

RESOLUTION 2020-124

**RESOLUTION OF THE MAYOR AND BOROUGH COUNCIL OF THE
BOROUGH OF MOUNT ARLINGTON, IN THE COUNTY OF MORRIS,
NEW JERSEY, AUTHORIZING EXECUTION OF A GRANT AGREEMENT
BETWEEN THE BOROUGH OF MOUNT ARLINGTON
AND THE MORRIS COUNTY HISTORIC PRESERVATION TRUST FUND**

**MORRIS COUNTY
HISTORIC PRESERVATION TRUST FUND
GRANT AGREEMENT**

**Former Borough Hall - Preservation Plan
2020 Grant Award**

BETWEEN Mount Arlington Borough, having its offices at 419 Howard Boulevard, Mount Arlington, NJ 07856, hereinafter "Grantee", and the Morris County Board of Chosen Freeholders, P.O. Box 900, Morristown, NJ 07963-0900, hereinafter "County."

WITNESSETH:

WHEREAS, Grantee has made application (Exhibit 1) to the County for financial assistance under the County Historic Preservation Trust Fund Program hereinafter "Program"; and

WHEREAS, the County has reviewed said application and has found it to be in conformance with the scope and intent of the Program's Rules and Regulations and has approved Grantee's request for funding; and

WHEREAS, The Grantee is an eligible applicant in accordance with the guidelines; and

WHEREAS, the project, located on property known as Block 30, Lot 16 on the tax map of the Mount Arlington Borough, is on or has been deemed eligible for listing on the New Jersey Register of Historic Places; and

WHEREAS, the Grantee owns, leases the property, or has shown significant involvement with the property's preservation, and has the owner's permission to submit the application; and

WHEREAS, the project application has been reviewed and recommended for an award by the Morris County Historic Preservation Trust Fund Review Board.

NOW, THEREFORE, in consideration of the award for funding, and in accordance with the application heretofore filed, the County and Grantee agree to perform in accordance with the terms and conditions set forth in this Grant Agreement, hereinafter referred to as

GENERAL PROVISIONS

1. DEFINITIONS

- a) "Approved Project" means an eligible construction or non-construction project as defined in the Morris County Historic Preservation Trust Fund Rules and Regulations and as in accordance with the project described in Exhibit 2.
- b) "County" means the Morris County Board of Chosen Freeholders.
- c) "Grantee" means Mount Arlington Borough.
- d) "HPO" means the New Jersey Historic Preservation Office.
- e) "Program" means the Morris County Historic Preservation Trust Fund.
- t) "Standards" means the Secretary of the Interior's Standards for the Treatment of Historic Properties (36 CFR Part 68).

2. RULES AND REGULATIONS

The Grantee is bound to adhere to the rules and regulations of the Morris County Historic Preservation Trust Fund as set forth here in their entirety.

3. PROJECT ADMINISTRATION

- a) The Grantee agrees to perform in the manner set forth in this agreement for the consideration stated herein.
- b) If Grantee received funds for the purchase of a site, the Grantee agrees, in perpetuity, not to sell, exchange or donate the property or any features of the property described herein pursuant to P.L. 1997 c.24, N.J.S.A. 40:12-15, et seq. except upon approval of the Morris County Board of Chosen Freeholders and upon such conditions as the Morris County Board of Chosen Freeholders may establish.
- c) The project site must be open to the general public as stipulated.
- d) No official or employee of the Grantee who is authorized in his/her official capacity to negotiate, make, accept or approve, or take part in such decisions regarding a contract or subcontract in connection with the Approved Project shall have any financial or other personal interest in any such contract or subcontract.
- e) For non-construction grants, the Grantee agrees to provide two draft plans/reports to the County. After the documents have been reviewed and deemed conforming to the Standards by the County, the Grantee will send two final documents of the plans/reports to the County.

- f) The Grantee, at the request of the County, may be required to prepare a progress report and submit it to the County within 30 calendar days after the date requested. The report shall include a narrative description of the status of the Approved Project, the date on which the Approved Project will be completed, and any contractor voucher. The County may, at its discretion, make visits to the site to monitor project compliance.

4. PERIOD OF PERFORMANCE

The Grantee has 60 days to execute this Agreement. In the event that this Agreement has not been executed by the Grantee in the above time period, the Agreement may be considered void.

The period of performance under this Agreement is specified as two years from the date of execution by the County. Said Agreement shall expire on October 14, 2022. There shall be no obligation on the part of the County to renew or extend this time period.

5. AWARD OF FUNDING

- a) The amount of the award to be provided by the County under this contract is \$22,400. The County award is based upon the Grantee's application to the County for financial assistance, which was received by the County Office of Planning and Preservation (Attached as Exhibit 1).
- b) Grantee will submit the architect/consultant invoice, with an indication of the level of completion of the approved project as certified by the architect/consultant. Payments will be scheduled upon receipt of conformance comments from the county consultant.
- c) All work invoiced must be related to the Scope of Work in the Approved Project Description (Exhibit 2).
- d) Site visits will be performed intermittently as appropriate to verify the extent of work completed.
- e) Grantee agrees that any Program funds received from the County shall be used only for the purposes described in the application and not for any ineligible activities as provided for under the statute or guidelines. Grantee further agrees that if it uses program funds for any other purposes other than those specified and approved in this agreement, the county may recover all such funds with interest.
- f) All monies dedicated for this project will be kept separate and earmarked from other agency funds.

6. MATCHING FUND

The Grantee agrees to provide all matching funds as necessary for the completion of the project as stipulated in the scope of work (Exhibit 2) and in accordance with this Agreement and the conditions, specifications, plans, estimates, project proposals submitted to the County and incorporated herein by reference. Specifically, the grantee will provide at least a 20% match. For this project the match amount will be \$5,600. Said amount is available and provided in Capital Ordinance (e.g. Capital Ordinance, savings account, special trust account).

7. ADMINISTRATIVE APPROVAL

Before the Grantee of a construction grant expends or encumbers any funds provided from the County, the Grantee will request an Administrative Approval Letter for the authorization to proceed from the County.

8. CONTRACTORS

- a) The Grantee is responsible for obtaining contractors who will perform work on this project in compliance with the Standards.
- b) The Grantee agrees to send a fully executed contract with the contractor to the County.
- c) Prior to any construction beginning on the project, all plans and specifications shall be submitted to Morris County for review and approval to ensure consistency with the Standards as required by the Memorandum of Understanding between the County of Morris and the New Jersey Historic Preservation Office (HPO).

9. ARCHAEOLOGICAL RESOURCE

For construction grant that involves ground disturbing activity:

- a) The Grantee is responsible for obtaining a qualified archaeologist to review the ground disturbing activity and verify conformance to the Standards. The Grantee shall bear all costs related to such review.
- b) If the affected area is deemed to have high archaeological potential by HPO staff, the Grantee is responsible for obtaining an archaeological survey that will be performed by an archaeologist who meets the National Park Service's Professional Qualification Standards for Archaeology (attached as Exhibit 3). The scope of work shall be developed in consultation with the HPO. A report (meeting the HPO Report Guidelines) detailing the findings of the investigation shall be submitted to the HPO for review and approval.

- c) Significant archaeological resources shall be avoided or preserved in place whenever feasible. When preservation in place is not possible, in whole or in part, the Grantee is responsible for performing a treatment for "data recovery" consistent with the Advisory Council's Handbook, Treatment of Archaeological Properties, and the Secretary of the Interior's Standards and Guidelines for Archaeology and Historic Preservation (48 FR 44716). This will be developed and implemented in consultation with HPO.
- d) In the event that previously unidentified and undocumented, high density archaeological deposits are unearthed during construction, the Grantee shall contact the County and HPO for an archaeologist from HPO to make an on-the-spot appraisal of the significance of the remains.

10. ENCROACHMENT REVIEW

If, at any point during the period of performance, County or the HPO determines that the Standards cannot be met for any reason, and that the project will be considered an encroachment, the Grantee shall make an application to the New Jersey Historic Sites Council for review pursuant to the procedures listed in N.J.A.C. 7:4-7.2 (e). The time used for such review shall not be considered part of the period of performance for the project. The County is not bound to fund any work which is considered to be an encroachment. Any such work performed may make null and void this Agreement for that portion of the grant.

11. CREDIT

- a) For construction projects, the Grantee shall permit the erection of a permanent sign which describes the Approved Project undertaken and credits the Morris County Historic Preservation Trust Fund as a funding source. The sign shall be erected as soon as possible after the completion of the Approved Project. The County shall provide the sign to the Grantee.
- b) The Grantee shall credit the Morris County Historic Preservation Trust Fund in all printed materials, releases and announcements (including television and radio interviews) regarding all activities to which the County Historic Preservation Trust Fund has contributed.

12. COMPLIANCE

- a) The Grantee now complies with all applicable State and Federal Laws in connection with its business and activities related to the services to be provided including, without limitation, bidding requirements and any applicable Federal or State Civil Rights Law, order or regulation.

- b) The execution of this Agreement has been authorized by the Grantee's Board of Trustees and the Morris County Board of Chosen Freeholders.
- c) No warranty, representation or statement in this Agreement is in violation of the Certificate of Incorporation or By-Laws of the Grantee.

13. EASEMENT AGREEMENT

For a) all acquisition projects and b) construction grants over \$50,000, applied cumulatively over any number of funding cycles, the Grantee shall execute an easement agreement with the County to assure, to the extent practicable, the preservation, enhancement and protection of the property from inappropriate use and alteration now and until 30 years after the final payment for the Approved Project -- regardless who owns, maintains, rehabilitates, restores, renovates, adapts, revitalizes, occupies or uses it.

14. REGISTER LISTING

For properties not already on the National and New Jersey Registers of Historic Places, the Grantee agrees to submit a nomination to the State Historic Preservation Office by Not Applicable.

15. CLAIMS AND NOTICES

- a) For construction grants only, the Grantee will notify, within two weeks of the date of execution of this Agreement by the County, the affected local government unit and owners of all real property as certified by the Local Government Unit(s) to be within 200 feet in all directions of the property that the Approved Project is located on, as shown on the current tax duplicates; provided that this requirement shall be deemed satisfied by notice to the (1) condominium association, in the case of any unit owner whose unit has a unit above or below it, or (2) horizontal property regime, in the case of any co-owner whose apartment has an apartment above or below it. The notice shall include information on the grant award as contained in the Approved Project Description (Exhibit 2).
- b) For non-construction grants only, the Grantee will notify, within two weeks of the date of execution of this Agreement by the County, the local government unit. The notice shall include information on the grant award as contained in the Approved Project Description (Exhibit 2).
- c) All claims and notices required to be given under the terms of this Agreement of which any of the parties desire to give hereunder shall be in writing and sent by registered or certified mail, postage pre-paid, return receipt requested, each addressed as follows:

As to the COUNTY:

Ray Chang, Historic Preservation Program Coordinator
Morris County Office of Planning and Preservation
P. O. Box 900
Morristown, New Jersey 07963 0900

As to the GRANTEE:

Carolyn Rinaldi, Administrator
Mount Arlington Borough
419 Howard Boulevard
Mount Arlington, NJ 07856

16. FINANCIAL RECORDS AND AUDITING REQUIREMENTS

- a) The Grantee's financial management system shall provide for the following:
- 1) Accurate, current and complete disclosure of the financial results of this Agreement and any other agreement with the County, contract, grant, program or other activity administered by the Grantee;
 - 2) Records adequately identifying the source and application of all Grantee funds specific to this project and all funds administered by the Grantee. These records shall contain information pertaining to all contract and grant awards and authorizations, obligations, unobligated balances, assets, liabilities, outlays and income;
 - 3) Effective internal and accounting controls over all funds, property and other assets. The Grantee shall adequately safeguard all such assets and shall ensure that they are used solely for authorized purposes;
 - 4) Comparison of actual outlays with budgeted amounts for this Agreement and for any other agreement with the County, contract, grant, program or other activity administered by the Grantee;
 - 5) Accounting records supported by source documentation;
 - 6) Procedures to minimize elapsed time between any payment issued by the County and the disbursement of such funds by the Grantee; and,
 - 7) Procedures for determining the reasonableness, allowableness and allocability of costs under this Agreement and procedures consistent with the provisions of any applicable County policies.
- b) The County, or its duly authorized representative(s), shall have access to all records, books, documents and papers pertaining to this Agreement and/or the Approved Project for audit, examination, excerpt and transcript purposes. Obtaining information shall be made practicable for the County.

Such access shall apply during performance of the Approved Project and for three years after the latter date of either final payment or audit resolution.

All records shall be maintained accordingly.

Grantee shall cite this provision in all project related contracts.

- c) Audit reports must address Grantee's compliance with the material terms and conditions of this Agreement and applicable laws/regulations. Grantee shall conduct annual audits in conformance with the Single Audit Act, Federal OMB Circular A-128: "Audits of State and Local Governments," and State OMB Circular 92-05: "Single Audit Policy."
- d) Audit reports must contain an itemized schedule of Grantee's County grant which identifies: grantor agency, program title, County account number, program amount, and total disbursement.
- e) Grantee's account will be adjusted, if necessary, upon the County's review of the annual audit reports.

17. RELEASE AND INDEMNIFICATION

- a) The Grantee shall indemnify and hold harmless the County, the Board of Chosen Freeholders, their Employees, Agents and Servants from and against any and all losses, penalties, damages, settlements, costs, charges, professional fees (including attorneys' fees) or other expenses or liabilities including the investigation and defense of any claims, arising out of or resulting from the performance of the Grantee's work or the completed operations provided that any such claim, damage, loss or expense (a) is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property including the loss of the use resulting therefrom, and (b) is caused in whole or in part by any negligent act or omission of the Grantee, or anyone directly or indirectly employed by them or anyone for whose acts they may be liable (including a claim by an employee of the Grantee) regardless of whether it is caused in part by a party indemnified hereunder.

In any and all claims against County of Morris, the Board of Chosen Freeholders, their Employees, Agents and Servants by any employees of the Grantee, anyone directly or indirectly employed by them or anyone for whose acts they may be liable, the indemnification obligation under this Agreement shall not be limited in any way by any limitation on the amount or type of damages, compensation or benefits payable by or for the Grantee under worker's compensation acts, disability benefit acts or other employee benefit acts.

- b) The Grantee shall, within thirty (30) days after a claim has been made against it, give written notice thereof to the County along with full and complete particulars of the claim. If suit is brought against the County or any of their agents, servants or employees, for which indemnification is provided under this paragraph, the County shall expeditiously forward to the Grantee every demand, complaint, summons, pleading, or other process received.

18. PROJECT TERMINATION

- a) Grantee may not terminate, modify or rescind this Agreement without the express written approval of the County. Any attempt by the Grantee to terminate, modify or rescind this Agreement after commencement without the express written approval of the County shall constitute a material breach and subject the Grantee to any and all appropriate remedies at law.
- b) County may terminate this Agreement in whole or in part at any time for good cause. The term "good cause" shall include, but not be limited to, failure to comply with the terms and conditions of this Agreement or the rules and regulations of the Trust Fund.

19. REMEDIES

- a) In addition to any other rights and remedies available to the County pursuant to law, in the event of failure to comply with this Agreement and/or with the rules and regulations of the Trust Fund, the County may take any of the following actions or combinations thereof:
 - 1) Issue a Notice of Noncompliance.
 - 2) Withhold County funds.
 - 3) Order suspension of project work.
 - 4) Recover County funds with interest
 - 5) Terminate or annul this Agreement.
- b) No remedy herein conferred or reserved by the County is intended to be exclusive of any other available remedy or remedies, but each and every other remedy shall be cumulative and shall be in addition to every other remedy given under the Agreement or now or hereafter existing at law or in equity by statute. No delay or omission to exercise any right or power accruing upon failure of compliance with this Agreement shall impair any such right or power or shall be construed to be a waiver thereof, but any such right and power may be exercised from time to time and as often as deemed expedient. In order to entitle the County to exercise any remedy reserved to it in this Section, it shall not be necessary to give notice other than such notice as may be provided by this Section.

- c) In addition to the above remedies, if a Grantee commits a breach, or threatens to commit a breach of this Agreement, the County shall have the right and remedy, without posting bond or other security, to have the provisions of this Agreement specifically enforced by any court having equity jurisdiction, it being acknowledged and agreed that any such breach or threatened breach will cause irreparable injury to the County and that money damages will not provide an adequate remedy therefor.
- d) The County shall not be required to do any act whatsoever or exercise any diligence whatsoever to mitigate the damages to Grantee if any event or failure of compliance shall occur hereunder.

20. MISCELLANEOUS

- a) This Agreement constitutes the entire agreement and supersedes all prior agreements and understandings both written and oral between the parties with respect to the subject matter thereof and may be executed simultaneously in several counterparts, each of which shall be deemed an original, all of which together shall constitute one and the same instrument.
- b) Modifications or waivers of provisions of this Agreement of the Approved Project must be in writing and submitted to the County for prior approval.
- c) In the event that any provision of the Agreement shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof.
- d) In the event that any provision of this Agreement should be breached by the Grantee and thereafter waived by the County, such waiver shall be limited to the particular breach so waived by the County and shall not be deemed to waive any other by the Grantee.
- e) This Agreement shall inure to the benefit of and be binding upon the heirs, successors and administrators of Grantee, but no part hereof shall be assigned without the prior written consent of the County.
- t) This Agreement shall be construed and enforced under the laws of the State of New Jersey.
- g) In the event of litigation, Grantee waives whatever right it may have to trial by jury.

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

ATTEST/SEAL

Morris County Board of Chosen Freeholders

BY _____

Deborah Smith
Freeholder Director

Date

ATTEST/SEAL

For the GRANTEE:

BY  _____

Date: September 1, 2020

Michael Stanzilis
(Typed Name)

Mayor, Mount Arlington Borough
(Title)

EXHIBIT 1: PROJECT APPLICATION MADE TO TRUST FUND