

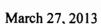
STATE OF NEW HAMPSHIRE

OFFICE OF ENERGY AND PLANNING

107 Pleasant Street, Johnson Hall Concord, NH 03301-3834 Telephone: (603) 271-2155

Fax: (603) 271-2615





Her Excellency, Governor Margaret Wood Hassan and the Honorable Council State House Concord, NH 03301



REQUESTED ACTION

Authorize the Office of Energy and Planning (OEP) to amend a SOLE SOURCE contract with the Town of Plymouth, NH (Vendor #159942) in the amount of \$468,267.00, for completion of Beacon Communities Project activities specific to Plymouth, by extending the completion date from May 31, 2013 to August 30, 2013. No additional funding is involved with this time extension. The original contract was approved by Governor and Council on September 22, 2010, Item #9 and amended August 10, 2011, Item #6. 100% Federal Funds.

EXPLANATION

This contract is being extended to allow additional weatherization and related work to be completed from May 31, 2013, to August 30, 2013. The US Department of Energy has approved this no-cost extension.

The intent of the Contract is to provide funding to the Town of Plymouth, NH for its supportive services in implementing the Beacon Communities Project, a community driven program aimed at achieving significant energy reductions through the retrofitting of residential, commercial, industrial and municipal buildings. The project is accomplishing these goals and is creating innovative financing mechanisms, engaging in community outreach, and strengthening NH's workforce capacity for energy efficiency improvements. Funding for this contract is from the American Recovery and Reinvestment Act, through a proposal submitted by OEP in response to a competitive solicitation from the federal Department of Energy.

In the event that Federal Funds are no longer available, General Funds will not be requested to support this program.

Respectfully,

Meredith A. Hatfield

Director

Office of Energy and Planning

MAH/KPC Attachments

> G&C: 4/17/2013 Page 1 of 1







OFFICE OF ENERGY AND PLANNING

SUBJECT: CONTRACT WITH TOWN OF PLYMOUTH

AMENDMENT

This Amendment dated March 7, 2013, is between the State of New Hampshire, Office of Energy and Planning, 107 Pleasant St., Concord, Merrimack County, NH 03301 (hereinafter referred to as the "State") and the Town of Plymouth, 6 Post Office Square, Plymouth, NH 03264 (hereinafter referred to as the "Contractor").

Pursuant to an Agreement (hereinafter referred to as the "Agreement"), Contract Number 1012250, as approved by Governor and Council on September 22, 2010 (Item #9) and amended August 10, 2011 (Item #6), the Contractor has agreed to provide certain Services, per the terms and conditions specified in the Agreement and in consideration of payment by the State of certain sums as specified therein.

WHEREAS, The State and the Contractor have agreed to amend the Agreement in certain respects;

NOW THEREFORE, in consideration of the foregoing and of the covenants and conditions in the Agreement as set forth herein, the parties agree to the following:

- 1. <u>Amendment and Modification of Agreement</u>. The Agreement is amended and modified as follows:
 - A) Amend Contract completion date by striking the current contract ending date of May 31, 2013, and inserting August 30, 2013, wherever it occurs.
- 2. <u>Continuance of Agreement.</u> Except as specifically amended and modified by the Terms and Conditions of this Amendment, obligations of the parties hereunder shall remain in full force and effect in accordance with the terms and conditions set forth in the Agreement as it existed immediately prior to this Amendment.

IN WITNESS WHEREOF, the parties have hereunto set their hands as of the day and year first above written.

STATE OF NEW HAMPSHIRE Office of Energy and Planning

Meredith A. Hatfield, Director

Contractor Initials

Date 3/3/17

Town of Plymouth

Paul Freitas, Town Administrator

State of New Hangshi County of Grangton	(€
personally appeared 201 + Chinistrate of Division 6 , being authorized so to de	before me, Many the undersigned officer, who acknowledged himself to be the Town, who acknowledged himself to be the Town of executed the foregoing instrument for the purposes therein contained, by on by himself as Faul Frei tos.
IN WITNESS WHIRE ARY MARY MARY OF THE PUBLIC MY Commission expires:	Notary Public/Justice of the Peace
Approved as to form, exe	cution and substance:
	OFFICE OF THE ATTORNEY GENERAL By: Assistant Attorney General Date: 27, 213
I hareby certify that the foregoing	contract was approved by the Governor and Council of the State of New
Hampshire at their meeting on	
	,
	OFFICE OF THE SECRETARY OF STATE
	Ву:
	Title:

Contractor Initials Date 3/22/3

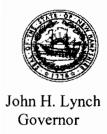
CERTIFICATE OF COVERAGE

This certificate evidences the limits of liability in effect at the inception of the Member Agreement(s) described below. This certificate is issued as a matter of information only and confers no rights on the certificate holder and does not amend, extend or alter the coverage afforded by the Member Agreement(s); except to the extent provided in the additional covered party box or loss payee box below, if checked.

THIS IS TO CERTIFY THAT THE MEMBER NAMED BELOW IS A PARTICIPATING MEMBER OF COMPANY A AND THAT A MEMBER AGREEMENT(S) HAS BEEN ISSUED TO THE MEMBER FOR THE AGREEMENT TERM(S) INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE COVERAGE AFFORDED BY THE MEMBER AGREEMENT(S) IS SUBJECT TO ALL THE EXCLUSIONS, EXTENSIONS, TERMS AND CONDITIONS OF SUCH MEMBER AGREEMENT(S). AGGREGATE LIMITS MAY HAVE BEEN REDUCED BY PAID CLAIMS.

Participating Member: Town of Plymouth		Company Affording Coverage (the "Company"):					
Member Number: 016-070186 - 13			Center Property-Liabilit cord, NH 03302-0617	y Trust, LLC			
Coverage (Occurrence basis only);	Effective Date (mm/dd/yy)	Expiration Date (mm/dd/yy)	Limits (subject to applicable NH statutory limits)				
⊘ General Liability	,	1	Each Occurrence	\$ 5,000,000			
(Member Agreement Section III.A)	7/1/2012	6/30/2013	General Aggregate	\$			
(Member Agreement Section III.A)			Personal & Adv Injury	\$			
			Med Exp (any one person)	\$			
			Products -Comp/Op Agg	\$			
			Fire Damage (each fire)	\$			
▼Automobile Liability (Member Agreement Section III.A)	7/1/2012	6/30/2013	Each Occurrence	\$ 5,000,000 \$			
Any Auto			Bodily Injury) »			
All Owned Autos			(per person) Bodily Injury	\$			
Scheduled Autos			(per accident)	Φ			
Hired Autos			Property Damage	\$			
Non-Owned Autos Other			(per accident)	•			
Excess Liability			Each Occurrence	\$ N/A			
			Aggregate	\$ N/A			
✓ Property (All Risk including Theft) (Member Agreement Section I) Deductible: \$1,000	7/1/2012	6/30/2013		\$Per scheduled limits and Member Agreement			
Workers' Compensation (Coverage A)			Coverage A:	Statutory			
Employers' Liability (Coverage B)			Cov. B: Each Accident	\$ 2,000,000			
, project, (,,,,			Disease - Each Employee	\$ 2,000,000			
			Disease - Policy Limit	\$ 2.000,000			
Description: Proof of Coverage							
CANCELLATION: If any of the above coverages under the Member Agreement are cancelled before the expiration date, the Company will endeavor to mail 30 days written notice to the Certificate Holder named below, but failure to mail such notice shall impose no obligation or liability of any kind upon the Company.							
	ional Covered P		ayee, as his, her or its i				
Coverage for the Additional Covered Party is limited to "bodily injury" or "property damage" caused by, and only to the extent of, the sole negligence of the "Member," and no protection is available for the negligence of others, including the Additional Covered Party and its directors, officers, employees or agents. Available limits of coverage are shared between the "Member" and the Additional Covered Party.*							
		Companies		Please direct inquiries to:			
Karen Cramton	By:	By Debra A Lower					
107 Pleasant Street		By: Debra A Lewis Authorized Representative Debra A. Lewis					
Johnson Hall			3/15/2013	603.224.7447 x3332			
Concord NH 03301	Date I	ssued:		X3334			
*Terms in quotes are defined in the Member Agreemen	t.						

- Kate Peters said she believes that amount has been set aside and she will check on that.
- o Mrs. Scarborough asked for a motion to extend the contract to the end of August, 2013 with the provision that \$20,000 be set aside for the town's audit fee and Paul Freitas be signatory on the contract. Mr. Conklin made the motion; motion seconded by Mr. Lewis. All in favor.
- David Kent regarding communications about the Riverside Landing development.
 - David Kent informed the Board he came into town hall and on the counter was information on Riverside Landing Development and a couple days later a marked-up sheet relating to the zoning amendments upset him.
 - o Mrs. Scarborough said this was done by a citizen.
 - o David Kent continued that the amendments began last summer when a group of citizens chipped in and went to visit a zoning and land use attorney.
 - Mrs. Scarborough asked how this is relevant. David Kent answered it will be.
 - Mr. Conklin asked if this presentation was about why the amendments ought to pass.
 - o David Kent said this is about why he believes what "you people" have put out is wrong and misleading. Mr. Conklin asked him if he had come to the meeting to debate the merits of the amendment; nor necessarily to listen to a speech about why they should be passed.
 - o David Kent responded he was not going to tell them why they should be passed, he was there to talk about why they shouldn't' be communicating the way they are.
 - o Mrs. Scarborough responded they made the decision to do that (information sheet on the counter at town hall); the fact sheet was done at her direction. It was also to prevent the town hall staff from having to be occupied, at the counter, in response to the flyer the proponents mailed out as well as the newspaper ad. They presented the facts on which the Planning Board based their decision. To give an explanation to the town's side the town attorney said they were proper. No town money was spent.
 - O David Kent said he understands that. He started with a summary about Market Basket, jobs and claims about what the proponents of these articles are saying is wrong. The proponents are right and they can prove it. Market Basket and the rest of that are in the hands of the Planning Board.
 - o Mr. Conklin said (to David Kent) he and the others had challenged every meeting that has been held, every decision that has been made, anything that has anything to do with this project for several years. The town has spent a ton of money defending the Planning Board's prior decisions. He doubts if these amendments pass and they would use them as a tool to beat back whatever is going to happen there. It is easy to



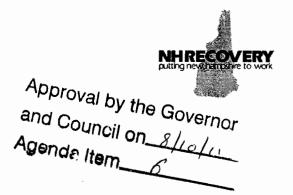
STATE OF NEW HAMPSHIRE OFFICE OF ENERGY AND PLANNING

4 Chenell Dr. Concord, NH 03301-8519 Telephone: (603) 271-2155 Fax (603) 271-2615



July 27, 2011

His Excellency, Governor John H. Lynch and the Honorable Council State House Concord, NH 03301



REQUESTED ACTION

- 1) The Office of Energy and Planning (OEP) respectfully requests authorization to amend a contract (Contract #1012250) with the Town of Plymouth (Vendor # 159942), Plymouth, NH for a not to exceed amount of \$268,267 for an advance payment effective upon Governor and Council approval through May 31, 2013. This advancement will not change the original contract amount of \$468,267 approved by Governor and Council on September 22, 2010 (#9). 100% Federal Funds American Recovery and Reinvestment Act
- 2) Further authorize a second amendment to this contract (Contract #1012250) with the Town of Plymouth (Vendor # 159942), Plymouth, NH to change the scope of service to allow for an increase to the direct support with an offsetting reduction in marketing/outreach efforts effective upon Governor and Council approval through May 31, 2013. This action will not increase the original contract amount of \$468,267 approved by Governor and Council on September 22, 2010 (#9), 100% Federal Funds American Recovery and Reinvestment Act

No additional funding is involved in this amendment.

EXPLANATION

The intent of this Contract is to provide funding to Town of Plymouth, New Hampshire for its supportive services in implementing the Beacon Communities Project that was inspired through the work of the Energy Efficiency and Sustainable Energy Board. The Beacon Communities Project intends to implement a community-driven program aimed at significant energy reductions through the retrofitting of buildings across multiple sectors, including residential, commercial, industrial and municipal. Funding for this contract is from the American Recovery and Reinvestment Act, per a proposal OEP submitted to a competitive solicitation from the federal Department of Energy. The Town of Plymouth is receiving \$200,000 for marketing and outreach efforts, and \$268,267 to fund a community field office staff. The Town of Plymouth has subcontracted to the Community Development Finance Authority (CDFA) to staff its community office and be responsible for its federal reporting requirements. Plymouth had not fully realized the complexity of the federal requirements when they agreed to participate in this grant opportunity. An advance of the

funding for the salaries and benefits of the community office staff will significantly ease Plymouth's administrative burden. Plymouth will then be able to advance the funding to CDFA which will then report on all federal requirements (including detailed expenditures, jobs, energy savings, etc.) directly to the Office of Energy and Planning.

In addition, Plymouth will be allowed to charge up to \$20,000 from the \$200,000 marketing and outreach budget for its direct support services to the program.

In the event that Federal Funds are no longer available, General Funds will not be requested to support this program.

Sincerely,

Joanne O. Morin

Director

Office of Energy and Planning

JOM/ES Attachments







OFFICE OF ENERGY AND PLANNING

SUBJECT: CONTRACT WITH TOWN OF PLYMOUTH

AMENDMENT

This Amendment dated August 10, 2011, is between the State of New Hampshire, Office of Energy and Planning, 4 Chenell Drive, Concord, Merrimack County, New Hampshire 03301 (hereinafter referred to as the "State") and the Town of Plymouth, 6 Post Office Square, Plymouth, NH 03264 (hereinafter referred to as the "Contractor").

Pursuant to an Agreement (hereinafter referred to as the "Agreement"), Contract Number 1012250, as approved by Governor and Council on September 22, 2010, the Contractor has agreed to provide certain Services, per the terms and conditions specified in the Agreement and in consideration of payment by the State of certain sums as specified therein.

WHEREAS, The State and the Contractor have agreed to amend the Agreement in certain respects;

NOW THEREFORE, in consideration of the foregoing and of the covenants and conditions in the Agreement as set forth herein, the parties agree to the following:

- 1. <u>Amendment and Modification of Agreement</u>. The Agreement is amended and modified as follows:
 - A) Exhibit A 9.d.: Replace Exhibit A.9.d. to read as follows: Reimburse the Town for costs incurred for administrative and program costs, on a monthly basis and, upon request, advance CDFA's field office staff costs up to \$268,267.
 - B) Exhibit B 2.1.1.: Replace Exhibit B. 2.1.1. to read as follows: OEP shall either, at the Town's request, advance all or part of \$268,267 described in paragraph 3(b) of Exhibit A or upon receipt and approval of itemized monthly invoices and supporting documentation from the Town shall disburse payments for incurred costs. OEP shall not disburse any of these funds until such time as the subrecipient agreement between the Town and CDFA specified in Exhibit A, and any other agreements or documents specified pursuant to this Agreement, are fully executed and received, and where applicable are reviewed and approved in writing by OEP. The Town shall then provide an advance up to \$268,267 to CDFA and ensure that CDFA reconciles expenditures of field office staff directly with OEP.
 - C) Exhibit B 2.2.: Replace Exhibit B 2.2. to read as follows: Timing of Payments: Within thirty (30) days of the receipt by OEP of request for an advance of payment for CDFA's field office staff costs, OEP agrees to advance a payment up to \$268,267 to the Town. Any advanced payments received by the Town

Contractor Initials

Date 7

shall be held in a non-interest bearing account. The Town shall require CDFA or any other subrecipient to hold any advanced payments received in a non-interest bearing account. Within thirty (30) days of the receipt by OEP of requests for reimbursement from the Town specifying costs incurred, OEP agrees to reimburse the Town for costs, except that reimbursement may be withheld until OEP determines that a particular project activity or portion of the project activity hereunder has been satisfactorily completed. Payments may be withheld if required satisfactory reporting has not been submitted to OEP.

D) Exhibit A 3.c.: Replace Exhibit A 3.c. to read as follows:
Retain \$200,000 to be utilized for marketing and outreach efforts in support of the
Retrofit Ramp-up Program. No more than \$20,000 may be used to fund the Town's
supportive services, including but not limited to audit services.

IN WITNESS WHEREOF, the parties have hereunto set their hands as of the day and year first above written.

STATE OF NEW HAMPSHIRE Office of Energy and Planning By: Joanne O. Morin, Director
By: Aud Freitas, Town Manager
State of <u>New Hours</u>
On this day of Joly 18, and, before me, Rolf Freitos the undersigned officer, personally appeared before we who acknowledged himself to be the Town of Plumouth of a corporation, and that he, as such Town, being authorized so to do, executed the foregoing instrument for the purposes therein contained, by signing the name of the corporation by himself as Paul Freitos.
IN WITNESS WHEREOF, I hereunto set my hand and official seal. Notation Public/Justice of the Peace

Contract Amendment Office of Energy and Planning



STATE OF NEW HAMPSHIRE OFFICE OF ENERGY AND PLANNING

4 Chenell Dr. Concord, NH 03301-8519 Telephone: (603) 271-2155 Fax (603) 271-2615

September 2, 2010

His Excellency, Governor John H. Lynch and the Honorable Council

State House Concord, NH 03301



Approval by the Governor and Council on 4/22/10
Agenda Item 9

REQUESTED ACTION

The Office of Energy and Planning (OEP) respectfully requests authorization to enter into a **SOLE SOURCE** contract with the Town of Plymouth, (Vendor # 159942), Plymouth, NH in the amount of \$468,267, for work to be accomplished as part of the American Recovery and Reinvestment Act – Energy Efficiency and Conservation Block Grant's Retrofit Ramp-up Program (Retrofit Ramp-up), also known as the BetterBuildings Program, effective upon Governor and Council approval through May 31, 2013. 100% Federal Funds (ARRA-Retrofit Ramp-up). Retrofit-Ramp-up funding will assist the state to begin implementing the Beacon Communities Project, a project developed by the Energy Efficiency and Sustainable Energy Board.

Funding is available in the following account, Office of Energy & Planning, Retrofit Ramp-up, with the authority to adjust encumbrances in each of the State fiscal years through the Budget Office if needed and justified:

	<u>FY 2011</u>	FY 2012	FY 2013
01-02-02-029910-0924			
72-500573 Grants-Federal	\$234,134	\$140,480	\$93,653

EXPLANATION

The intent of this Contract is to provide funding to Town of Plymouth, New Hampshire for its supportive services in implementing the Beacon Communities Project that was inspired through the work of the Energy Efficiency and Sustainable Energy Board. The Beacon Communities Project intends to implement a community driven program aimed at significant energy reductions through the retrofitting of buildings across multiple sectors, including residential, commercial, industrial and municipal. The project intends to accomplish these goals by creating innovative financing mechanisms, engaging community outreach and strengthening NH's workforce capacity for energy efficiency improvements. Funding for this contract is from the American Recovery and Reinvestment Act, per a proposal OEP submitted to a competitive solicitation from the federal Department of Energy. The

proposal was submitted on December 14, 2009, announced by DOE on April 21, 2010, and award issued on June 1, 2010.

This project is part of an integrated approach to a clean energy economy in New Hampshire. It is designed to meet several goals of the state's Climate Action Plan and it will be implemented through a partnership between OEP and Community Development Finance Authority (CDFA). Funding to the Town of Plymouth will support educational and outreach efforts for the project and community field office staff that will be overseen by CDFA.

Strict reporting requirements will allow progress to be tracked by the public as well as by oversight agencies, and reported to the NH Office of Economic Stimulus, the Federal Department of Energy, and the US Office of Management and Budget.

This contract is sole source because Town of Plymouth was stipulated to receive these funds under the US Department of Energy award. Acceptance of the grant is contingent upon condition of the grantor that OEP contract with the referenced municipality for execution of the project.

In the event that Federal Funds are no longer available, General Funds will not be requested to support this program.

Sincerely,

Joanne O. Morin

Director

Office of Energy and Planning

JOM/ES Attachments Subject: Town of Plymouth, New Hampshire – ARRA- EECBG- Retrofit Ramp-Up Program (a.k.a. Better Buildings Program)

AGREEMENT

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



GENERAL PROVISIONS

1. IDENTIFICATION.					
1.1 State Agency Name		1.2 State Agency Address			
Office of Energy and Planning		4 Chenell Drive Concord, New Hampshire 03301			
Contractor Name Town of Plymouth, New Hampshire		1.4 Contractor Address 6 Post Office Square, Plymouth, NH 03264			
1.5 Contractor Phone No. 603-536-1731	1.6 Account Number 01-02-02-029910-0924 Cls 72 Job # 02RRRRUA	1.7 Completion Date May 31, 2013	1.8 Price Limitation \$468,267		
1.9 Contracting Officer for State Eric Steltzer, Energy Polic		1.10 State Agency Telephone Number (603) 271-2155			
1.11 Contractor Signature		1.12 Name and Title of Contractor Signatory Paul Freitas, Town Administrator			
1.13 Acknowledgment: State of New Hampshire County of On 1.12., or satisfactorily proven to be the person whose name is signed; in block 1.1., and acknowledged that s/he executed this document in the capacity indicated in block 1.12.					
1.13.1 Signature of Notary Public or Justice of the Peace [SEAL]					
1.13.2 Name and Title of Notary	Public or Justice of the Peace	HAMPS			
1.14 State Agency Signature		1.15 Name and Title of State Agency Signatory			
geo Min		Joanne O. Morin, Director Office of Energy and Planning			
1.16 Approval by the N.H. Depa	rtment of Administration, Divisi	on of Personnel (if applicable)			
By: Director, On:					
1.17 Approval by Attorney Gene	eral (Form, Substance and Exec	cution)			
Ву: 5	13	On: $q/q/$, (O)		
1.18 Approval by the Governor					
By: (SW)	and DEPUTY S	SECRETARY OF STA	ATE SEP 2 2 2010		









September 22, 2010

Contract between Office of Energy and Planning Town of Plymouth, New Hampshire

- Exhibit A - Scope of Services -

1. Project Title:

Energy Efficiency and Conservation Block Grant- Retrofit Ramp-up Program, also known as Better Buildings Program

2. Project Period:

This contract is effective from Governor and Executive Council approval date through May 31, 2013 for program activities, invoicing, and program year closeout. All funds must be expended by the completion date of May 31, 2013. The New Hampshire Office of Energy and Planning at any time, in its sole discretion, may terminate the contract or postpone or delay all and any part of this contract, upon written notice.

3. Program Description and Purpose:

The New Hampshire Office of Energy and Planning (OEP) awards a total of \$468,267 in American Recovery and Reinvestment Act - Energy Efficiency and Conservation Block Grant's Retrofit Ramp-up Program (Retrofit Ramp-up), funds to the Town of Plymouth, New Hampshire ("Town") for the purposes of implementing a community driven program aimed at significant energy reductions through the retrofitting of buildings across multiple sectors, including residential, commercial, industrial and municipal. The Town shall:

- a. Adhere to the U.S. Department of Energy (DOE) Terms and Conditions in the award issued on 6/1/10 (Attachment I).
- b. Enter into a sub-recipient agreement with the Community Development Finance Authority (CDFA) in the amount of \$268,267 to fund community field office staff for the Retrofit Ramp-up Program, and shall advance CDFA the full amount (\$268,267) of the agreement. The Town shall ensure that CDFA demonstrates to OEP that all funds are used for the purposes set forth herein.
- c. Retain \$200,000 to be utilized for marketing and outreach efforts in support of the Retrofit Ramp-up Program. No more than \$10,000 may be used to fund supportive services for compliance purposes, including audit services, if required.
- d. Provide OEP with a detailed budget on or before March 1, 2011.
- e. Collaborate with state and local partners in implementing the Retrofit Ramp-up Program.

4. Goals of the Program:

- a. Provide communities with effective tools and strategies for marketing to and engaging property owners in making the changes needed to yield improved energy efficiencies in their buildings.
- b. Identify and create sustainable financial products and resources that will make retrofitting a viable option both now and in the future for property owners.
- c. Provide easy access to technical expertise needed to attain maximum reductions in the fossil fuel emissions and total energy use of residential, commercial, nonprofit and municipal buildings.

Date 9/16 ; Initials 94 ;

d. Stimulate local economies and create jobs.

5. Attachments to this Contract:

Attached to this contract shall be documents that further guide program administration and requirements:

- a. Exhibit B: Project Costs
- b. Exhibit C: Special Provisions
- c. Exhibit D, E, F, G, H, I: Certifications and Assurances
- d. Attachment I: US DOE Recovery Act: EECBG- New Hampshire Beacon Community Project, Special Terms and Conditions, Award Number: DE-EE0003576, CFDA Number: 81.128
- e. Attachment II: NH Office of Energy and Planning's Approved Proposal by U.S. Department of Energy
- f. Attachment III: US OMB Implementing Guidance

6. Grant Administration:

The Town shall:

- Adhere to the program budget approved by DOE. If adjustments are needed, it must be approved by OEP and DOE.
- b. Be solely responsible for the performance of this agreement.
- c. Submit to OEP all required reports as specified in this exhibit and as amended from time to time, and shall collaborate with New Hampshire Community Development Finance Authority to monitor and enforce the reporting requirements.
- d. Within 5 days of the end of each month report to OEP, in the pre-determined format and as amended from time to time, the funds expended, jobs created and retained, energy saved, and emissions reduced.
- e. When applicable, ensure that Buy American, National Environmental Policy Act, Davis Bacon regulations, National Historic Preservation Act (NHPA) and all other applicable ARRA regulations are met by grantees, subrecipients and vendors. Any project that may trigger NEPA must first be approved by OEP.
- f. Notify OEP about media inquiries, responses, published articles and events highlighting Retrofit Ramp-up projects.
- g. Ensure that reasonable access is provided to OEP, OES, DOE, and OMB for all administrators, vendors, facilities, work sites, employees of the contractor(s), financial or other records, and assistance to ensure the safety and convenience for the performance of site visits and evaluations.
- h. Ensure that activities to be undertaken in connection with the Project shall comply with all applicable federal, state, and local regulations and safety and construction codes.
- i. The Town shall have an OMB circular A-133 audit performed in any fiscal year in which it expends more than \$500,000 in federal funding. The Town shall insure that any subrecipient or vendor expending in excess of \$500,000 in federal funding in any fiscal year shall be subject to an A-133 audit.
- j. Where the Town is not subject to the requirements of OMB Circular A-133, The Town shall submit to OEP two copies of an audited financial report, within 90 days after the end of each fiscal year. Said audit shall be conducted utilizing the guidelines set forth in "Standards for Audit of Governmental Organizations, Programs, Activities, and Functions" by the Comptroller of the United States.

7. Federal Compliance

If applicable, The Town shall comply, and shall require any grantee, subrecipient or vendor to comply, with the following federal and state laws and all applicable standards, rules, orders, or regulations issued pursuant thereto:

- a. <u>The Copeland "Anti-Kickback" Act</u>, as amended (118 USC 874) as supplemented in Department of Labor regulations (41 CFR Chapter 60).
- b. <u>Labor Standards</u>. Davis-Bacon Act, as amended (40 USC 276a-276a-7), the Contract Work Hours and Safety Standards Act (40 USC 327-333).
- c. <u>The Flood Disaster Protection Act of 1973</u> (PL 93-234), as amended, regulations issued pursuant to that act, and Executive Order 11985.
- d. The National Environmental Policy Act of 1969 (PL 90-190): the National Historic Preservation Act of 1966 (80 Stat 915, 116 USC 470); and Executive Order No. 11593 of May 31, 1971, as specified in 24 CFR 58.

Date 9//0/; Initials

- e. <u>The Clean Air Act, as Amended, 42 USC 1857 et seq., the Federal Water Pollution Control Act, as amended, 33 USC 1251 et seq.</u> and the regulations of the Environmental Protection Agency with respect thereto, at 40 CFR Part 15, as amended from time to time.
- f. The NH State Energy Code (RSA 155-D).
- g. The NH State Life Safety Code (RSA 155:1) and rules of the NH State Fire Marshal.
- h. The Recovery and Reinvestment Act of 2009, Public Law 111-5 ("Recovery Act" or "Act") and applicable standards, rules orders, regulations and guidelines issued pursuant thereto, as amended from time to time and detailed in Exhibit C of this contract.
- The Hatch Act as Amended 5 USC 1501 1508 and 7324 7326, as implemented by the Office of Personnel Management at 5 CFR 151.

8. Agreement with Grantees, Subrecipients and Vendors:

- a. The Town shall cause all applicable provisions of this contract to be inserted in all grantee, subrecipient or vendor Agreements for any work or Project activities covered by this Agreement so that the provisions will be binding on each grantee or subrecipient; provided, however, that the foregoing provisions shall not apply to contracts for standard commercial supplies or raw materials.
- b. The Town shall take such action with respect to any such Agreement, contract or subcontract as the State, or, where applicable, the United States, may direct as a means of enforcing such provisions, including sanctions for noncompliance.

9. OEP Requirements:

OEP shall:

- Have the right to inspect all project sites, interview workers and ensure that all regulations are being met.
- b. Collaborate with The Town and its partners in their efforts to publicize the program.
- c. Have the right to inspect and monitor financial records and transactions.
- d. Reimburse The Town for costs incurred for administrative and program costs on a monthly basis.
- e. Provide The Town with clear and complete guidance on the data to be recorded, which may be amended from time to time.
- f. Have the right to participate in the selection of projects and review records of applications submitted whether funded or not.
- g. Respond in a reasonable and timely manner to all requests for clarification or program modification from The Town in order to ensure the success of the Project and the distribution of all funds prior to May 31, 2013.
- h. File form 1512 reports in a timely manner with OES, federalreporting.gov and any other agency/department to who they are required to report.
- i. File reports with DOE as required.
- j. Reconcile the expenditures of the funds advanced to CDFA through the sub-recipient agreement with the Town.

10. Records and Accounts: Access

During the performance of the Project Activities and for a period of three (3) years after the Completion Date or the date of the final audit approval by OEP, whichever is later, The Town shall keep, and shall require any subcontractor or vendor to keep, the following records and accounts:

- Records of Direct Work: Detailed records of all direct work performed by its personnel under this contract.
- b. Fiscal Records: Books, records, documents and other statistical data evidencing, and permitting a determination to be made by OEP of all project costs and other expenses incurred by The Town and all income received or collected by The Town, during the performance of the project activities. The said records shall be maintained in accordance with generally acceptable accounting procedures and practices, and which sufficiently and properly reflect all such costs and expenses, and shall include, without limitation, all ledgers, books, audits, records and original evidence of costs such as purchase requisitions and orders, invoices, vouchers, bills, requisitions for materials, inventories, valuations of in-kind contributions, labor time cards, payrolls and other records requested or required by OEP.
- c. Contractor and Subcontractor Records: The Town shall, and where applicable, subcontractor and

Date 9/9/10 Initials 8/12;

vendor shall, establish, maintain and preserve property management, project performance, financial management and reporting documents and systems, and such other books, records, and other data pertinent to the project as OEP may require. Such records shall be retained for a period of three (3) years following completion of the project and receipt of final payment by The Town, or until an audit is completed and all questions arising are resolved, whichever is later.

11. Termination; Remedies

- a. <u>Inability to Perform; Termination by the Town</u>. As a result of causes beyond its control, and notwithstanding the exercise of good faith and diligence in the performance of its obligations hereunder, if it shall become necessary for the Town to terminate this contract, the Town shall give OEP thirty (30) days advance written notice of such termination, in which event the contract shall terminate at the expiration of said thirty (30) days.
- b. Termination Without Default. In the event of termination without default and upon receipt, acceptance and approval by OEP of the Termination Report, as referenced in the General Provisions, the Town shall receive payment for all Project Costs incurred in the performance of Grant Activities completed up to and including the date of termination and for which payment had not previously been made including, but not limited to, all reasonable expenses incurred in the preparation of the Termination Report; provided, however, that in the event that any payments have been made hereunder in excess of Project Costs incurred up to and including the date of termination of the contract, OEP shall offset any payments to be made hereunder against such payments, and if applicable, Plymouth shall refund to OEP the amount of any excess funds it retains after such offset.
- c. <u>Termination for Default</u>. In the event of termination for default or other violation of Project requirements, OEP shall, upon receipt, acceptance and approval of the Termination Report submitted by the Town, pay the Town for Project Costs incurred up to and including the date of termination (subject to off-set against funds paid to Plymouth hereunder and to the refund of any excess funds); provided, however, that in such event the amount of such payment shall be determined solely by OEP; and provided, further, that in no event shall the making of any such payments relieve Plymouth of any liability for damages sustained or incurred by OEP as a result of Plymouth's breach of its obligations hereunder, or relieve Plymouth of responsibility to seek return of Grant Funds from any Subrecipient or Beneficiary where applicable.
- d. <u>Limitation on Plymouth Liability for Subgranted Funds</u>. Notwithstanding anything in this contract to the contrary and absent the presence of fraud or negligence on the part of Plymouth in enforcing its rights and obligations under the terms of any Subcontractor or vendor agreement, the sole obligation of Plymouth with respect to the return of Grant Funds, in the event of default on a grant condition or other termination of the Project or event requiring return of Grant Funds, shall be to make a good faith effort to return to the State of New Hampshire all grant funds paid to subcontractors and vendors through Plymouth. Plymouth shall make good faith efforts to enforce the legal obligations entered into with the subcontractor or vendor as provided herein, to call upon the collateral held by itself or others, and exercise due diligence in its efforts in bringing about the satisfaction of the grant obligations and, having done so, it shall not be required to look to any other funds to recoup grant funds.
- e. <u>Assignment to OEP and Payment of Expenses and Costs</u>. Plymouth hereby agrees that, in the event it fails to enforce the provisions of any subcontractor or vendor agreement or fails to cure an Event of Default resulting in termination of this Agreement or the Project, Plymouth shall, upon demand by OEP, assign and convey to OEP all or any of its rights, title and interest, or delegate to OEP all or any of its obligations under the subcontractor or vendor agreement and any Mortgage, Promissory Note, Security Agreement or other agreement as applicable. Such delegation or assignment shall be effective only in the event of a default by subcontractor or vendor or beneficiary in its or their obligations under the subcontractor or vendor agreement or other agreement.
- f. Where the contract is terminated or the Project is otherwise terminated due to default, inability to perform, or reason other than project completion and grant funds are required to be returned by Plymouth, the disposition of grant funds to be returned shall be determined solely by OEP.
- g. <u>Public Hearing</u>: The transfer of funds pursuant to this agreement is subject to final acceptance by the Town after a public hearing.

Date 9/9/10 Initials









September 22, 2010

Exhibit B - Project Costs: Method and Terms of Payment American Recovery and Reinvestment Act – Energy Efficiency and Conservation Block Grant- Retrofit Ramp-up Program (a.k.a. BetterBuildings Program)

- PROJECT COSTS: PAYMENT SCHEDULE; REVIEW BY OEP 1.
 - 1.1 Costs: "Project Costs" shall mean all reimbursable costs, including administrative costs, incurred by a Business in performance of Project Activities. Project costs include, but are not limited to: preparation of environmental review, record keeping, reporting, audits, and oversight of Project construction, monitoring, verification, and compliance with all federal, state, and local laws, rules, and regulations and this contract. A local government shall meet the requirements of OMB Circular A-87, as revised from time to time.
 - 1.2 Payment of Project Costs: Subject to the terms and conditions of this agreement, OEP agrees to pay the Town of Plymouth ("Town") all Project Costs, provided, however, in no event shall the total of all payments made by OEP pursuant to this Agreement exceed the Grant Amount as set out in Paragraph 3 of the Exhibit A- Scope of Services and provided further that all Project Costs shall have been incurred prior to the Completion Date as noted in Paragraph 2 of Exhibit A- Scope of Services.
 - 1.3 Review by OEP; Disallowance of Costs: At any time during the performance of the Project Activities, and upon receipt of the monthly and quarterly Progress Reports, Closeout Report, or Audited Financial Report, OEP may review all Project Costs incurred by the Town and all payments made to date. Upon such review, OEP shall disallow any items of expense which are not determined to be allowable or are determined to be in excess of actual expenditures, and shall, by written notice specifying the disallowed expenditures, inform the Town of any such disallowance. If OEP disallows costs for which payment has not yet been made, it shall refuse to pay such costs. If payment has been made with respect to costs which are subsequently disallowed. OEP may deduct the amount of disallowed costs from any future payments under this Agreement or require that the Town refund to OEP the amount of the disallowed costs.
- METHOD AND TERMS OF REIMBURSEMENT FOR PROJECT COSTS 2.
 - When Project Funds May Be Disbursed: The disbursement of project funds are subject to the 2.1 following provisions:
 - 2.1.1 OEP shall disburse \$268,267 as provided in paragraph 3(b) of Exhibit A for the purposes described herein. OEP shall not disburse any of these funds until such time as the subrecipient and vendor agreements specified in Exhibit A and any other agreements or documents specified pursuant to this Agreement are fully executed and received, and where applicable are reviewed and approved in writing by OEP. The Town shall then advance these funds to CDFA and ensure that CDFA reconciles expenditures of these funds with OEP.

Date **8/3//0**; Initials 3/4;

- 2.1.2 OEP shall disburse \$200,000 described in paragraph 3(c) of Exhibit A upon receipt and approval of itemized monthly invoices and supporting documentation from the Town by OEP. Invoices and supporting documentation shall demonstrate that the costs incurred are consistent with this agreement.
- 2.2 Timing of Payments: Within thirty (30) days of the receipt by OEP of requests for reimbursement from the Town specifying all costs incurred, OEP agrees to reimburse the Town for costs, except that reimbursement may be withheld until OEP determines that a particular project activity or portion of the project activity hereunder has been satisfactorily completed. Payments may be withheld if required satisfactory reporting has not been submitted to OEP.
- 2.3 Disbursement of funds by OEP does not constitute acceptance of any item as an eligible cost.

REQUIRED DOCUMENTATION FOR DISBURSEMENT OF GRANT FUNDS

3.1 Reimbursement requests for all Project Costs shall be accompanied by proper supporting documentation in the amount of each requested disbursement along with a payment request form as supplied by OEP, which shall be completed and signed by the Town. Documentation may include invoices for supplies, equipment, services, contractual services, and, where applicable, a report of salaries paid or to be paid.

4. LIMITATIONS ON USE OF FUNDS

- 4.1 Funds for this program are to be used in a manner consistent with the US DOE Recovery Act: EECBG- New Hampshire Beacon Community Project, Special Terms and Conditions (Attachment I) and the NH Office of Energy and Planning's Approved Proposal by U.S. Department of Energy (Attachment II).
- 4.2 Project funds may not, without advance written approval by OEP, be obligated prior to the Effective Date or subsequent to the Completion Date of the Project period. The funding assistance authorized hereunder shall not be obligated or utilized for any activities requiring a release of funds under the Environmental Review Procedure for the American Recover and Reinvestment Act- Energy Efficiency and Conservation Block Grant- Retrofit Ramp-up Program until such release is issued in writing by OEP.
- 4.3 Changes in Funding Categories: The Town may submit a written request to OEP for the authority to transfer grant funds from one class of business to another.

5. PERFORMANCE OF SERVICES BY GRANTEE PRIOR TO EFFECTIVE DATE; PAYMENT BY OEP

5.1 Any Project Activities performed by the Town prior to the Effective Date shall be performed at the sole risk of the Town and will not be reimbursed by OEP without their prior approval.

Date 8/3////; Initials 8/1/2; _____