insurance, at all times, with financially sound and reputable companies as are reasonably satisfactory to the Town. The Business Applicant shall provide the Town with copies of all applicable insurance certificates upon request.

9.13 No modification or waiver of any provision of the Grant Documents, nor consent to any departure by the Business Applicant therefrom shall in any event be effective unless the same shall be in writing, and then such waiver or consent shall be effective only in the specific instance and for the purpose for which given. No failure or delay on the part of the Town in exercising any right, power or privilege hereunder or under the Grant Documents shall operate as

a waiver thereof, nor shall a single or partial exercise thereof preclude any other or further exercise thereof or the exercise of any other right, power or privilege.

9.14 All Exhibits and Attachments referred to in this Agreement are by such references fully incorporated herein. Said Exhibits and Attachments shall include but may not be limited to:

9.15 Severability. If any provision of this Agreement is held invalid by any court of competent jurisdiction, the remainder of this Agreement shall remain in full force and effect.

9.16 Electronic Signatures. This agreement, ancillary to this agreement, and related documents entered into in connection with this agreement are signed when a party's signature is delivered by facsimile, e-mail, or other electronic medium. These signatures must be treated in all respects as having the same force and effect as original signatures

#### **SECTION 10. RELEASE OF FUNDS**

10.1 The Town shall release funds in a timely manner to reimburse the Business Applicant the salary expenses and related costs paid to low and moderate income employees.

10.2 The Business Applicant shall request the funds using the Reimbursement Request form found attached to this Agreement.

10.3 In no case shall the sub-total reimbursement released to the Business Applicant exceed \$1,500 per low and moderate income employee. In no case shall the total reimbursement released to the Business Applicant exceed \$5,000.

**IN WITNESS WHEREOF**, the Town and Business Applicant have each duly executed, or caused to be duly executed, this Agreement under seal in duplicate, in the name and behalf of each of them (acting individually or by their respective officers or appropriate legal representatives, as the case may be, thereunto duly authorized) as of the day and year first above written.

TOWN OF YARMOUTH SINGATURES  
RECOMMENDED BY:  
Department of Community Development

BUSINESS APPLICANT

\_\_\_\_\_

\_\_\_\_\_

FOR PROCUREMENT  
Chief Procurement Officer

\_\_\_\_\_

FOR AVAILABILITY OF FUNDS  
Town Accountant or Finance Director

\_\_\_\_\_

FOR THE TOWN  
Town Administrator, Duly Authorized

\_\_\_\_\_

**EXHIBITS:**

- Completed and signed Job Retention and Job Creation Application
- Most recent payroll ledger of business
- Completed and signed Income Certification Form from business owner and all employees
- Valid Certificate of Good Standing with the Commonwealth of Massachusetts
- Valid Business Certificate with the Town of Yarmouth
- Completed and signed W-9
- Completed and signed Town of Yarmouth Automatic Deposit form

## EXHIBIT A

The proceeds of the Grant shall be used only for expenses of the Project as shown below:

***Working Capital for existing business to assist in surviving the unknown duration of the COVID-19 Health Crisis.***

The following is a list of eligible uses of this capital:

- Business payroll

Capital is prohibited from being used for the following:

- Business lease or mortgage payments
- Business utility payments
- Business monthly debt payments
- Acquisition of new property
- Construction/repair of existing/new property
- Business inventory expenses

The following forms will be provided by the Town to the Business Applicant for completion:

- Release of Fund Request Form, to which the Business Applicant must attach documentation of payroll expenditure to the eligible employee(s)
- Job Retention and Job Creation Income Certification form
- Microenterprise or small business certification form(s)

Business Applicants are required to provide the following documentation within 60-90 days of the resumption of traditional business activity( forms provided by the Town):

- Job Retention and Job Creation Certification

***Please Note: Attachment A includes general CDBG regulatory language meant to capture numerous circumstances. Any language referencing acquisition or construction is not construed as authorization to use funds for those purposes.***

**EXIBIT B**

**Attached Business Application**

DRAFT

## ATTACHMENT 1

### COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) PROGRAM ADDITIONAL MANDATORY TERMS

#### Regulations

1. The Business Applicant shall comply with the requirements of Title I of the Housing and Community Development Act of 1974, as amended, codified as 42 USC 5301 et. seq. and in accordance with regulations adopted at 24 CFR Part 570, (now in effect and as may be amended from time to time), to the full extent such requirements are applicable to it. The Business Applicant shall further comply with all other applicable federal, state and local laws, ordinances, regulations, orders, guidelines and policies governing this Agreement. The Business Applicant shall use the funds available under the Agreement to supplement rather than supplant funds otherwise available.
- 1.1 The Business Applicant shall require that any and all its contractors providing services pursuant to the Agreement comply with any and all such applicable federal, state and local laws, ordinances, regulations, orders, guidelines and policies. Business Applicant shall have said requirements shall be incorporated into any written contract. The Business Applicant guarantees and assumes sole responsibility to impose the herein cited requirements upon all such contractors.
2. The Business Applicant shall comply with the terms of the Grant Agreement between the Department of Housing and Urban Development (HUD) and the Town which are applicable to it. The requirements applicable to the Business Applicant shall include but not be limited to recording keeping requirements that facilitate and assist the Town in complying with the requirements of said Grant Agreement. The Grant Agreement is hereby incorporated and made a part of the Agreement. The Business Applicant acknowledges that it has received a copy of said Grant Agreement and is familiar with it.
3. If any provision mandated by HUD irreconcilably conflicts with any provision contained herein and HUD requires its provision to be applied, in whole or in part, in order that the Town receive its full grant award and/or not be subject to other remedial action, the Town may in its sole discretion, declare that the required HUD provision control to the extent HUD so requires.
4. All the Business Applicant's activities funded with CDBG funds shall meet one of the CDBG Program's National Objectives: benefit low- and moderate-income persons; aid in the prevention or elimination of slums or blight; or meet community development needs having a particular urgency, as defined in 24 CFR 570.208 and further set forth in 24 CFR 570.503.
5. The term of the Agreement and the provisions herein shall be automatically extended to cover any additional period during which the Business Applicant remains in control of CDBG funds or other CDBG assets unless the Agreement is otherwise terminated or suspended by the Town in writing.
6. If the Business Applicant breaches the Agreement or violates the rules and regulations of the Town and/or HUD, said Town may withhold further funding, demand return of unexpended funds (which may be referred to as "recapture"), terminate or suspend the Agreement and/or seek further administrative and/or legal relief to assure and guarantee full compliance with the intent and purposes of the Agreement and the CDBG Program.
7. In addition to such other remedies available, the Town may take any action authorized by 24 CFR 570.910, and made applicable by 24 CFR 570.501(b), to prevent a continuation of a performance deficiency, mitigate the adverse effects or consequences of a deficiency and/or prevent a recurrence of a deficiency.

8. The Business Applicant shall maintain records required by the federal regulations, including but not limited to those specified in 24 CFR 570.506, that are pertinent to the Agreement. Without limiting the generality of the foregoing, said records shall include (a) records providing a full description of each activity undertaken, (b) records demonstrating that each activity undertaken meets one of the National Objectives of the CDBG program, (c) records required to determine the eligibility of activities, (d) records required to document the acquisition, improvement, use or disposition of real property acquired or improved with CDBG assistance, (e) records documenting compliance with the fair housing and equal opportunity of the CDBG program, (f) financial records as required by 24 CFR 570.502, and 2 CFR 200.330-337, and (g) other records necessary to document compliance with 24 CFR Part 570.

8.1 The Business Applicant shall maintain separate records for funding transactions relating to the Agreement, and promptly furnish to the Town any and all documents necessary to accomplish the audit of this CDBG Program, as further described in the Agreement.

~~8.2. The Business Applicant shall require any and all of its contractors to comply with the requirements herein and the Agreement shall be incorporated into any written contract. The Business Applicant further guarantees and assumes sole responsibility to impose the herein cited requirements upon all such contractors, including but not limited to the availability of any and all such records upon request by the Town. Without limiting the generality of the foregoing, the Business Applicant shall maintain and forward to the Town or the Granting Authority, upon request; (a) copies of contracts and amendments, (b) systems review of contractors, (c) copies of correspondence between the Business Applicant and its contractors which authorize amendments to the contract and budget, (d) financial statements from contractors, (e) certified time sheets or time cards, (f) copies of approved purchase requisitions, audit management letters, (g) organizational charts, (h) job descriptions, (i) chart of accounts, bank statements, (j) copies of approved purchase orders, (k) copies of signed receiving documents, (l) originals of standard invoices or vouchers by which payments are made, and (m) canceled checks, bank reconciliation, monthly trial balances and monthly balance sheets.~~

8.3. The Business Applicant shall retain and secure for a minimum period of one (1) year all financial records, supporting documents, statistical records and all other records pertinent to the CDBG Program, including but not limited to the records identified in this Section. Except as may be otherwise required herein, the retention period shall begin on the date the Town submits its final annual performance and evaluation report to HUD regarding the activities assisted under the Agreement. The Business Applicant shall retain records beyond said one (1) year period if audit findings have not been finally resolved. Further, records for non-expendable property that were acquired with CDBG funds shall be retained for one (1) years after its final disposition. Records for any displaced parties shall be retained for a period of one (1) years after said parties have received final payment. Notwithstanding the above, if there is litigation, claims, audits, negotiations or other actions that involve any of the records cited and that have started before the expiration of the five-year period, then such records shall be retained until completion of the actions and resolution of all issues, or the expiration of the five-year period, whichever occurs later.

8.4 The Business Applicant shall properly safeguard all accounting records and source documentation from theft, fire, heat and water damage.

8.5 Without limiting the generality of other related provisions set forth in the Agreement, the Town, the Granting Authority and the Comptroller General of the United States, or their respective authorized representatives, shall have immediate access, as frequently as they deem necessary, to any and all books, documents, papers, reports and files of the Business Applicant and its contractors, which are pertinent or relevant to the subject grant program for the purpose of making or conducting an audit, examining, or making copies, excerpts or transcripts of all relevant data. The Business Applicant shall provide, by written agreement and guarantees the corresponding right of the Town, Granting Authority and said

Comptroller General to audit the records of all contractors. The Town reserves the right to determine the frequency and scope of audits.

9. The Business Applicant shall comply with the applicable requirements of 24 CFR 58.104(g), including but not limited to the environmental review.

10. ~~To the extent that the Business Applicant receives any program income incident to this Grant, the Business Applicant shall comply with 24 CFR 570, et seq. and 2 CFR 200.00, et seq., including but not limited to monthly reporting, and using the program income solely for eligible purposes. All program income (including interest thereon) shall be returned to the Town upon request.~~

11. If the Business Applicant (itself or by a contract) is required by the Agreement, or any amendment thereto, to perform construction or facility improvements it shall comply with the requirements set forth in 2 CFR 200.304 and 200.325. The bonds shall be obtained from companies holding certificates of authority as acceptable sureties in accordance with 31 CFR Part 223, "Surety Companies Doing Business with the United States" and shall be licensed to do business in Massachusetts. The form of the bond shall further comply with the requirements of the Town Solicitor.

12. The Business Applicant's obligations under the Agreement shall not end until all close out requirements are fully completed including but not limited to those set forth in 24 CFR 570.509, 2 CFR 200.343 and 200.344 and those required by the Town and/or HUD. Close out activities shall include, but not be limited to (a) making final payments, (b) properly disposing of program assets (including the return of all unused materials, equipment, unexpended cash advances, program income balances, and accounts receivable to the Business Applicant), (c) determining the custodianship of records, (d) timely submitting the completed final outcome report and all other reports outstanding and required. Notwithstanding the foregoing, the terms of the Agreement shall remain in effect during any period that the Business Applicant has control over the CDBG funds, including program income.

13. The use and disposition of real property and equipment under this Agreement shall be in compliance with the requirements of 2 CFR 200.00 *et seq.* and 24 CFR 570.502 - 570.505, as applicable.

13.1 The Business Applicant shall transfer to the Town any CDBG funds on hand and any accounts receivable attributable to the use of funds under the Agreement at the time of its completion, expiration, cancellation, or termination;

13.2 Real property under the Business Applicant's control that was acquired or improved, in whole or in part, with funds under this Agreement in excess of \$25,000 shall be used to meet one of the CDBG National Objectives pursuant to 24 CFR 570.208 until five (5) years after expiration of the Agreement.

14. The Business Applicant shall comply with (a) the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (hereinafter "URA"), and implementing regulations at 49 CFR Part 24 and 24 CFR 570.606(b), (b) the requirements of 24 CFR 570.606(c) governing the Residential Anti-displacement and Relocation Assistance Plan under Section 104(d) of the HCD Act, and (c) the requirements in 24 CFR 570.606(d) governing optional relocation policies. The Business Applicant shall provide relocation assistance to displaced persons as defined by 24 CFR 570.606(b)(2) that are displaced as a direct result of acquisition, rehabilitation, demolition or conversion for a CDBG-assisted project. The Business Applicant also shall comply with applicable Town ordinances, resolutions and policies concerning the displacement of persons from their residences.

15. ~~Any Business Applicant who expends funds for the acquisition of real estate shall grant a restrictive covenant on the real property requiring that if the contract work, i.e. construction, rehabilitation, etc., is not commenced and/or completed within a specific period of time as delineated in~~

~~the Scope of Work, the real estate shall automatically revert to the ownership of the Town. Further, if the Business Applicant fails to accomplish the required work, notwithstanding reversion, the Business Applicant shall reimburse the Town the sum of money expended for the acquisition of the real estate. Failure to promptly comply with this requirement shall be considered a breach of contract and a material failure to comply by the Borrower.~~

15.1 Any real property under the Borrower's control that was acquired or improved in whole or in part with CDBG funds in excess of \$25,000 shall either (a) be used to meet one of the three National Objectives of the CDBG program until five years after expiration of the agreement, or for such longer period of time as determined to be appropriate by the Town; or (b) be disposed of in a manner that result in the Town being reimbursed in the amount of the current fair market value of the property less any portion of the value attributable to expenditures of non-CDBG funds for acquisition of, or improvement to, the property. (Reimbursement is not required after the five years referenced above.)

16. Any Business Applicant shall, at the expiration or termination of the agreement, transfer to the Town any CDBG funds on hand at the time of expiration or termination and any accounts receivable attributable to the use of CDBG funds.

17. The Business Applicant shall adhere to ENERGY STAR building performance standards when using CDBG funds for affordable housing projects. All new buildings and gut rehab shall be designed to the National Energy Five Star efficiency performance standard of 86. All procedures used for this rating (86) shall comply with National Home Energy Rating System guidelines. Appliances shall also meet ES guidelines.

~~18. Without limiting the generality of the foregoing, the Business Applicant shall comply with applicable uniform administrative requirements, set forth in 24 CFR 570.502 and made applicable by 24 CFR 570.503(4) and 570.610, as well as the applicable provisions requirements of 2 CFR 200.00 *et seq.*, further defined below.~~

19. The Town may suspend or terminate this agreement if the Business Applicant materially fails to comply with any of the terms of the agreement (e.g., 2 CFR 200.338-342). Further, Grantor may terminate the Agreement for convenience at any time by giving not less than thirty (30) days notice in writing to the Business Applicant. Notwithstanding said termination for convenience, the Business Applicant shall not be relieved of liability to the Town for damages sustained by the Town. 2 CFR Part 200, Appendix II.

20. By executing this Agreement, the Business Applicant further certifies as set forth below:

20.1 No Federally 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.

20.2 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 Reporting Lobby," in accordance with its instructions.

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

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

**The following additional provisions are also incorporated into the Agreement.**

21. PERSONNEL & PARTICIPANT CONDITIONS

21.1. Civil Rights

21.1.1. Compliance. The Business Applicant shall comply with any and all applicable state and local civil rights laws, ordinances, orders and regulations and with Title VI of the Civil Rights Act of 1964 as amended, Title VIII of the Civil Rights Act of 1968 as amended, Section 104(b) and Section 109 of Title I of the Housing and Community Development Act of 1974 as amended, Section 504 of the Rehabilitation Act of 1973, the Americans with Disabilities Act of 1990, the Age Discrimination Act of 1975, Executive Orders 11063 and 12259, and Executive Order 11246 as amended by Executive Orders 11375, 11478, 12107 and 12086.

21.1.2. Nondiscrimination. The Business Applicant shall comply with the non-discrimination in employment and contracting opportunities laws, regulations, and executive orders referenced in 24 CFR 570.607, as revised by Executive Order 13279. The applicable non-discrimination provisions in Section 109 of the HCDA are still applicable. The Business Applicant shall further comply with all non-discrimination laws, ordinances, regulations, and orders of the Commonwealth of Massachusetts and the Town of Yarmouth.

21.1.2.1 Without limiting the scope of the provisions above, the Business Applicant shall not discriminate against any employee or applicant for employment because of race, color, religion, sex or national origin. The Business Applicant shall take affirmative action to insure that applicants for employment are employed and that employees are treated during employment without regard to their race, color, religion, sex or national origin. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rate of pay or other form of compensation and selection for training, including apprenticeship. The Business Applicant shall post in conspicuous places, available to employees and applicants for employment, notices to be provided by the U.S. Government setting forth the provisions of this non-discrimination clause. The Business Applicant hereby states that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, or national origin.

21.1.2.2. The Business Applicant shall, in all solicitations or advertisements for employees, placed by or on behalf of the Borrower, state that all qualified applicants will receive consideration for employment without regard to race, creed, color, or national origin.

21.1.2.3. The Business Applicant shall send to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, a notice to be provided by the Town, advising the labor union or workers representative of the Borrower's commitments under Section 202 of Executive Order No. 11246 of September 24, 1965, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

21.1.2.4. The Business Applicant shall comply with all provisions of Executive Order No. 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.

21.1.2.5. The Business Applicant shall furnish all information and reports required by Executive Order No. 11246 of September 1965, and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto and will permit access to its books, records and accounts by the Town and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations and orders.

21.1.2.6. In the event of the Business Applicant's failure to comply with the non-discrimination clauses of the Agreement or with any of such rules, regulations or orders, the Agreement may be canceled, terminated, or suspended in whole or in part and the Business Applicant may be declared ineligible for further government contracts in accordance with procedures authorized in Executive Order No. 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order No. 11246 of September 14, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

21.1.2.7. The Business Applicant shall include the provisions of Sections A.1.2.1. through A.1.2.7. in every contract or purchase order unless exempted by rules, regulations or orders of the Secretary of Labor issued pursuant to Section 204 of Executive Order No. 11246 of September 24, 1965, so that such provisions shall be binding upon each contractor or vendor. The Business Applicant shall take such action with respect to any contract or purchase order as the Town may direct as a means of enforcing such provisions, including sanctions for non-compliance; provided, however, that if the Business Applicant becomes involved in, or is threatened with litigation with a contractor or vendor as a result of such direction by the Town, the Business Applicant may request the United States to enter into such litigation to protect the interests of the United States.

21.1.3. Land Covenants. The Agreement is subject to the requirements of Title VI of the Civil Rights Act of 1964 (P. L. 88-352) and 24 CFR 570.601 and 570.602. In regard to the sale, lease, or other transfer of land acquired, cleared or improved with assistance provided under the Agreement, the Business Applicant shall cause or require a covenant running with the land to be inserted in the deed or lease for such transfer, prohibiting discrimination as herein defined, in the sale, lease or rental, or in the use or occupancy of such land, or in any improvements erected or to be erected thereon, providing that the Town and the United States are beneficiaries of and entitled to enforce such covenants. The Borrower, in undertaking its obligation to carry out the program assisted hereunder, agrees to take such measures as are necessary to enforce such covenant, and will not itself so discriminate.

21.1.4. Section 504. The Business Applicant shall comply with all Federal regulations issued pursuant to compliance with Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), which prohibits discrimination against the individuals with disabilities or handicaps in any Federally assisted program.

#### AFFIRMATIVE ACTION.

21.2.1. Approved Plan. The Business Applicant shall satisfy the principles as provided in President's Executive Order 11246 of September 24, 1966. The Business Applicant and contractors shall submit a plan for an Affirmative Action Program, a Work Force Needs Statement and an Affirmative Action Plan for Small Business to the Town for approval prior to the award of funds.

21.2.2. Women- and Minority-Owned Businesses (hereinafter "W/MBE"). The Business Applicant shall use its best efforts to afford small businesses, minority business enterprises, and women's business enterprises the maximum practicable opportunity to participate in the performance of this Agreement. As used in the Agreement, the terms "small business" means a business that meets the criteria set forth in

Section 3(a) of the Small Business Act, as amended (15 U.S.C. 632), and “minority and women’s business enterprise” means a business at least fifty-one (51) percent owned and controlled by minority group members or women. For the purpose of this definition, “minority group members” are Afro-Americans, Spanish-speaking, Spanish surnamed or Spanish-heritage Americans, Asian-Americans, and American Indians. The Business Applicant may rely on written representations by businesses regarding their status as minority and female business enterprises in lieu of an independent investigation.

21.2.3. Access to Records. Without limiting other provisions contained in the Agreement regarding records, record access and record keeping, the Business Applicant shall furnish and cause each of its own contractors to furnish all information and reports required hereunder and shall permit access to its books, records and accounts by the Town, HUD or its agent, or other authorized Federal officials for purposes of investigation to ascertain compliance with the rules, regulations and provisions stated herein.

21.2.4. Notifications. The Business Applicant shall send to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, a notice, to be provided by the agency contracting officer, advising the labor union or worker’s representative of the Borrower’s commitments hereunder, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

21.2.5. Equal Employment Opportunity and Affirmative Action (hereinafter “EEO/AA”) Statement. The Business Applicant shall, in all solicitations or advertisements for employees placed by or on behalf of the Borrower, state that it is an Equal Opportunity or Affirmative Action employer.

21.2.6. Contract Provisions. The Business Applicant shall include the provisions of this Attachment, Sections 17.1. (Civil Rights) and 17.2. (Affirmative Action) in every contract or purchase order, specifically or by reference, so that such provisions shall be binding upon each of its own contractors.

## EMPLOYMENT RESTRICTIONS

21.3.1. Prohibited Activity. The Business Applicant is prohibited from using funds provided herein or personnel employed in the administration of the program for: political activities; inherently religious activities; lobbying; political patronage; and nepotism activities.

21.3.2. Labor Standards. The Business Applicant shall comply with the requirements of the Secretary of Labor in accordance with the Davis-Bacon Act as amended, the provisions of Contract Work Hours and Safety Standards Act (40 U.S.C. 327 *et seq.*) and all other applicable federal, state and local laws and regulations pertaining to labor standards insofar as those acts apply to the performance of the Agreement. The Business Applicant shall comply with the Copeland Anti-Kick Back Act (18 U.S.C. 874 *et seq.*) and its implementing regulations of the U.S. Department of Labor at 29 CFR Part 5. The Business Applicant shall maintain documentation that demonstrates compliance with hour and wage requirements of this part. Such documentation shall be made available to the Town for review upon request.

21.3.2.1. The Business Applicant shall insure that, except with respect to the rehabilitation or construction of residential property containing less than eight (8) units, all contractors engaged under contracts in excess of \$2,000.00 for construction, renovation or repair work financed in whole or in part with assistance provided under the Agreement, shall comply with Federal requirements adopted by the Town pertaining to such contracts and with the applicable requirements of the regulations of the Department of Labor, under 29 CFR Parts 1, 3, 5 and 7 governing the payment of wages and ratio of apprentices and trainees to journey workers; provided that, if wage rates higher than those required under the regulations are imposed by state or local law, nothing hereunder is intended to relieve the Business Applicant of its obligation to require payment of the higher wage. The Business Applicant shall cause and require to be

inserted in full, provisions meeting the requirements of this paragraph in all such contracts subject to these regulations.

21.3.2.2. The Business Applicant and any and all contractors shall comply with the regulations of the Secretary of Labor contained in 29 CFR 3 (1964) made pursuant to 40 AZOTE, Section 276(c) (1964) which requires a weekly wage payment statement.

21.3.2.3. The Business Applicant shall assist and cooperate with the Department and the Secretary of Labor in obtaining the compliance of contractors and contractors with the Equal Opportunity clause and the rules, regulations and relevant orders of the Secretary of Labor; that it shall furnish the Department and the Secretary of Labor such information as they may require for the supervision of such compliance; and that it shall otherwise assist the Department in the discharge of its primary responsibility for securing compliance.

### 21.3.3. “Section 3” Clause

21.3.3.1. Compliance. Compliance with the provisions of Section 3 of the HUD Act of 1968, as amended, and as implemented by the regulations set forth in 24 CFR Part 135, and all applicable rules and orders issued hereunder prior to the execution of the Agreement, shall be a condition of the Federal financial assistance provided under the Agreement and binding upon the Town, the Business Applicant and any of the Borrower’s contractors. Failure to fulfill these requirements shall subject the Town, the Business Applicant and any of the Borrower’s contractors, their successors and assigns, to those sanctions specified by the Agreement through which Federal assistance is provided. The Business Applicant certifies that no contractual or other disability exists that would prevent compliance with these requirements.

21.3.3.1.1. The Business Applicant shall comply with these “Section 3” requirements and to include the following language in all contracts executed under the Agreement:

“The work to be performed under the Agreement is a project assisted under a program providing direct Federal financial assistance from HUD and is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended (12 U.S.C. 1701). Section 3 requires that to the greatest extent feasible opportunities for training and employment be given to low- and very low-income residents of the project area, and that contracts for work in connection with the project be awarded to business concerns that provide economic opportunities for low- and very low-income persons residing in the metropolitan area in which the project is located.”

21.3.3.1.2. The Business Applicant shall ensure that opportunities for training and employment arising in connection with a housing rehabilitation (including reduction and abatement of lead-based paint hazards), housing construction, or other public construction project are given to low- and very low-income persons residing within the metropolitan area in which the CDBG-funded project is located; where feasible, priority should be given to low- and very low-income persons within the service area of the project or the neighborhood in which the project is located, and to low- and very low-income participants in other HUD programs; and award contracts for work undertaken in connection with a housing rehabilitation (including reduction and abatement of lead-based paint hazards), housing construction, or other public construction project to business concerns that provide economic opportunities for low- and very low-income persons residing within the metropolitan area in which the CDBG-funded project is located; where feasible, priority should be given to business concerns that provide economic opportunities to low- and very low-income residents within the service area or the neighborhood in which the project is located, and to low- and very low-income participants in other HUD programs.

21.3.3.1.3. The Business Applicant certifies that no contractual or other legal incapacity exists that would prevent compliance with these requirements.

21.3.3.2. Notifications. The Business Applicant shall send to each labor organization or representative of workers with which it has a collective bargaining agreement or other contract or understanding, if any, a notice advising said labor organization or worker's representative of its commitments under this Section 3 clause and shall post copies of the notice in conspicuous places available to employees and applicants for employment or training.

21.3.3.3. Contracts. The Business Applicant shall include this Section 3 clause in every contract and shall take appropriate action pursuant to the contract upon a finding that the contractor is in violation of regulations issued by the grantor agency. The Business Applicant shall not contract with any entity where it has notice or knowledge that the latter has been found in violation of regulations under 24 CFR Part 135 and shall not enter into any contract unless the entity has first provided it with a preliminary statement of ability to comply with the requirements of these regulations.

21.3.4 Debarment. The Business Applicant certifies that, to the extent applicable, neither it nor any of its contractors or subcontractors has been debarred, as set forth in 2 CFR 200.00 Appendix II(H).

## CONDUCT

### 21.4.1. Contracts

21.4.1.1. Approvals. The Business Applicant shall not enter into any contracts with any agency or individual in the performance of the Agreement without the prior written consent of the Town.

21.4.1.2. Content. The Business Applicant shall cause all of the provisions of the Agreement in its entirety to be included in and made a part of any contract executed in the performance of the Agreement.

21.4.1.3. Monitoring. The Business Applicant shall monitor all contracted services on a regular basis to assure contract compliance. Results of monitoring efforts shall be summarized in written reports monthly to the Town and supported with documented evidence of follow-up actions taken to correct areas of noncompliance. Failure of any contractor to comply with the Agreement requirements, as required by the Granting Authority, by the Town, or otherwise, shall be grounds for termination and such other remedies as the Town may have at law or equity.

21.4.1.4. Selection Process. The Business Applicant shall undertake to insure that all subcontracts entered into the performance of the Agreement shall be awarded on a fair and open competition basis in accordance with applicable procurement requirements. Executed copies of all contracts shall be forwarded to the Town along with documentation concerning the selection process.

21.4.2. Conflict of Interest. The Business Applicant shall comply and require its subcontractors, and the employees and agents of either, to comply with the applicable requirements of G.L. c. 268A. The Business Applicant shall further comply with the provisions of 2 CFR 200.112 and 24 CFR 570.611, which include, but are not limited to, the following:

21.4.2.1. The Business Applicant shall maintain a written code or standards of conduct that shall govern the performance of its officers, employees or agents engaged in the award and administration of contracts supported by Federal funds.

21.4.2.2. No employee, officer or agent of the Business Applicant shall participate in the selection, or in the award, or administration of, a contract supported by Federal funds if a conflict of interest, real or apparent, would be involved.

21.4.2.3. No covered persons who exercise or have exercised any functions or responsibilities with respect to CDBG-assisted activities, or who are in a position to participate in a decision-making process or gain inside information with regard to such activities, may obtain a financial interest in any contract, or have a financial interest in any contract, or agreement with respect to the CDBG-assisted activity, or with respect to the proceeds from the CDBG-assisted activity, either for themselves or those with whom they have business or immediate family ties, during their tenure or for a period of one (1) year thereafter. For purposes of this paragraph, a “covered person” includes any person who is an employee, agent, consultant, officer, or elected or appointed official of the Town, the Borrower, or any designated public agency.

21.4.3. Hatch Act. The Business Applicant shall insure that no funds provided, nor personnel employed under the Agreement, shall be in any way or to any extent engaged in the conduct of political activities in violation of Chapter 15 of Title V of the U.S.C.

21.4.4 Political Activity Prohibited. None of the funds, materials, property or services provided directly or indirectly under the Agreement may be used for any partisan political activity or to further the election or defeat of any candidate for public office, nor may any personnel employed in the administration of the Community Development Program be engaged in any way or to any extent in the conduct of political activities. None of the funds provided under the Agreement shall be used for publiTown purposes designed to support or defeat legislation pending before the Congress or the General Court.

21.4.4.1. Lobbying. The Business Applicant hereby makes the following certifications.

21.4.4.1.1. No Federal appropriated funds have been paid or will be paid, by or on behalf of it, 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;

21.4.4.1.2. 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, it shall complete and submit Standard Form-LLL, “Disclosure Form to Report Lobbying,” in accordance with its instructions; and

21.4.4.1.3. It shall require that the language of paragraph (d) of this certification be included in the award documents for all sub-awards at all tiers (including contracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all Borrowers shall certify and disclose accordingly:

21.4.4.2. Lobbying Certification. 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, USC 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.

21.4.5. Copyright. If this contract results in any copyrightable material or inventions, the Town and/or Granting Authority reserves the right to royalty-free, non-exclusive and irrevocable license to reproduce, publish or otherwise use and to authorize others to use, the work or materials for governmental purposes.

21.4.6. Religious Activities. The Business Applicant agrees that funds provided under this Agreement shall not be utilized for inherently religious activities prohibited by 24 CFR 570.200(j), such as worship, religious instruction, or proselytization.

21.4.7 COFAR. The Business Applicant shall comply with the applicable provisions requirements of 2 CFR 200.00 *et seq.*, entitled “Uniform Administrative Requirements, Cost Principals, and Audit Requirements for Federal Awards” (which may be referred to as the “COFAR Requirements” and which amends and includes provisions formerly set forth in OMB Circulars A- 21, 87, 89, 102, 110, 122, 133).

## 22. ENVIRONMENTAL CONDITIONS

22.1. Air and Water. The Business Applicant shall comply with the following requirements insofar as they apply to the performance of the Agreement:

- Clean Air Act, 42 U.S.C. , 7401, *et seq.*;
- Federal Water Pollution Control Act, as amended, 33 U.S.C., 1251, *et seq.*, as amended, 1318 relating to inspection, monitoring, entry, reports, and information, as well as other requirements specified in said Section 114 and Section 308, and all regulations and guidelines issued hereunder;
- Environmental Protection Agency (“EPA”) regulations, 40 CFR Part 50, as amended.

22.2. The Business Applicant hereby stipulates that any facility to be utilized in the performance of the Agreement or a contract is not listed on the List of Violating Facilities issued by the EPA pursuant to 40 CFR 15.20.

22.3. The Business Applicant shall comply with all the requirements of Section 114 of the Clean Air Act, as amended, (42 USC 1857, c-8) and Section 308 of the Federal Water Pollution Control Act, as amended, (33 USC 1313) relating to inspection, monitoring, entry, reports and information, as well as all other requirements specified in said Section 114 and Section 308, and all regulations and guidelines issued hereunder.

22.4. As a condition for the award of this Contract, the Business Applicant shall give the Town prompt notice of any notification received from the Director, Office of Federal Activities, EPA, indicating that a facility utilized or to be utilized for the Contract is under consideration to be listed on the EPA List of Violating Facilities.

22.5. The Business Applicant shall include or cause to be included the criteria and requirements of this Section in every non-exempt contract and it is required that the Business Applicant shall take such action as the Government may direct as a means of enforcing such provisions.

22.6. In accordance with the requirements of the Flood Disaster Protection Act of 1973 (42 U.S.C. 4001), the Business Applicant shall assure that for activities located in an area identified by the Federal Emergency Management Agency (hereinafter “FEMA”) as having special flood hazards, flood insurance under the National Flood Insurance Program is obtained and maintained as a condition of financial assistance for acquisition or construction purposes (including rehabilitation).

22.7 The Agreement is subject to the requirements of the Flood Disaster Protection Act of 1973 (P.L. 93-234). No portion of the assistance provided under the Agreement is approved for acquisition or construction purposes as defined under Section 3(a) of said Act, for use in an area identified by the Secretary as having Special flood hazards which is located in a community not then in compliance with the requirements for participation in the national flood insurance program pursuant to Section 201(d) of said Act; and the use of any assistance provided under the Agreement for such acquisition or construction in such identified areas in communities then participating in the national flood insurance program shall be

subject to the mandatory purchase of flood insurance requirements of Section 102(a) of said Act. Any agreement for the sale, lease, or other transfer of land acquired, cleared or improved with assistance provided under the Agreement shall contain, if such land is located in an area identified by the Secretary as having special flood hazards and in which the sale of flood insurance has been made available under the National Flood Insurance Act of 1986, as amended, 42 U.S.C., 40001 et. seq., provisions obligating the transferee of such land, such flood insurance as required with respect to financial assistance for acquisition or construction purposes under Section 102(a) of the Flood Disaster Protection Act of 1973. Such provisions shall be required notwithstanding the fact that the construction on such land is not itself funded with assistance provided under the Agreement.

22.8. In performing any construction or rehabilitation of residential structures with assistance provided under the Agreement, the Business Applicant shall comply with all federal, state and local laws, ordinances, regulations, and orders regarding lead based paint, including but not limited to HUD Lead-Based Paint Regulations at 24 CFR 570.608, and 24 CFR Part 35, Subpart B. Such regulations pertain to all CDBG-assisted housing and require that all owners, prospective owners, and tenants of properties constructed prior to 1978 be properly notified that such properties may include lead-based paint. Such notification shall state the hazards of lead-based paint and explain the symptoms, treatment and precautions that should be taken when dealing with lead-based paint poisoning and the advisability and availability of blood lead level screening for children under seven. The notice should also state that if lead-based paint is found on the property, abatement measures may be undertaken. The regulations further require that, depending on the amount of Federal funds applied to a property, paint testing, risk assessment, treatment and/or abatement may be conducted.

22.9 The Business Applicant shall comply with the Historic Preservation requirements set forth in the National Historic Preservation Act of 1966, as amended (16 U.S.C. 470) and the procedures set forth in 36 CFR Part 800, Advisory Council on Historic Preservation Procedures for Protection of Historic Properties, insofar as they apply to the performance of the Agreement. In general, this requires concurrence from the State Historic Preservation Officer and/or the Yarmouth Historical Commission for all rehabilitation and demolition of historic properties that are fifty years old or older or that are included on a federal, state, or local historic property list or Historic District.

DRAFT

# FORMS

DRAFT



# TOWN OF YARMOUTH

1146 ROUTE 28, SOUTH YARMOUTH, MASSACHUSETTS 02664-4  
 Telephone (508) 398-2231 Ext. 1275, Fax (508) 398-2365 TTD: (508) 398-2231

COMMUNITY  
 DEVELOPMENT  
 BLOCK GRANT  
 PROGRAM

## JOB RETENTION and CREATION PROGRAM Income Certification Form

**This information will be kept confidential.**

The Town of Yarmouth receives funds through the U.S. HUD Community Development Block Grant (CDBG) and is required to collect the data. Please complete and sign this form. Please be assured that this information will remain confidential and will be used only to meet the record keeping requirements of the U.S. Department of Housing and Urban Development, which is providing the CDBG funds for this program.

Employee Name
Job Title
Business Name

How many people are in your household? \_\_\_\_\_ Under the correct household size, circle your income range from the last 12 months:

Circle Your Household Income Range from the last 12 months (\$) (Federal Fiscal Year 2020)					
1 PERSON HOUSEHOLD	2 PERSON HOUSEHOLD	3 PERSON HOUSEHOLD	4 PERSON HOUSEHOLD	5 PERSON HOUSEHOLD	6 PERSON HOUSEHOLD
0 – 20,300	0- 23,200	0 -26,100	0-29,000	0-31,350	0-35,160
20,301- 33,850	23,201-38,650	26,101 -43,500	29,001-48,300	31,351-52,200	35,161-56,050
33,851-54,150	38,651-61,850	43,501-69,600	48,301-73,300	52,201-83,500	56,051-89,700
54,151-above	61,851-above	69,601-above	73,301- above	83,501-above	89,701-above

I certify, under the penalties of law, this income information is correct and I understand that the information I have provided on my household income is subject to verification by authorized representatives of the Town of Yarmouth and the U.S. Department of Housing and Urban Development.

Signature: \_\_\_\_\_ Date: \_\_\_\_\_  
*If resident is below 18 years of age, parent or legal guardian must verify income and sign form.*

The following is optional for you to complete:

	Indicate your race	Are you Hispanic?
White		
African-American/Black		
Asian		
American Indian/Alaskan Native		
Native Hawaiian/Other Pacific Islander		
Am. Indian/Alaskan Native & White		
Asian & White		
African-American/Black & White		
American Indian/Alaskan Native & African-Am/Black		
Other Multi-Racial		

**Town of Yarmouth  
Community Development Block Grant Program (CDBG)  
Microenterprise Verification Form**

Owner Name: \_\_\_\_\_ Owner Address: \_\_\_\_\_  
Owner email: \_\_\_\_\_ Best Daytime Phone# \_\_\_\_\_

You are receiving assistance through the Town of Yarmouth to maintain your business through the COVID-19 crisis. The assistance is being provided to you as a **Microenterprise Business**. To qualify as a microenterprise business, you must have five or fewer employees at the time of receiving assistance AND, you as owner, must have an annual household income below 80% of the Area Median Income. The income limits by household size are shown below. If you do not believe you qualify as a microenterprise business, please advise us immediately. We can assist you through a different category of assistance.

FY2020 Income Limits (U.S. HUD)	Household Size				
	1 Person	2 Person	3 Person	4 Person	5 Person
<b>80% Area Median Income</b>	\$54,150	\$61,850	\$69,600	\$77,300	\$83,500

Complete and sign this form, attach your most recent tax return or quarterly tax form, and return to the Town of Yarmouth, CDBG Program, 1146 Route 28, South Yarmouth, MA 02644  
[mwaygan@yarmouth.ma.us](mailto:mwaygan@yarmouth.ma.us)

Please be assured that this information will remain confidential and will be used only to meet the record keeping requirements of the U.S. Department of Housing and Urban Development, which is providing the CDBG funds for this program.

Business Name (print please):					
Business Address:					
Business Telephone					
Job Title:	Business Owner	full-time or part-time (circle one)			

Please **circle** your household income listed under your household size:

Circle Your Household Annual Income (\$) (Federal Fiscal Year 2020)					
1 PERSON HOUSEHOLD	2 PERSON HOUSEHOLD	3 PERSON HOUSEHOLD	4 PERSON HOUSEHOLD	5 PERSON HOUSEHOLD	6 PERSON HOUSEHOLD
0 – 20,300	0- 23,200	0 -26,100	0-29,000	0-31,350	0-35,160
20,301- 33,850	23,201-38,650	26,101 -43,500	29,001-48,300	31,351-52,200	35,161-56,050
33,851-54,150	38,651-61,850	43,501-69,600	48,301-73,300	52,201-83,500	56,051-89,700
54,151-above	61,851-above	69,601-above	73,301- above	83,501-above	89,701-above

List the positions CURRENTLY employed by you:

Position	Name	Part Time/ Full Time
1 Business Owner		
2		
3		
4		
5		

I hereby certify that the information contained on this form is accurate and complete to the best of my knowledge, under penalty of law and verifiable by federal government representatives.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

Attach the following required documentation:

- **Business owner's most tax return or quarterly tax form** *(If you are reporting income from a tax form that is more than a year old, we may request additional information)*

The Town of Yarmouth is required by US HUD to collect and report race and ethnicity data on beneficiaries of the US HUD CDBG Program. We ask that you provide the following information. Providing this information is optional:

Indicate the Race of All Household Members	Number of Persons	Are these members Hispanic?
White		
African-American/Black		
Asian		
American Indian/Alaskan Native		
Native Hawaiian/Other Pacific Islander		
Am. Indian/Alaskan Native & White		
Asian & White		
African-American/Black & White		
American Indian/Alaskan Native & African-Am/Black		
Other Multi-Racial		

**Town of Yarmouth  
Community Development Block Grant Program (CDBG)  
Small Business Verification Form**

Owner Name: \_\_\_\_\_ Owner Address: \_\_\_\_\_

Owner email: \_\_\_\_\_ Best Daytime Phone# \_\_\_\_\_

You are receiving assistance through the Town of Yarmouth to maintain your business through the COVID-19 crisis. The assistance is being provided to you as a **Small Business**. To qualify as a small business in Yarmouth's program, and the assistance must be used to benefit employees with annual household income below 80% of the Area Median Income (shown in the chart below). The income limits by household size are shown below. If you do not believe your business qualifies, please advise us immediately. We can assist you through a different category of assistance.

FY2020 Income Limits (U.S. HUD)	Household Size				
	1 Person	2 Person	3 Person	4 Person	5 Person
<b>80% Area Median Income</b>	\$54,150	\$61,850	\$69,600	\$77,300	\$83,500

Complete and sign this form and return to the Town of Yarmouth, CDBG Program, 1146 Route 28, South Yarmouth, MA 02644 [mwaygan@yarmouth.ma.us](mailto:mwaygan@yarmouth.ma.us) Please be assured that this information will remain confidential and will be used only to meet the record keeping requirements of the U.S. Department of Housing and Urban Development, which is providing the CDBG funds for this program.

Business Name (print please):		
Business Address:		
Business Telephone		
Job Title:	Business Owner	full-time or part-time (circle one)

List the positions CURRENTLY employed by you:

Position	Name	Part Time/ Full Time
1 Business Owner		
2		
3		
4		
5		
6		
7		
8		
9		
10		

I hereby certify that the information contained on this form is accurate and complete to the best of my knowledge, under penalty of law and verifiable by federal government representatives.

Signature \_\_\_\_\_

Date \_\_\_\_\_

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Am. Indian/Alaskan Native & White		
Asian & White		
African-American/Black & White		
American Indian/Alaskan Native & African-Am/Black		
Other Multi-Racial		

DRAFT