

MUNICIPAL AFFORDABLE HOUSING TRUSTS

Working with CPA Committees

Kathleen M. O'Donnell, Esq.

www.kathleenmodonnell.com

Governance



Operating Rules

- Trusts are subject to Open Meeting Rules
- Trusts are subject to Conflict of Interest Rules
- Trusts are subject to Uniform Procurement Act

Declaration of Trust

- Why?
 - By-law adopted by Town Meeting may not have enough detail on trust operations
 - If Trust is taking title to land, Declaration of Trust should be recorded
 - Easy to record a deed into the Trust, not so easy to record a deed from the Trust
 - REBA Title Standards

Practice Tip

- USING GRANT AGREEMENTS WITH COMMUNITY PRESERVATION COMMITTEES



PROCESS FOR REQUEST

- WHEREAS, the COMMITTEE invited the submission of proposals for grants of funds for purposes consistent with the Community Preservation Act, G.L. c. 44B; and
- WHEREAS, the TRUST submitted a proposal in response thereto (the “Project”), and the COMMITTEE reviewed and approved the Project and recommended that ***** Town Meeting appropriate funds therein requested for the purposes of the Project (“Project Funds”); and
- WHEREAS, under Article _____ of the _____ Town Meeting held on _____ the TOWN appropriated the Project Funds and authorized the COMMITTEE to enter into a grant agreement with the TRUST for the purposes set forth in the Article; and
- WHEREAS, the purpose of the within Grant Agreement is to ensure that the Project Funds are used for the acquisition, creation, preservation and support of community housing, and not for the procurement of supplies or services for the use of the TOWN;

WHAT IS THE MONEY FOR?

- Contract Documents. The Contract Documents consist of this Grant Agreement, the proposal submitted to the COMMITTEE dated _____, (the “Proposal”) and all documents attached thereto. The Contract Documents constitute the entire Agreement between the parties concerning the Proposal, and all are as fully a part of this Agreement as if attached hereto.
- 2. The Work. The Work consists of the Project, as described in the Proposal attached hereto.

WHAT DOES THE CPC GET?

- Restriction. In consideration for Project Funds disbursed by the TRUST, the TRUST shall obtain a permanent deed restriction under G.L. c. 184 Section 31 running to the benefit of the TOWN.
- 6. Funding. The TOWN shall pay the TRUST the sum of \$ _____ within 30 days of the execution of this Grant Agreement. The TRUST shall manage the Project Funds in accordance with its Declaration of Trust and related by-laws.

REMINDER

- Independent Status. The TRUST acknowledges and agrees that it is acting in a capacity independent of the TOWN.

WHEN DOES IT END?

- Termination. This Grant Agreement shall terminate upon the TRUST's final disbursement of all Project Funds and the delivery of copies of all the affordable housing restriction(s) required under Paragraph 5 hereof, as recorded in the _____ Registry of Deeds. In the event that the TRUST fails to fulfill its obligations under the terms of this Grant Agreement as determined by the TOWN, the TOWN shall have the right, in its sole discretion, to terminate this Grant Agreement upon written notice to the TRUST. Upon receipt of such notice, the TRUST shall refund all undisbursed Project Funds to the TOWN.

RESTRICTIONS

- Perpetual – G.L. c. 184 Sections 31-34



EXAMPLES

- Grant to Housing Trust for loan to operator of group home (beds count towards SHI)
- Grant to Housing Trust for development of affordable housing on former tax title parcel (combined with deed from Town to Trust)