

**City Of New Bedford  
Community Preservation Act  
Grant Agreement**

|  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- |
| **PROJECT #** | | **2022.09** | **AWARD AMOUNT** | **$ 175,000** | **CONTRACT #** | **22175158** |
| **FUND#** | **14012433 520330 CPA19 $ 54,836**  **14013203 520330 CPA19 $120,164** | | | | **VENDOR #** | **11712** |

|  |  |  |  |
| --- | --- | --- | --- |
| **PROJECT NAME** | **HOLY FAMILY HIGH SCHOOL ADAPTIVE RE-USE PROJECT** | | |
| **PROJECT LOCATION** | **123 North Front Street/563 County Street New Bedford MA** | | |
| **GRANTEE** | **Holy Family Apartments, LLC.** | | |
| **CONTACT PERSON** | **Colleen Kavanaugh** | | |
| **MAILING ADDRESS** | **122 Clinton Street New Bedford MA 02740** | | |
| **EMAIL** | **colleen@cmk-partners.com** | **PHONE** | **202.365.1386** |

**PROJECT DESCRIPTION**

The Holy Family Re-Use project will create 15 units of affordable housing in the long-vacant Holy Family High School building. The project will consist of 5 HOME units and 10 workforce units, comprised of 4 studio and 11 one-bedroom apartments. All units will be rented to individuals earning between 50% and 100% of the Average Median Income of the region. The project recommendation will fund the handicap lift and exterior improvements.

**GRANT FUNDING CONDITIONS**

1. CPA funds are to be used for the handicap lift and Phase II exterior improvements.
2. No disbursement of funds may occur until the project has received all necessary permitting and approvals.
3. Disbursement of funds will begin only after the project’s other required funding sources have been committed to the project and construction has begun.
4. The Grantee agrees to execute and record an Affordable Housing Restriction for this project within two (2) years of final disbursement of CPA grant funding.
5. Other conditions as deemed necessary and defined with the Community Preservation Act Grant Agreement.

**COMMUNITY PRESERVATION ACT**

**GRANT AGREEMENT WITH**

**HOLY FAMILY APARTMENTS LLC**

This Grant Agreement, entered into this **21st** day of **JUNE 2022**, BY AND BETWEEN**:** HOLY FAMILY APARTMENTS, LLC,a limited liability corporation, duly organized and in existence under the laws of the Commonwealth of Massachusetts, with its principal office and place of business at 122 Clinton Street, in the City of New Bedford, County of Bristol, and Commonwealth of Massachusetts, (hereinafter referred to as theGRANTEE) and theCITY OF NEW BEDFORD, a municipal corporation, duly organized and in existence under the laws of the Commonwealth of Massachusetts, with its principal office and place of business in City Hall, 133 William Street, in the City of New Bedford, County of Bristol, and Commonwealth of Massachusetts (hereinafter referred to as CITY), acting by and through the Community Preservation Committee (hereinafter referred to as the CPC). The purpose of this Grant Agreement is to implement the following grant award:

Project Name:  **HOLY FAMILY HIGH SCHOOL ADAPTIVE RE-USE PROJECT**

Project Location: **123 NORTH STREET/563 COUNTY STREET**

Project Description:  **HANDICAP LIFT AND PHASE II EXTERIOR IMPROVEMENTS**

Grantee Address:  **122 CLINTON STREET NEW BEDFORD MA 02740**

This Grant Award is subject to the following terms and conditions:

1. **Award.** Subject to the terms of this Agreement, the City of New Bedford agrees to award the Grantee the amount of **$175,000** for the above referenced Project.
2. **Project Application.** The Project Application submitted to the New Bedford CPC, as may be amended by conditions of the CPC upon award, is incorporated herein by reference.
3. **Project Scope of work.** The Grantee acknowledges that any changes to the project from what was approved by City Council and from what was represented in the Project Application and during the project selection process in relationship to the use of CPA funds must be approved in advance and in writing by the CPC. Work which is outside of the scope of City Council’s CPA funding approval for the project will not be reimbursed.
4. **Term.** The term of this Grant Agreement is from the date of approval by City Council, **May 12, 2022** (the “Commencement Date”), until **June 30, 2023** (the “Completion Date”). All work described herein or in any materials incorporated by reference must be completed no later than the Completion Date unless the New Bedford CPC grants an extension for good cause shown. Excess funds or funds not utilized pursuant to this Agreement must be returned to the Community Preservation Fund and will be made available for future appropriation to other recipients.
5. **Budget.** Grantee shall not expend any grant funds unless sufficient sources of funding have been secured to complete the Work as detailed in the budget included in the approved project application. If the New Bedford CPC determines that funds have been spent on goods or services not included in the Project Budget or otherwise not authorized under the CPA and this Grant Agreement, the Grantee shall be responsible for repayment of such funds to the CPA Fund.
6. **Requirements for Release of Funds**. The Grantee hereby acknowledges and expressly agrees that all disbursements of grant funds to the Grantee shall comply with the CPA Funds Disbursement Guidelines and Grant Disbursement Schedule. Disbursement of grant funds will commence after July 1, 2022.
7. **Reports.** The Grantee shall provide the New Bedford CPC with a Project Status Reportevery THREE (3) MONTHS until the Completion Date, which shall detail theprogress toward completion of the Work. **A Request for Disbursement shall be submitted in accordance with the CPA Funds Disbursement Guidelines.** A Project Closeout Report**,** including digital photo documentation of the Project where appropriate, is due within THIRTY (30) days after the Completion Date. The Project Closeout Report shall be completed to the satisfaction of the New Bedford CPC, which approval shall not be unreasonably withheld. All documents, including but not limited to photographs, videos, etc., submitted to the New Bedford CPC shall become the property of the City of New Bedford and shall be available for use by the City and available to the public under the Massachusetts Public Records Law.
8. **Records and Monitoring.** The Grantee agrees to maintain such records with respect to utilization of the grant funds and income derived therefrom as are kept in the normal course of business and such additional records as may be required by the City for a period of six (6) years. Said records shall be available for inspection by the City during normal business hours and as often as the City may deem necessary. The Grantee shall make available all such records and documents as requested by the City for audit and/or monitoring. The City shall be entitled to examine and make copies of such records and may audit all contracts, procurement records, invoices, materials, payrolls, personnel records, conditions of employment, and all documents relating to all matters covered by this Agreement, provided said record does not contain proprietary information of the Grantee.
9. **Project Liaison**. The CPC shall designate a Project Liaison for the project being funded by this Grant Agreement. The Project Liaison may be either a municipal employee or a consultant retained by the CPC for that purpose. The Grantee shall cooperate with the Project Liaison, including providing access to the project site at reasonable times and with reasonable notice. The Project Liaison shall serve as the agent of the CPC for the purpose of monitoring project compliance with the terms of this Grant Agreement and shall periodically report to the CPC regarding the progress of the project funded by this Grant Agreement and the Grantee’s compliance with the terms of this Agreement.

The City, through the CPC and its Project Liaison, may periodically evaluate the performance of the Grantee to determine whether the Grantee has complied with this Agreement and has a continuing capacity to carry out the funded activities in the manner required pursuant to this Agreement. If it is determined that the Grantee has not complied with this Agreement or is unable to carry out the funded activities going forward, the City may notify the Grantee and terminate this Agreement in accordance with Section 17, below.

1. **Community Preservation Committee Conditions.** The Grantee shall comply with all additional conditions placed on the project by the CPC as outlined under the Grant Funding Conditions on page 1 of this grant agreement.
2. **Deed Restrictions.** Pursuant to M.G.L. c. 44B §12, every project that involves the acquisition of any interest in real property with CPA funds shall be bound by a permanent deed restriction that meets the requirements of M.G.L. c. 184 §§ 31-33, limiting the use of the interest to the purpose for which it was acquired. Where applicable, Grantee agrees to the imposition of such deed restriction in a form acceptable to the New Bedford CPC.
3. **Compliance with Laws and Agreement**. Grantee understands and agrees that projects funded through this Award are made pursuant to and must comply with the requirements of the Community Preservation Act, M.G.L. c. 44B. The Grantee shall comply with all applicable federal and state laws, regulations and city ordinances, including, where applicable, adherence to State procurement requirements and procedures. Grantee also agrees to comply with all requirements of this Grant Agreement.
4. **Permits and Licenses**. It is the obligation of the Grantee to obtain all permits and licenses necessary for implementation of the Project. No local permit or license is waived by the award of this Grant.
5. **No Liability of City**. The City and CPC do not accept any liability whatsoever for any acts, omissions or errors associated with the Project. The Grantee shall indemnify, defend (with counsel acceptable to the City, whose acceptance shall not be unreasonably withheld), and hold harmless the City of New Bedford, its officers, agents, employees, and representatives, successors and assigns, and the CPC from and against any and all claims, suits, actions, liabilities, losses, damages, costs and expenses (including attorney’s fees and expert’s fees) of any nature arising from or in connection with any act or omission resulting in any way from the performance of Grantee, its agents, officers, employees, contractors, or subcontractors under this Agreement.

The extent of this indemnification shall not be limited by any obligation or any term or condition of any insurance policy. The obligations set forth in this paragraph shall survive the expiration or termination of this Agreement.

1. **Community Preservation Act Awareness.** Upon commencement of the Project, Grantee agrees to post, in an appropriate location mutually acceptable to the parties, a *temporary* sign (provided by the CPC) stating that the Project was funded through the City of New Bedford's Community Preservation Act. Grantee shall also identify that the Project was funded through the City of New Bedford Community Preservation Act in its written materials about the Project, including press releases, brochures, etc. Grantee must include acknowledgement of CPA funding if the Grantee chooses to install a *permanent* sign or other form of public display acknowledging project funding sources and benefactors.
2. **No Assignment.** This Grant Agreement may not be assigned by Grantee without the prior written consent of, and subsequent written agreement with, the City of New Bedford.
3. **Default and Termination.** In the event of any dispute, claim, question or disagreement arising from or relating to this Grant Agreement or the breach thereof, the parties shall use their best efforts to settle the dispute, claim, question or disagreement. To this effect, they shall consult and negotiate with each other in good faith, and recognizing their mutual interests, attempt to reach an equitable solution satisfactory to both parties.

If the parties are unable to reach a solution and the CPC alleges that the Grantee has failed to fulfill its material obligations set forth under the terms of this Agreement, the CPC shall deliver written notice to the Grantee indicating such. Upon the Grantee’s receipt of said notice, the Grantee shall immediately cease to expend any additional funds in connection with this Agreement, and the Grantee shall have thirty days, or such reasonable time as agreed upon by the parties, to cure the breach. If after such time the Grantee fails to cure the breach, the CPC shall have the right, in its sole discretion, to terminate this Grant Agreement upon written notice to the Grantee.

Notwithstanding the foregoing, failure or delay in performance by Grantee due to Acts of God or other causes factually beyond its control and without its fault or negligence, as determined by the CPC, shall not be deemed a breach of this Agreement, provided Grantee provides immediate notice of such to the CPC or Project Liaison.

1. **Return of Funds.**
2. Upon completion of the Project, any funds awarded to the Grantee under this Agreement and not yet expended shall be returned forthwith to the City without further expenditure thereof.
3. If the City determines that funds have been spent on purposes not included in the Grantee’s application for CPA funds or otherwise not authorized by the CPC and/or under the CPA, the Grantee shall be liable to repay these funds to the City within 30 days of being notified of their unauthorized expenditure.
4. In the event this Grant Agreement is terminated pursuant to the provisions of Section 17 hereof, any funds granted to the Grantee under this Grant Agreement and not yet expended shall be returned forthwith to the City without further expenditure thereof.
5. If this Grant Agreement is terminated as a result of negligent or intentional acts or omissions of the Grantee, the Grantee shall be liable to repay to the City the entire amount of funding provided under this Agreement, and the City shall take such steps as are necessary, including legal action, to recover said funds.
6. In the event the City is required to take legal action under this Grant Agreement, the Grantee shall be liable for all costs incurred or expended by the City for the enforcement of this Grant Agreement, including but not limited to reasonable attorney’s fees and court costs.
7. All returned funds shall be deposited into the CPA Fund and shall be made available for future grants to other recipients.
8. The provisions of this Section 18 shall survive termination of the Agreement.
9. **Notice.** Any and all notices, or other communications required or permitted under this Grant Agreement, shall be in writing and delivered by hand or by certified mail, return receipt requested, or by other reputable delivery service to the parties hereto at the following addresses:

If to the Grantee:

Contact information specified on the face of this Grant Agreement.

If to the CPC:

CPA Coordinator

Department of City Planning

City of New Bedford

133 William Street Room 303

New Bedford, MA 02740

1. **Severability.** If any term or condition of this Grant Agreement or any application thereof shall to any extent be held invalid, illegal, or unenforceable by a court of competent jurisdiction, the validity, legality, and enforceability of the remaining terms and conditions of this Grant Agreement shall not be deemed affected thereby.
2. **Entire Agreement.** This Agreement, together with all Attachments, Appendices and Addenda (if applicable), along with the Application and any other materials incorporated by reference, constitutes the entire agreement between the parties hereto, and may be amended only in writing executed by both the City of New Bedford and the Grantee. The Agreement is executed as of the date set forth above.

The below signatory acknowledges and avers that he/she has the authority to execute this Agreement on behalf of Grantee.

|  |  |
| --- | --- |
| **Grantee: Holy Family Apartments LLC**  \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  By: Gerard Kavanaugh  Title: Manager | **City of New Bedford, Massachusetts**  \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  By: Jonathan F. Mitchell  Title: Mayor |
| **Community Preservation Committee**  \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  By: Melissa Chester-Letendre  Title: CPC Clerk | **Chief Financial Office**  \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  By: Michael Gagne  Title: Interim Chief Financial Officer |
| **Department of City Planning**  \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  By: Jessica Bailey  Title: Community Preservation Act Coordinator |  |
| **CERTIFIED that funds are available**          \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  By: Brennan Morrisette  Title: Acting City Auditor | **APPROVED as to Form and Legality**    \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  By: Elizabeth McNamara  Title: Associate City Solicitor |