

DECAS, MURRAY & DECAS

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REPLY TO POST OFFICE BOX 201  
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**DELIVER**

November 25, 2014

Josephine Ruthwicz  
Middleborough Housing Authority  
8 Benton Street  
Middleboro, MA 02346

RE: Grant Agreement & Public Access Easements

- Soule Homestead
- Unitarian Church – organ
- Shoe Shop Place

Dear Jo:

I enclose a form grant agreement for the referenced projects. I need particularized information for each project in order to complete a draft of the grant agreements. The areas of the form where info is needed are marked in yellow. In particular, please provide me with information on each project as follows:

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- Project name.
- Town Meeting funding approval date.
- Project location (street address & Assessors Map # & Lot #).
- Project description (brief description of project for which the grant money will be used).
- Contact person (for recipient).
- Full legal name and mailing address of recipient.
- Amount of grant.
- Date of grant application.

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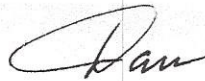
- ¶3 – Date for completion of project work.
- ¶5 – Will there be a duty to maintain the improvements to which the grant relates, and if so, what must be maintained, for how long and will there be a duty of recipient to pay the Town the amount of the grant if there is a failure to maintain?
- ¶9 – I think that a public access easement will not be needed for the Soule Farm project if the grant money will be expended for a project solely with respect to Town-owned property. Please advise if this is the case.

As for a public access easement with regard to Shoe Shop Place, I don't see how a public access easement is feasible given that the project is a residential apartment complex. Jane Lopes suggested that the community housing aspect of the project including the low and moderate income component might be sufficient to satisfy the requirement that the Town receive something of value from the recipient of the grant to avoid the prohibition of making a gift.

I think the Unitarian Church organ project lends itself to a public access easement similar to the one which I drafted for the Middleborough Historical Association, Inc.

Please give me your thoughts with respect to the public access easement matters discussed above.

Very truly yours,

A handwritten signature in cursive script, appearing to read "Dan", written in dark ink.

Daniel F. Murray

DFM/s  
14-122  
Enclosure  
cc: Jane Lopes

(1) Soule Farm

TOWN OF MIDDLEBOROUGH  
COMMUNITY PRESERVATION COMMITTEE  
GRANT AGREEMENT

**PROJECT NAME:** ~~Installation of Climate Controls for 2 Middleborough Historical Association Mill House Buildings~~

**TOWN MEETING FUNDING APPROVAL DATE:** ~~October 7, 2013~~

**PROJECT LOCATION:** ~~18 & 20 Jackson Street, Middleborough MA~~  
46 Soule  
Middleborough Assessors Map Block 50Q Lot 6326

**PROJECT DESCRIPTION:** To add climate controls by means of heating /air conditioning units and insulation to mill house building # 1 located at 18 Jackson Street and mill house building #2 located at 20 Jackson Street, Middleborough MA. This project meets the eligibility requirements of the Community Preservation Act "Historic" category. Town of Middleborough Community Preservation funds approved for this project are Twenty Nine Thousand Eight Hundred Eleven and 00/100 Dollars (\$29,811.00)

**CONTACT PERSON:** Cynthia McNair

This Grant Agreement (the "Agreement") made this 22<sup>nd</sup> day of November in the year 2013 by and between the Town of Middleborough, a municipal corporation duly organized under the laws of Massachusetts and having a usual place of business at Town Hall, Nickerson Avenue, Middleboro, MA 02346 (hereinafter referred to as the "Town") acting by and through its Community Preservation Committee (hereinafter referred to as the "CPC") and the Middleborough Historical Association, Inc. with an address of P.O. Box 304, 18 Jackson Street, Middleboro, MA 02346, (hereinafter referred to as the "Recipient").

The CPC invited the submission of proposals for grants of funds for purposes consistent with the Community Preservation Act, General Laws Chapter 44B ("CPA") and the Recipient submitted an application for funding for the Project (the "Project") as described above. The CPC reviewed and approved the application ("Project Application") as described and recommended that funding for the Project be approved at a scheduled Town Meeting. The funding for the Project having been approved at a Town Meeting The CPC hereby enters into this Agreement with the Recipient in order to set forth the terms and conditions under which the approved funding may be paid and expended by the Recipient in connection with the Project and to set forth the terms and conditions applicable to the Project.

**THE TOWN AND RECIPIENT AGREE AS FOLLOWS:**

1. Award Subject to the terms of this agreement, the Town hereby awards the Recipient the amount of twenty-nine thousand eight hundred eleven Dollars (\$29,811.00) ("Grant Award") for the purposes as set forth in the Project Application and described above.
2. Project Application The Project Application dated October 2, 2013 as approved by CPC is incorporated in this Agreement by reference and attached hereto.

3. **Work** Recipient shall complete all of the work on the Project as described in the approved Project Application and this Agreement. Recipient shall complete all of the work on the Project for which funds are hereby awarded by December 31, 2013 ("completion date"), unless the CPC grants an extension of the completion date for good cause and in writing. The CPC shall not be required to grant any extension.
4. **Budget** Prior to the commencement of the work on the Project, the Recipient shall submit to CPC a complete Project budget that accounts for the expenditure of all funds awarded under this Agreement and all other sources of funding, if necessary, to complete the Project as described.
5. **Disbursement of Funds** All disbursement of grant funds to the Recipient under this Agreement shall only be made after the Project is completed in accordance with the Agreement and CPC has approved the work on the Project after its completion. The CPC shall not be required to disburse any grant funds to the Recipient unless the Project is completed by the completion date in accordance with the Agreement and CPC has approved the work on the Project after its completion. Recipient shall maintain the heating and air conditioning units which are the subject of this Grant Agreement in good operating condition for a period of ten (10) years from the date the Recipient signs the Grant Agreement. If Recipient fails to maintain the heating and air conditioning units in good operating condition during the ten-year period, and such failure persists for a period of six (6) months after written notice from the Town to Recipient of such failure, the Recipient shall pay to the Town a sum of money equal to the amount of grant funds paid by the Town under this Grant Agreement within seven (7) months after the date of said written notice of failure by the Town to Recipient. The Town may take all reasonable and necessary action to recover said sum of money including bringing a legal action against Recipient.
6. **Reports** Recipient shall provide CPC with a written Project Status Report, which shall be due the first day of January, March, July and October until the Project is complete. Recipient shall provide CPC with a written Project Closeout Report, including digital photo documentation of the Project where appropriate, within 30 days after the completion date. The Project Closeout Report shall be to the satisfaction of the CPC. All documents, including but not limited to reports, photographs, videos submitted to the CPC by Recipient shall become the property of the Town of Middleborough and shall be available for use by the town and available to the public under the Massachusetts Public Records Law.
7. **Project Liaison** The CPC may designate a Project Liaison for the Project being funded by this Agreement. The Project Liaison may be a CPC Committee Member or a consultant retained by the CPC for that purpose. The Recipient 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 Agreement and shall periodically report to the CPC at one of its regularly scheduled meetings.
8. **Records** Recipient shall maintain such records with respect to the Project work for which grant funds were awarded under the Agreement, and such records shall be available for inspection by the CPC during Recipient's normal business hours. Recipient shall provide copies to CPC of all such Recipient records which CPC requests.
9. **Deed Restrictions** Recipient is required to execute and deliver a deed restriction/restrictive covenant or public access easement for the benefit of the Town of Middleborough or other party as a condition of the Grant Award. Recipient shall execute and deliver to the Town the public access easement in the form attached hereto which the Town will record at the Plymouth County Registry of Deeds. The executed document shall be delivered to the Town at the time Recipient signs this Grant Agreement.

10. **Compliance with Laws and Agreement** Recipient understands and agrees that the Project funded through this Grant Award is made pursuant to and must comply with the CPA.
11. **Permits and Licenses** It is the obligation of the Recipient to obtain all permits and licenses necessary for implementation of the Project. No local permit or license is waived in connection with the work related to the Project.
12. **Liability** By making this award, the Town and the CPC does not accept any liability whatsoever for any acts, omissions or errors associated with the Project. Nothing in this Agreement shall be construed to render the Town, any elected or appointed official, or any member of the CPC, personally liable for any obligation under this Agreement. Recipient shall indemnify, defend and hold the Town harmless from all claims, suits or demands, costs and expenses, including attorney's fees resulting, arising from or related to implementation of the Project.
13. **Signage** Upon commencement of the Project, Recipient shall post, in an appropriate location mutually acceptable to the parties, a temporary sign stating that the Project was funded in whole or in part through the Town of Middleborough's Community Preservation Act program. Recipient shall also identify that the Project was funded through the CPA in its written materials about the Project, including press releases and brochures. Upon completion of the Project, the Recipient shall post a permanent sign at the Project location stating the Town's contribution through the CPA.
14. **No Assignment** This Agreement may not be assigned to another party by the Recipient without prior written permission from the CPC.
15. **Notice** Any notices or other communications to a party required or permitted under this Agreement, shall be in writing and delivered in hand or mailed by certified mail, return receipt requested or by other reputable delivery service to the address for the party set forth above on page 1.
16. **Severability** If any term or condition of this 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 affected thereby.
17. **Governing Law** This Agreement constitutes the entire agreement between the parties hereto and may be amended only in writing executed by the Town through the CPC and the Recipient. The person signing the Agreement for Recipient acknowledges and avers that he/she has the authority to execute this Agreement on behalf of the Recipient.

Signed and sealed by the undersigned parties.

RECIPIENT NAME: Middleborough Historical Association, Inc.

BY: \_\_\_\_\_  
(print name and office/position)

SIGNATURE: \_\_\_\_\_

DATE SIGNED: \_\_\_\_\_

TOWN OF MIDDLEBOROUGH  
COMMUNITY PRESERVATION COMMITTEE

BY: JANE LOPES, CHAIRPERSON

SIGNATURE \_\_\_\_\_

DATE SIGNED: \_\_\_\_\_