

Select Board Meeting
Tuesday, September 6th, 2022, 6:50 p.m.
Nowak Room, Town Offices
10 Front Street, Exeter NH 03833

Meeting in the Nowak Room at the Town Office Building. For virtual access, see instructions below.

Watch this meeting on Channel 22, or EXTV Facebook <https://www.facebook.com/ExeterTV>, or YouTube <https://www.youtube.com/c/ExeterTV98>.

To access the meeting via Zoom, click this link: <https://exeternh.zoom.us/j/88035700965>

To access the meeting via telephone, call +1 646 558 8656 and enter Webinar ID 880 3570 0965

Please join the meeting with your full name if you want to speak.

Use the "Raise Hand" button to alert the Chair you wish to speak. On the phone, press *9.

More access instruction found here: <https://www.exeternh.gov/townmanager/virtual-town-meetings>

Contact us at extvg@exeternh.gov or 603-418-6425 with any technical issues.

AGENDA

1. Call Meeting to Order
2. Board Interviews – Sustainability Advisory Committee
3. Bid Opening – Ambulance, Fire/EMS Department;
4. Public Comment
5. Proclamations/Recognitions
 - a. Proclamations/Recognitions
6. Approval of Minutes
 - a. Regular Meeting: August 22nd, 2022
7. Appointments
8. Discussion/Action Items
 - a. Voter Registration Overview – Vicky Nawoichyk, Supervisor of Checklist
 - b. Polling Pad Rental Contract – Andie Kohler, Town Clerk
 - c. ARPA Funding Request – Police Department Taser Replacements
 - d. Rose Farm Conservation Deed Easement
 - e. Acceptance of Invest NH Funding – Dave Sharples, Town Planner
9. Regular Business
 - a. Tax Abatements, Veterans Credits & Exemptions
 - b. Permits & Approvals
 - c. Town Manager's Report
 - d. Select Board Committee Reports
 - e. Correspondence
10. Review Board Calendar
11. Non-Public Session

12. Adjournment

Niko Papakonstantis, Chair
Select Board

Posted: 9/1/22 Town Office, Town Website

Persons may request an accommodation for a disabling condition in order to attend this meeting. It is asked that such requests be made with 72 hours notice.

AGENDA SUBJECT TO CHANGE

Board Interviews



Town of Exeter
Town Manager's Office
10 Front Street, Exeter, NH 03833

Town Manager's Office

AUG 24 2022

Received

Interview w/SB
9/6/22
6:50 pm

**Statement of Interest
Boards and Committee Membership**

Committee Selection: Sustainability Advisory Committee

New Re-Appointment Regular Alternate

Name: Stacey Rogers Email: STACEYROGERS822@GMAIL.COM

Address: 29 HAMPTON RD. Exeter 03833 Phone: 484-883-8379

Registered Voter: Yes No

Statement of Interest/experience/background/qualification, etc. (resume can be attached).

Attached

If this is re-appointment to a position, please list all training sessions you have attended relative to your appointed position.

I understand that: 1. this application will be presented to the Exeter Select Board only for the position specified above and not for subsequent vacancies on the same board; 2. The Town Manager and Select Board may nominate someone who has not filed a similar application; 3. this application will be available for public inspection.

After submitting this application for appointment to the Town Manager:

- The application will be reviewed and you will be scheduled for an interview with the Select Board
- Following the interview the Board will vote on your potential appointment at the next regular meeting
- If appointed, you will receive a letter from the Town Manager and will be required to complete paperwork with the Town Clerk prior to the start of your service on the committee or board.

I certify that I am 18 years of age or older:

Signature: [Handwritten Signature] Date: 8/21/2022

To be completed by Select Board upon appointment:

Date Appointed: _____ Term Ending: _____ Full: _____ Alternate: _____

Town of Exeter
Sustainability Advisory Committee

Stacey Rogers
29 Hampton Rd

My name is Stacey Rogers, I am eager to join Exeter's Sustainability Advisory Committee and be a voice behind mindful initiatives and local change. We are in the midst of the largest sustainability movement on a global scale and it's absolutely possible to put Exeter on the map as a town leading this movement in our country. Sustainable practices and limiting carbon footprint are what I spend my time researching and implementing into my (and my family's) life. I can do only so much on a personal level and have been striving for a way to get involved on a more macro scale. Changes I see on the town-level will elevate local business, educate and inspire our town members, and leave a footprint of positive change that generations to come will be proud of.

Our family moved to Exeter about a year ago: my husband, Luke, and our two children, Amara (4) and Bode (18 months). I've worked as travel nurse recruiter for the last 6 years at a healthcare staffing agency and have remained in the top 3% of my company even as we've tripled in size over the last few years. I recently stepped down from management (still full-time recruiter) to have more time to focus on what's important in life: family and an opportunity to get involved with positive climate & sustainability actions on a bigger level. I've been wanting to get involved specifically in this committee, and was going to write even without a vacancy for how I can get involved. I am grateful for your time and consideration!

Sincerely,

Stacey Rogers

Voter Registration Overview – Vicky Nawoichyk, Supervisor of Checklist

Polling Pad Rental Contract – Andie Kohler, Town Clerk



Company Address 10 Manor Parkway, Unit B
Salem, NH 03079
US

Created Date 8/30/2022
Quote Number 00000752

Contact Information

Prepared By	Brenda Merritt-L'Italien	Customer Name	Exeter
Title	Director of Business Development	Contact Name	Andrea Kohler
Phone	(978) 651-2511	Title	Town Clerk
Email	bcm@lhsassociates.com	Email	akohler@exeternh.gov

Address Information

Bill To Name Exeter
Bill To 10 Front Street
Exeter, NH 03833

Product Code	Product	Product Description	Sales Price	Quantity	Total Price
PP-016	Cradlepoint - Rental	Cradlepoint rental for one election event.	\$500.00	1.00	\$500.00
E80-20	Full Day Election Coverage	Election Day - Full Day Coverage	\$2,800.00	1.00	\$2,800.00
PP-100	Poll Pad Bundle (Rental)		\$600.00	10.00	\$6,000.00
			Subtotal		\$9,300.00
			Total Price		\$9,300.00

Signature

By signing below, you are acknowledging that the above pricing is accurate and within budget, and that you are ready to move forward with the official purchase and contract initiation:

Customer Signature: _____

Printed Name & Title: _____

Date: _____

Anticipated First Use Date: _____

ARPA Funding Request – Police Department Tasers



EXETER POLICE DEPARTMENT



Memorandum

August 22, 2022

To: Town Manager Russ Dean and Assistant Town Manager Melissa Roy

From: Chief Stephan Poulin

Ref: ARPA

We would like to propose the purchase of new Tasers from Axon for the Exeter Police Department through ARPA funding. Axon's products and services fall under ARPA's Eligible Use Category 3: provide ***government services*** to the extent of eligible governments' revenue losses. Sections 602c(1)(C) and 603c(1)(C) of the Act provide recipients with broad latitude to use the Fiscal Recovery Funds for the provision of government services. Government services can include, but are not limited to, maintenance or pay-go funded building infrastructure, modernization of cybersecurity, environmental remediation, and the ***provision of police, fire, and other public safety services.***

Our current Tasers are out of warranty and are no longer represented or guaranteed by Taser as being free from defect or malfunction. We would propose to replace 30 Tasers with the Taser 7 bundle which would include all the Tasers plus the batteries, holsters, and cartridges for the changeover. The estimated total cost is \$110,664.75.

Non-Binding Budgetary Estimate



Axon Enterprise, Inc.
 17800 N 85th St.
 Scottsdale, Arizona 85255
 United States
 VAT: 86-0741227
 Domestic: (800) 978-2737
 International: +1.800.978.2737

Q-412375-44774.738RB

Issued: 08/01/2022

Quote Expiration: 08/31/2022

EST Contract Start Date: 08/01/2022

Account Number: 181834

Payment Terms: N30

Delivery Method:

SHIP TO	BILL TO
Business;Delivery;Invoice;Other-20 Court St 20 Court St Exeter, NH 03833-2729 USA	Exeter Police Dept. - NH 20 Court St Exeter, NH 03833-2729 USA Email: spoulin@town.exeter.nh.us

SALES REPRESENTATIVE	PRIMARY CONTACT
Ross Blank Phone: (480) 502-6269 Email: rblank@axon.com Fax: (480) 502-6269	Stephan Poulin Phone: (603) 773-6138 Email: spoulin@exeternh.gov Fax:

Program Length	60 Months
TOTAL COST	\$110,664.75
ESTIMATED TOTAL W/ TAX	\$110,664.75

Bundle Savings	\$23,096.06
Additional Savings	\$2.58
TOTAL SAVINGS	\$23,098.64

PAYMENT PLAN		
PLAN NAME	INVOICE DATE	AMOUNT DUE
Year 1	Oct, 2022	\$22,132.95
Year 2	Oct, 2023	\$22,132.95
Year 3	Oct, 2024	\$22,132.95
Year 4	Oct, 2025	\$22,132.95
Year 5	Oct, 2026	\$22,132.95

Quote Details

Bundle Summary		
Item	Description	QTY
T7Cert	2021 Taser 7 Certification Bundle	30
DynamicBundle	Dynamic Bundle	1

Bundle: 2021 Taser 7 Certification Bundle Quantity: 30 Start: 8/1/2022 End: 7/31/2027 Total: 108000 USD			
Category	Item	Description	QTY
Bundle Scaler	999999	BUNDLE SCALER	1
Holsters	20160	TASER 7 HOLSTER - SAFARILAND, RH+CARD CARRIER	30
Live Cartridges	22175	TASER 7 LIVE CARTRIDGE, STANDOFF (3.5-DEGREE) NS	90
Live Cartridges	22176	TASER 7 LIVE CARTRIDGE, CLOSE QUARTERS (12-DEGREE) NS	90
Handles	20008	TASER 7 HANDLE, YLW, HIGH VISIBILITY (GREEN LASER), CLASS 3R	30
Handle License	20248	TASER 7 EVIDENCE.COM LICENSE	30
Taser 7 Target	80087	TASER 7 TARGET, CONDUCTIVE, PROFESSIONAL (RUGGEDIZED)	1
Admin License	20248	TASER 7 EVIDENCE.COM LICENSE	1
Spare Handles	20008	TASER 7 HANDLE, YLW, HIGH VISIBILITY (GREEN LASER), CLASS 3R	1
Inert Cartridges	22179	TASER 7 INERT CARTRIDGE, STANDOFF (3.5-DEGREE) NS	30
Inert Cartridges	22181	TASER 7 INERT CARTRIDGE, CLOSE QUARTERS (12-DEGREE) NS	30
Taser 7 Target Frame	80090	TARGET FRAME, PROFESSIONAL, 27.5 IN. X 75 IN., TASER 7	1
Training Live Cartridges	22175	TASER 7 LIVE CARTRIDGE, STANDOFF (3.5-DEGREE) NS	60
Training Live Cartridges	22175	TASER 7 LIVE CARTRIDGE, STANDOFF (3.5-DEGREE) NS	60
Training Live Cartridges	22175	TASER 7 LIVE CARTRIDGE, STANDOFF (3.5-DEGREE) NS	60
Training Live Cartridges	22175	TASER 7 LIVE CARTRIDGE, STANDOFF (3.5-DEGREE) NS	60
Training Live Cartridges	22175	TASER 7 LIVE CARTRIDGE, STANDOFF (3.5-DEGREE) NS	60
Training Live Cartridges	22175	TASER 7 LIVE CARTRIDGE, STANDOFF (3.5-DEGREE) NS	60
Training Live Cartridges	22176	TASER 7 LIVE CARTRIDGE, CLOSE QUARTERS (12-DEGREE) NS	60
Training Live Cartridges	22176	TASER 7 LIVE CARTRIDGE, CLOSE QUARTERS (12-DEGREE) NS	60
Training Live Cartridges	22176	TASER 7 LIVE CARTRIDGE, CLOSE QUARTERS (12-DEGREE) NS	60
Training Live Cartridges	22176	TASER 7 LIVE CARTRIDGE, CLOSE QUARTERS (12-DEGREE) NS	60
Training Live Cartridges	22176	TASER 7 LIVE CARTRIDGE, CLOSE QUARTERS (12-DEGREE) NS	60
Training Live Cartridges	22176	TASER 7 LIVE CARTRIDGE, CLOSE QUARTERS (12-DEGREE) NS	60
Training Live Cartridges	22176	TASER 7 LIVE CARTRIDGE, CLOSE QUARTERS (12-DEGREE) NS	60
Training Halt Cartridges	22177	TASER 7 HOOK-AND-LOOP TRN (HALT) CARTRIDGE, STANDOFF NS	60
Training Halt Cartridges	22177	TASER 7 HOOK-AND-LOOP TRN (HALT) CARTRIDGE, STANDOFF NS	60
Training Halt Cartridges	22178	TASER 7 HOOK-AND-LOOP TRN (HALT) CARTRIDGE, CLOSE QUART NS	60

Non-Binding Budgetary Estimate

Training Halt Cartridges	22178	TASER 7 HOOK-AND-LOOP TRN (HALT) CARTRIDGE, CLOSE QUART NS	60
Batteries	20018	TASER 7 BATTERY PACK, TACTICAL	36
Duty Cartridge Replenishment Program	20246	TASER 7 DUTY CARTRIDGE REPLACEMENT LICENSE	30
Docks	74200	TASER 7 6-BAY DOCK AND CORE	1
Dock Mount	70033	WALL MOUNT BRACKET, ASSY, EVIDENCE.COM DOCK	1
Dock Power Cord	71019	NORTH AMER POWER CORD FOR AB3 8-BAY, AB2 1-BAY / 6-BAY DOCK	1
Other	80395	EXT WARRANTY, TASER 7 HANDLE	30
Other	80395	EXT WARRANTY, TASER 7 HANDLE	1
Other	80374	EXT WARRANTY, TASER 7 BATTERY PACK	36
Other	80396	EXT WARRANTY, TASER 7 SIX BAY DOCK	1

Bundle: Dynamic Bundle Quantity: 1 Start: 8/1/2022 End: 7/31/2027 Total: 2664.75 USD			
Category	Item	Description	QTY
Other	20050	HOOK-AND-LOOP TRAINING (HALT) SUIT	1
Other	44729	TASER INSTRUCTOR	5

This Rough Order of Magnitude estimate is being provided for budgetary and planning purposes only. It is non-binding and is not considered a contractable offer for sale of Axon goods or services.

Tax is estimated based on rates applicable at date of quote and subject to change at time of invoicing. If a tax exemption certificate should be applied, please submit prior to invoicing.



PRODUCTS AND SERVICES

ELIGIBILITY AND JUSTIFICATION LANGUAGE¹

INTERIM FINAL RULE - CORONAVIRUS STATE AND LOCAL FISCAL RECOVERY FUNDS

This document provides eligibility and justification language for Axon products and services under the American Rescue Plan Act of 2021 ("ARPA") based on an interim final rule entitled Coronavirus State and Local Fiscal Recovery Funds, proposed by the US Department of the Treasury ("Treasury") on May 17, 2021.² The 60-day comment period on the interim final rule ends on July 16, 2021.

The interim final rule implements statutory conditions on the eligible uses of the Fiscal Recovery Funds grants, and addresses the payment of those funds, the reporting on uses of funds, and potential consequences of ineligible uses.

/ **STATUTORY AUTHORITY FOR FISCAL RECOVERY FUNDS ("FRF")**

Section 9901 of ARPA amended Title VI of the Social Security Act (the "Act") to add section 602, which establishes the Coronavirus State Fiscal Recovery Fund, and section 603, which establishes the Coronavirus Local Fiscal Recovery Fund (together, the "Fiscal Recovery Funds"). The Fiscal Recovery Funds are intended to provide support to state, local, and tribal governments (together, recipients) in responding to the impact of COVID-19 and in their efforts to contain COVID-19 on their communities, residents, and businesses. The Fiscal Recovery Funds build on and expand the support provided to these governments over the last year, including through the Coronavirus Relief Fund (CRF).

/ **APPLICABLE ELIGIBLE USE OF FUNDS CATEGORY**

ARPA established four eligible use of funds categories. Axon's products and services fall under ARPA's Eligible Use Category 3: provide **government services** to the extent of eligible governments' revenue losses.³

Section 602 and section 603 contain the same eligible uses; the primary difference between the two sections is that section 602 establishes a fund for States, territories, and Tribal governments and section 603 establishes a fund for metropolitan cities (population of 50,000 or greater), non-entitlement units (NEUs) of local government (cities with a population of less than 50,000), and counties.

¹The information provided herein is publicly available, is provided for general informational purposes, and does not, and is not intended to, constitute legal advice. Please contact your attorney to obtain advice with respect to any particular legal matter.

²Coronavirus State and Local Fiscal Recovery Funds. 86 Fed. Reg. 26786 (proposed May 17, 2021) (to be codified at 31 CFR Part 35). See 86 Fed. Reg. 26786.

³American Rescue Plan Act of 2021, §§ 602(c)(1)(C) and 603(c)(1)(C).

⁴Coronavirus State and Local Fiscal Recovery Funds. 86 Fed. Reg. 26786 (proposed May 17, 2021) (to be codified at 31 CFR Part 35). See 86 Fed. Reg. 26787.

/ GOVERNMENT SERVICES AS DEFINED BY ARPA INCLUDES PUBLIC SAFETY

Sections 602(c)(1)(C) and 603(c)(1)(C) of the Act provide recipients with broad latitude to use the Fiscal Recovery Funds for the provision of government services. **Government services** can include, but are not limited to, maintenance or pay-go funded building of infrastructure, including roads; modernization of cybersecurity, including hardware, software, and protection of critical infrastructure; health services; environmental remediation; school or educational services; and **the provision of police, fire, and other public safety services.**⁵

/ NO STATE CONDITIONS ON FRF FUNDS TO LOCAL GOVERNMENTS

The Treasury will disburse Fiscal Recovery Funds directly to counties and metropolitan cities (i.e., cities with a population of 50,000 or greater). Section 603 requires Treasury to allocate and pay Fiscal Recovery Funds to the States and territories and requires the States and territories to distribute Fiscal Recovery Funds to cities with a population less than 50,000 (i.e., Non-Entitlement Units ("NEUs")) based on population within 30 days of receipt unless an extension is granted by the Secretary of the Treasury. Because the statute requires States and territories to make distributions based on population, **states and territories may not place additional conditions or requirements on distributions to NEUs**, beyond those required by ARPA and Treasury's Implementing regulations and guidance.⁶

/ FRF ELIGIBILITY DATE - BEGINNING

The interim final rule permits funds to be used to cover costs incurred beginning on March 3, 2021.⁷

/ FRF ELIGIBILITY DATE - END

Treasury is interpreting the requirement in section 602 and section 603 that costs be incurred by December 31, 2024, to require only that recipients have **obligated** the Fiscal Recovery Funds by such date.⁸

/ DISBURSEMENTS IN TWO TRANCHES TO LOCAL GOVERNMENTS AND CERTAIN STATES

Section 603 of the Act provides that the Treasury will make payments to local governments in two tranches, with the second tranche being paid 12 months after the first payment. In addition, section 602(b)(6)(A) (ii) provides that Treasury may withhold payment of up to 50 percent of the amount allocated to each State and territory for a period of up to 12 months from the date on which the state or territory provides its certification to the Secretary of the Treasury.

The Secretary has determined to provide in this interim final rule for withholding of 50 percent of the amount of Fiscal Recovery Funds allocated to all States (and the District of Columbia) other than those with an unemployment rate that is 2.0 percentage points or more above its pre-pandemic (i.e., February 2020) level. For the list of states, see [Coronavirus State Fiscal Recovery Fund Split Payments to State Governments](#). US Treasury, May 10, 2021.

⁵See id. 86 Fed. Reg. 26801.

⁶See id. 86 Fed. Reg. 26814.

⁷See id. 86 Fed. Reg. 26811.

⁸See id. 86 Fed. Reg. 26811.

⁹See id. 86 Fed. Reg. 26812.





QUESTION AND ANSWER RESPONSES

/ JUNE 15, 2021 AXON FISCAL RECOVERY FUNDS (FRF) WEBINAR

1. Are Fiscal Recovery Funds (FRF) available to tribal governments?

Yes. The Coronavirus State Fiscal Recovery Fund (FRF) reserved \$20 billion of the total appropriation for eligible Tribal governments. ARPA provides that \$1 billion shall be equally allocated to each of the eligible Tribal governments and the remaining \$19 billion shall be allocated in a manner determined by the Secretary of the Treasury.

2. We are a department of a private university. Are Fiscal Recovery Funds only for local, county, or state government agencies?

Fiscal Recovery Funds (FRF) are disbursed to states, counties, and local governments and allocation decisions are made by them. A state, county, or city may transfer a portion of its FRF allocation to a private nonprofit organization, Tribal organization, public benefit corporation involved in the transportation of passengers or cargo, or special-purpose unit of state or local government – such as a school district or hospital authority - if the recipient government so chooses. The recipient entity would need to use the funds consistent with the four eligible use of funds categories in the statute and interim final rule.

Non-profit universities can draw from the Higher Education Emergency Relief Fund III (HEERF). Private universities that are non-profits can use up to 50 percent of their HEERF funds for pandemic response, including public safety.

3. When is the deadline for spending Fiscal Recovery Funds?

The American Rescue Plan Act (ARPA) requires that Fiscal Recovery Fund costs be incurred by December 31, 2024. In its interim final rule, the Department of Treasury interpreted this requirement to mean that recipients must have obligated the funds by this date. See 86 Fed. Reg. 26811.

The interim final rule permits funds to be used to cover costs incurred beginning on March 3, 2021.

4. How are government units quantifying loss of revenue under Eligible Use Category 3 (Government Services)?

The Department of Treasury's interim final rule establishes a four-part calculation that funding recipients (i.e., states, counties, and municipalities) must use to determine a loss of revenue resulting from the pandemic. This calculation is performed by the state or local government's budget official (e.g., a CFO) and applies governmentwide. There is no requirement for individual departments or agencies to repeat this calculation to receive Fiscal Recovery Funds.

5. If you are not a listed metropolitan city, would you then get Fiscal Recovery Funds from the county in which you are located?

Smaller local governments, typically serving a population under 50,000, are classified as non-entitlement units (NEUs) and will receive funds through their applicable state government. States will receive a specific allocation for the purpose of distributing amounts to NEUs based on their population sizes.¹ States may not pay entities that are not included in the list of local governments without prior Treasury approval. State governments have received step-by-step guidance on distribution to NEUs and are expected to disburse payments within 30 days, unless an extension is requested.² NEUs will receive payments in two equal tranches, one year apart. NEUs should contact their state governments for allocation and distribution related questions.³ Each State will issue its own instructions on how NEUs can request funds, but there are steps NEUs can take to prepare for their requests.⁴

6. How can we get the fact sheets and justification and eligibility language documents for the Fiscal Recovery Funds discussed in the last slide of the webinar presentation?

The market-specific fact sheets (e.g., state government) and justification and eligibility language documents for the Fiscal Recovery Funds are available from your Axon representative.

7. If my city has already been awarded Fiscal Recovery Funds, are we (a law enforcement agency) able to access those or do we have to re-apply for this specific purpose?

Fiscal Recovery Funds are disbursed from the Department of Treasury to states, counties, and local governments and allocation decisions are made by them. Recipients are using a variety of executive and legislative approaches to allocate and authorize these funds. We encourage law enforcement agencies to engage in these processes and submit their funding requests for consideration as soon as possible as competition for these funds will be intense and budget and legislative officials will invariably have to prioritize projects for funding.

8. Which documents indicate that Fiscal Recovery Funds can be used for government services?

The Department of Treasury's interim final rule for the Coronavirus State and Local Fiscal Recovery Funds addresses the four eligible use of funds categories. Eligible Use Category 3 – loss of revenue due to the pandemic – and the use of funds for government services can be found at 86 Fed. Reg. 26801.

¹ A list of NEUs and their populations is available here:

https://home.treasury.gov/system/files/136/List_of_Local_Governments.xlsx.

² https://home.treasury.gov/system/files/136/NEU_Guidance.pdf.

³ FAQs specific to NEUs are available here: https://home.treasury.gov/system/files/136/NEU_FAQs.pdf.

⁴ Treasury's checklist for NEUs to request payment from State governments, is available here:

https://home.treasury.gov/system/files/136/NEU_Checklist_to_Requesting_Initial_Payment.pdf.



9. What kinds of expenditures are ineligible for Fiscal Recovery Funds? I have heard cloud storage is not an eligible expense. Smart Weapons? Cameras?

Currently, there are only two prohibited uses of Fiscal Recovery Funds: tax cuts and payment of unfunded government pension liabilities. The definition of government services under Eligible Use Category 3 arguably encompasses virtually any government expenditure from an operating or capital budget that could have been made prior to the pandemic, including cloud storage, smart weapons, and body cameras. The government services definition explicitly calls out police and public safety as qualifying expenditures.

10. Are University Police departments eligible/included in the language for the Fiscal Recovery Funds?

Fiscal Recovery Funds (FRF) are disbursed to states, counties, and local governments and allocation decisions are made by them. A state, county, or city may transfer a portion of its FRF allocation to a private nonprofit organization, Tribal organization, public benefit corporation involved in the transportation of passengers or cargo, or special-purpose unit of state or local government if the recipient government so chooses. The recipient entity would need to use the funds consistent with the four eligible use of funds categories in the statute and interim final rule.

Non-profit universities can draw from the Higher Education Emergency Relief Fund III (HEERF). Private universities that are non-profits can use up to 50 percent of their HEERF funds for pandemic response, including public safety.

11. Do municipalities in Pennsylvania with a population of less than 50,000 apply for Fiscal Recovery Funds through the Pennsylvania Commission on Crime and Delinquency (PCCD)?

For independent cities with a population less than 50,000, Fiscal Recovery Funds (FRF) are disbursed to the state and then state budget officials allocate funds directly to qualifying local governments. There is no need to apply for funds.

If your municipality is not an independent city (i.e., it does not have its own municipal charter) you may have to apply to your county for funds. We encourage your municipality to engage in your county's allocation process and submit its funding request for consideration as soon as possible as competition for these funds will be intense and county budget officials will invariably have to prioritize projects for funding.

12. Are there grants in the American Rescue Plan Act (ARPA) for integration of law enforcement and fire CAD systems?

Only the Fiscal Recover Funds (FRFs) can directly fund CAD systems. While ARPA also set aside an additional \$300 million for the Assistance to Firefighters and the SAFER Grant Programs, CAD systems are currently not eligible activities under these programs. Though unlikely, it is unclear whether FEMA will expand the eligible uses of these funds to include such equipment.



- 13. I've heard many different things regarding use of Fiscal Recovery Fund monies. One thing I've heard is that monies can be used for "premium pay" for essential workers. Does this mean we can use it to give our officers raises?**

Eligible Use of Funds Category Two – Premium Pay for Essential Workers – is intended to provide a mechanism for compensating both public and private sector essential workers who may not have received compensation for the heightened risks they have faced and continue to face responding to the pandemic. Employers are both permitted and encouraged to use Fiscal Recovery Funds to offer retrospective premium pay, recognizing that many essential workers have not yet received additional compensation for work performed. Staff working for third-party contractors in eligible sectors are also eligible for premium pay.

Fiscal Recovery Funds are not intended to fund permanent raises for public sector workers.

- 14. Where can we find the Interim final rule for the Coronavirus State and Local Fiscal Recovery Funds published by the US Department of Treasury on May 17, 2021?**

The Interim Final Rule may be found at this URL:

<https://www.govinfo.gov/content/pkg/FR-2021-05-17/pdf/2021-10283.pdf>

- 15. Can a state law enforcement agency apply directly for funding from the State Fiscal Recovery Fund and bypass the Governor's office?**

No. Application with the Department of Treasury requires submission of a Financial Assistance Agreement by an Authorized Representative of the State, most likely a CFO or budget officer. We encourage your agency to engage in your state's allocation process and submit its funding request for consideration as soon as possible as competition for these funds will be intense and state budget officials will invariably have to prioritize projects for funding.

- 16. Are radio system upgrades an eligible use of Fiscal Recovery Funds (FRF)?**

Yes. A radio system upgrade for a law enforcement agency would fit the definition of "government services" under Eligible Use of Funds Category Three - Loss of Revenue Due to the Pandemic.

- 17. Can you supply the link to the US Department of Treasury website for the Fiscal Recovery Fund application portal?**

The Fiscal Recovery Fund application portal may be found here:
Request Funding | U.S. Department of the Treasury

Application with the Department of Treasury requires submission of a Financial Assistance Agreement by an Authorized Representative of a state, county, or local government, most likely a CFO or budget officer.



18. Outside of the Higher Education Emergency Relief Fund (HEERF) is there funding in the American Rescue Plan Act (ARPA) accessible to Higher Education public safety?

No. It's also important to note that Higher Education public safety can only access HEERF funds from ARPA at non-profit institutions. For-profit schools are obligated to use 100% of their HEERF funds toward students (e.g., tuition, housing, etc.).

19. I'm In New York State in a town with 100,000 residents, do I apply for Fiscal Recovery Fund monies through the county in which my town is located?

While non-entitlement units (NEUs) are typically smaller localities serving populations under 50,000, there are 5 towns in New York with over 100,000 residents and 2 towns with close to 100,000 residents that are listed as NEUs.⁵ As NEUs, these towns will receive funds through their applicable state government (see Q5 above). If the town in question is not one of those included in the NEUs list, and it does not appear on the list of metropolitan cities⁶ that will receive funding directly from Treasury, they should contact their State government, not their respective county.

20. Can you supply a link to a list of approved vendors and items that are eligible for purchase with Fiscal Recovery Fund monies?

There is no official list of approved vendors for Fiscal Recovery Funds (FRF); however, recipients must follow federal grant regulations (2 CFR Subparts B through F) when contracting for products or services.

Similarly, there is no approved list of items eligible for purchase with Fiscal Recovery Funds. The broadest use of funds category is Eligible Use Category 3 — loss of revenue due to the pandemic. The definition of "government services" under Category 3 arguably encompasses virtually any government expenditure from an operating or capital budget that could have been made prior to the pandemic. The government services definition explicitly calls out police and public safety as qualifying expenditures.

⁵ A list of NEUs and their populations is available here:

https://home.treasury.gov/system/files/136/List_of_Local_Governments.xlsx

⁶ <https://home.treasury.gov/system/files/136/fiscalrecoveryfunds-metrecities/unwiling1508A.pdf>





ARP CUSTOMER SUPPORT PROGRAM

COUNTY FACT SHEET

/ THE AMERICAN RESCUE PLAN ACT (ARP)

President Biden signed the American Rescue Plan (ARP) into law on March 11, 2021. The \$1.9 trillion spending package is designed to accelerate the post-COVID-19 economic recovery.

ARP allocates \$65.1 billion to counties based on population size as part of the Coronavirus Local Fiscal Recovery Fund. Money will be sent directly from the Department of Treasury to the counties.

/ USE OF ARP FUNDS FOR AXON PRODUCTS AND SERVICES

Axon products and services — such as Digital Evidence Management Systems (DEMS), body cameras, and TASERS — can be purchased with ARP state and local fiscal recovery funds.

- White House guidance on the use of stimulus funds explicitly allows for public safety purchases.
- In addition, the statute allows ARP monies to replace lost, delayed, or decreased revenue, relative to projections that would have been used for planned expenditures during the pandemic, such as Axon programs or other public safety programs.

Axon will be providing our customers timely information on ARP funds and programs and further documentation on public safety spending justification.

/ WHEN COUNTIES RECEIVE ARP FUNDS

Funding will be distributed by Treasury to counties in two tranches—one within 60 days of enactment (i.e., by May 10, 2021), and the second one year after the disbursement of the first tranche.

The Department of Treasury will issue final guidance and regulations on ARP to address questions related to funding allocations, eligible uses of payments, and statutory ambiguity. ARP funds will be available until December 31, 2024.

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Rose Farm Conservation Deed Easement

**TOWN OF EXETER
PLANNING DEPARTMENT MEMORANDUM**

Date: August 24, 2022
To: Russ Dean, Town Manager and Exeter Select Board
From: Kristen Murphy, Conservation and Sustainability Planner
Subject: Rose Farm Conservation Deed

Attached please find a copy of a conservation deed for 6.31 acres of conservation land for Select Board consideration. This land was offered in association with the Exeter Rose Farm LLC Open Space Development, off Oak Street Extension (Planning Board Case 21-603).

The deed has been reviewed by the Conservation Commission at their August 9th monthly meeting at which time they voted unanimously to recommend acceptance of this parcel to the Select Board, subject to legal counsel review. The Town's legal counsel Laura Spector Morgan has reviewed and approved the language in the deed before you.

Suggested Motion:

Motion to accept the conservation deed as presented and appoint the Chair to sign on behalf of the Board.

Return to:

WARRANTY DEED

KNOW ALL BY THESE PRESENTS, that, **EXETER ROSE FARM, LLC**, a New Hampshire limited liability company of 953 Islington Street, Unit 23D, Portsmouth, New Hampshire 03801 (the "Grantor"), for consideration paid, hereby grants to **TOWN OF EXETER**, a municipal corporation with a principal address at 10 Front Street, Exeter, New Hampshire 03833, acting through its **Conservation Commission** and with the agreement of the Select Board pursuant to NH RSA 36-A:4 (the "Grantee"), with **WARRANTY COVENANTS**, the following described premises:

A certain tract or parcel of land (hereinafter referred to as the "Property"), being a certain 6.31± acre undeveloped parcel of land, more particularly bounded and described in Exhibit A attached hereto and made a part hereof.

The Property is hereby conveyed pursuant to NH RSA 477:45-47, exclusively for the following conservation purposes:

I. The preservation and conservation of open spaces, particularly the conservation of the acres of productive farm and/or forest land of which the Property consists, and of the wildlife habitat on the property, and the scenic enjoyment of the general public. These purposes are consistent with the clearly delineated open space conservation goals and/or objectives of the master plan of the Town of Exeter.

II. With New Hampshire RSA Chapter 79-A:1, which states in pertinent part:
"It is hereby declared to be in the public interest to encourage the preservation of open space, thus providing a healthful and attractive outdoor environment for work and recreation of the state's citizens, maintaining the character of the state's landscape, and conserving the land, water, forest, agricultural and wildlife resources."

III. The preservation of the land for outdoor recreation by and/or the education of the general public, through the auspices of the Grantee.

All of these purposes are consistent and in accordance with the US Internal Revenue Code, Section 170(h).

The Property is hereby conveyed SUBJECT TO the following in furtherance of said purposes:

I. USE LIMITATIONS

- A. The Property shall be maintained in perpetuity as open space without there being conducted thereon any industrial or commercial activities, except agriculture and forestry, and provided that these activities do not degrade the conservation purposes of this deed.
 - i. For the purposes hereof, "agriculture" and "forestry" shall include animal husbandry, floricultural, and horticultural activities; the production of plant and animal products for domestic or commercial purposes; the growing, stocking, cutting and sale of Christmas trees or forest trees of any size capable of producing timber or other forest products; and the processing and sale of products produced on the Property (such as pick- your-own fruits and vegetables and maple syrup).
 - ii. Agriculture and forestry on the Property shall be performed in accordance with a coordinated management plan for the sites and soils of the Property. Forestry and agricultural management activities shall be in accordance with the then current scientifically based practices recommended by the University of New Hampshire Cooperative Extension, U.S. D.A. Natural Resources Conservation Service, or other government or private, nonprofit natural resource conservation and management agencies then active.
- B. The Property shall not be subdivided.
- C. No structure or improvement including, but not limited to, a dwelling, any portion of a septic system, telecommunications and/or wireless communication facility, tower, tennis court, swimming pool, or mobile home, shall be constructed, placed, or introduced onto the Property. However, ancillary structures and improvements including, but not limited to, a road, trail, dam, fence, bridge, culvert, or shed may be constructed, placed, or introduced onto the Property only as necessary in the accomplishment of agricultural, forestry, conservation, or non-commercial outdoor recreational uses of the Property and provided that they are not detrimental to scenic and wildlife habitat protection purposes of these restrictions.

- D. No removal, filling, or other disturbances of soil surface, nor any changes in topography, surface or subsurface water systems, wetlands, or natural habitat shall be allowed unless such activities:
- i. are commonly necessary in the accomplishment of agricultural management, conservation, habitat management, forest management, or non-commercial outdoor recreational or educational uses of the Property; and
 - ii. do not harm state or federally recognized rare, threatened, or endangered species, such determination of harm to be based upon information from the New Hampshire Natural Heritage Inventory or agency recognized by the State of New Hampshire as having responsibility for identification and/or conservation of such species; and
 - iii. are not detrimental to scenic and wildlife habitat protection purposes of these restrictions; and
 - iv. prior to commencement of any such act, all necessary federal, state, and local permits and approvals shall be secured.
- E. No outdoor advertising structures such as signs and billboards shall be displayed on the Property except as desirable or necessary in the accomplishment of conservation, forestry, or non-commercial outdoor recreation or education uses of the Property, and provided such signs are not detrimental to the purposes of these restrictions.
- F. There shall be no mining, quarrying, excavation, or removal of rocks, minerals, gravel, sand, topsoil, or other similar materials on the Property, except in connection with any improvements made pursuant to the provisions of Sections 1.A, 1.C, 1.D or 1.E above. No such rock, minerals, gravel, sand, topsoil, or similar materials shall be removed from the Property.
- G. There shall be no dumping, injection, burning, or burial of man-made materials or materials then known to be environmentally hazardous including vehicle bodies or parts. No materials from off-site shall be brought onto the Property except for those materials commonly necessary in the accomplishment of agricultural management, conservation, habitat management, forest management, or non-commercial outdoor recreational or educational uses of the Property.
- H. There shall be a prohibition against the use of motorized pleasure vehicles. An exception will be made for vehicles necessary for the accomplishment of maintenance, agriculture or forestry.

I. There shall be no hunting permitted on the Property.

2. **BENEFITS AND BURDENS**

A. The burden of the restrictions created herein shall run with the Property and shall be enforceable by the Grantee against all future owners and tenants in perpetuity; the benefits of these restrictions shall not be appurtenant to any particular parcel of land but shall be in gross and assignable or transferable only to the State of New Hampshire, the United States Government, or any subdivision of either of them, consistent with Section 170(c)(1) of the US Internal Revenue Code of 1986, as amended, or to any qualified organization within meaning of Section 170(h)(3) of said Code, which organization has among its purposes the conservation and preservation of land and water areas and agrees to and is capable of enforcing the conservation purposes of these restrictions. Any such assignee or transferee shall have like power of assignment or transfer.

B. The Grantee shall have the right to install and maintain signs that identify and further the conservation or preservation purposes of the Property, or for identification of conservation partners, or to denote wayfaring and/or access within or to the Property, provided the purposes of these restrictions are not impaired.

C. The Grantor is responsible for construction of the trail connection to the existing trail network, including but not limited to, crossings along the connection and installation of a trailhead sign at the trail entrance.

D. The Grantor shall install conservation boundary markers along the conservation boundary adjacent to house lots.

3. **BREACH OF RESTRICTIONS**

A. The Grantee shall have the right to pursue all legal remedies against any third party responsible for any actions detrimental to the conservation purposes of these restrictions.

4. **SEVERABILITY**

If any provision of these restrictions, or the application thereof to any person or circumstance, is found to be invalid by a court of competent jurisdiction, by confirmation of an arbitration award or otherwise, the remainder of the provisions of these restrictions or the application of such provision to persons or circumstances other than those to which it is found to be invalid, as the case may be, shall not be affected thereby.

5. ACCEPTANCE

The Grantee, by accepting and recording this deed, agrees to be bound by and to observe and enforce the provisions hereof and assumes the rights and responsibilities herein granted to and incumbent upon the Grantee, all in the furtherance of the conservation purposes for which these restrictions are delivered.

6. ENFORCEABILITY AND AMENDMENT OF RESTRICTIONS

The covenants and restrictions set forth herein represent enforceable conditions established by the Department of Environmental Services in Alteration of Terrain Permit #AoT-2188. Failure by the State of New Hampshire to enforce any covenants or restrictions herein contained shall in no event be deemed a waiver of the right to do so thereafter. These covenants and restrictions may be amended or modified only upon the prior application to and approval by the New Hampshire Department of Environmental Services.

In accordance with New Hampshire RSA 78-B:2,I, this deed is recorded without the payment of New Hampshire transfer tax.

Meaning and intending to convey a portion of the premises conveyed to the Grantor by deed of Frank Dagostino, Benjamin Dagostino, Anthony H. Dagostino and Mary Frances Dagostino recorded in the Rockingham County Registry of Deeds August 1, 2017 at Book 5840, Page 2104.

Signed this _____ day of _____, 2022.

EXETER ROSE FARM, LLC

By: _____
Name:
Title:

STATE OF _____
COUNTY OF _____

On this, the _____ day of _____, 2022, before me, the undersigned Officer, personally appeared _____, _____ of Exeter Rose Farm, LLC, known to me, or satisfactorily proven, to be the persons whose names are subscribed to the foregoing instrument, and acknowledged that they executed the same for the purposes set forth therein.

Justice of the Peace/Notary Public
My commission expires: _____

ACCEPTANCE BY GRANTEE:

The undersigned Grantee hereby acknowledges and accepts this deed, including all conditions, covenants and restrictions contained herein.

TOWN OF EXETER SELECT BOARD

By: _____
Name:
Title:

STATE OF _____
COUNTY OF _____

On this, the _____ day of _____, 2022, before me, the undersigned Officer, personally appeared _____, _____ of the Town of Exeter, known to me, or satisfactorily proven, to be the persons whose names are subscribed to the foregoing instrument, and acknowledged that they executed the same for the purposes set forth therein.

Justice of the Peace/Notary Public
My commission expires: _____

**TOWN OF EXETER CONSERVATION
COMMISSION**

By: _____
Name:
Title:

STATE OF _____
COUNTY OF _____

On this, the _____ day of _____, 2022, before me, the undersigned Officer, personally appeared _____, _____ of the Town of Exeter, known to me, or satisfactorily proven, to be the persons whose names are subscribed to the foregoing instrument, and acknowledged that they executed the same for the purposes set forth therein.

Justice of the Peace/Notary Public
My commission expires: _____

EXHIBIT A

Legal Description

Being a 275,044 square foot (6.3141 acres) parcel of land located on the northwesterly side of "Proposed Wadleigh Street", northwesterly of Oak Street Extension in the Town of Exeter, County of Rockingham, State of New Hampshire. Said parcel being shown as "Recreation Area 1: Conservation Land" on a plan entitled "Tax Map 54 Lots 5, 6 & 7 & Tax Map 63 Lot 205, Open Space Subdivision Plan, Exeter Rose Farm, Forest Street & Oak Street, Exeter, New Hampshire, County of Rockingham, Owned by Exeter Rose Farm, LLC, Prepared for Rose Farm, LLC" prepared by TFMoran, Inc., dated August 15, 2017, last revised 7/12/22 and recorded at the Rockingham County Registry of Deeds as Plan # _____. Said parcel being bounded northeasterly by "Common Open Space" and lots "26" & "27" as shown on said plan, easterly by "Proposed Wadleigh Street" as shown on said plan, southeasterly by lot "28", "Common Open Space" and lot "35" as shown on said plan, southwesterly by land now or formerly of Norris Brook Condominium recorded in Deed Book 2561 Page 2642, westerly by land now or formerly of Sig Sauer, Inc. recorded in Deed Book 2817 Page 686, northwesterly by land now or formerly of East Coast Ventures, Inc. recorded in Deed Book 5613 Page 2678, northerly by land now or formerly of the Town of Exeter Henderson-Swasey Forest (Town Forest) recorded in Deed Book 2056 Page 64 and is more particularly described as follows:

BEGINNING at a monument to be set in the northwesterly sideline of "Proposed Wadleigh Street" at the northwesterly corner of said lot "28", said monument to be set being located N 77°29'26" W a distance of 106.37 feet from a monument to be set at the northeasterly corner of said lot "28"; thence along said lot "28" the following two courses:

S 34°28'49" W a distance of 195.20 feet to a monument to be set; thence

S 55°31'11" E a distance of 56.31 feet to a monument to be set; thence along said "Common Open Space":

S 34°28'49" W a distance of 62.22 feet to a monument to be set; thence along said lot "35":

S 34°28'49" W a distance of 50.00 feet to a monument to be set; thence along said land of Norris Brook Condominium the following five courses:

N 45°31'04" W a distance of 57.18 feet to a monument to be set; thence

N 40°45'26" W a distance of 182.09 feet to a monument to be set; thence

N 32°24'56" W a distance of 143.84 feet to a monument to be set; thence

N 35°42'36" W a distance of 139.92 feet to a monument to be set; thence

N 36°17'46" W a distance of 352.02 feet to a t-bar at said land of Sig Sauer, Inc. and East Coast Ventures Inc.; thence along said land of the Town Forest the following eight courses:

N 74°00'38" E a distance of 209.58 feet to a drill hole at the end of a stone wall; thence

N 67°48'20" E a distance of 135.74 feet to a monument to be set; thence

S 66°08'58" E a distance of 60.30 feet to a monument to be set; thence

S 68°47'10" E a distance of 94.24 feet to a drill hole in a stone wall; thence

S 78°30'38" E a distance of 68.91 feet to a drill hole in said stone wall; thence along said stone wall

S 69°27'33" E a distance of 53.03 feet to a drill hole; thence

S 62°38'31" E a distance of 33.60 feet to a drill hole; thence

S 72°25'27" E a distance of 76.88 feet to a drill hole, said drill hole being located N 59°00'19" W a distance of 26.77 feet from a drillhole and the end of said stone wall; thence along said "Common Open Space":

S 24°17'07" W a distance of 50.34 feet to a monument to be set; thence along said lot "26":

S 30°54'01" W a distance of 71.94 feet to a monument to be set; thence along said lot "27" the following two courses:

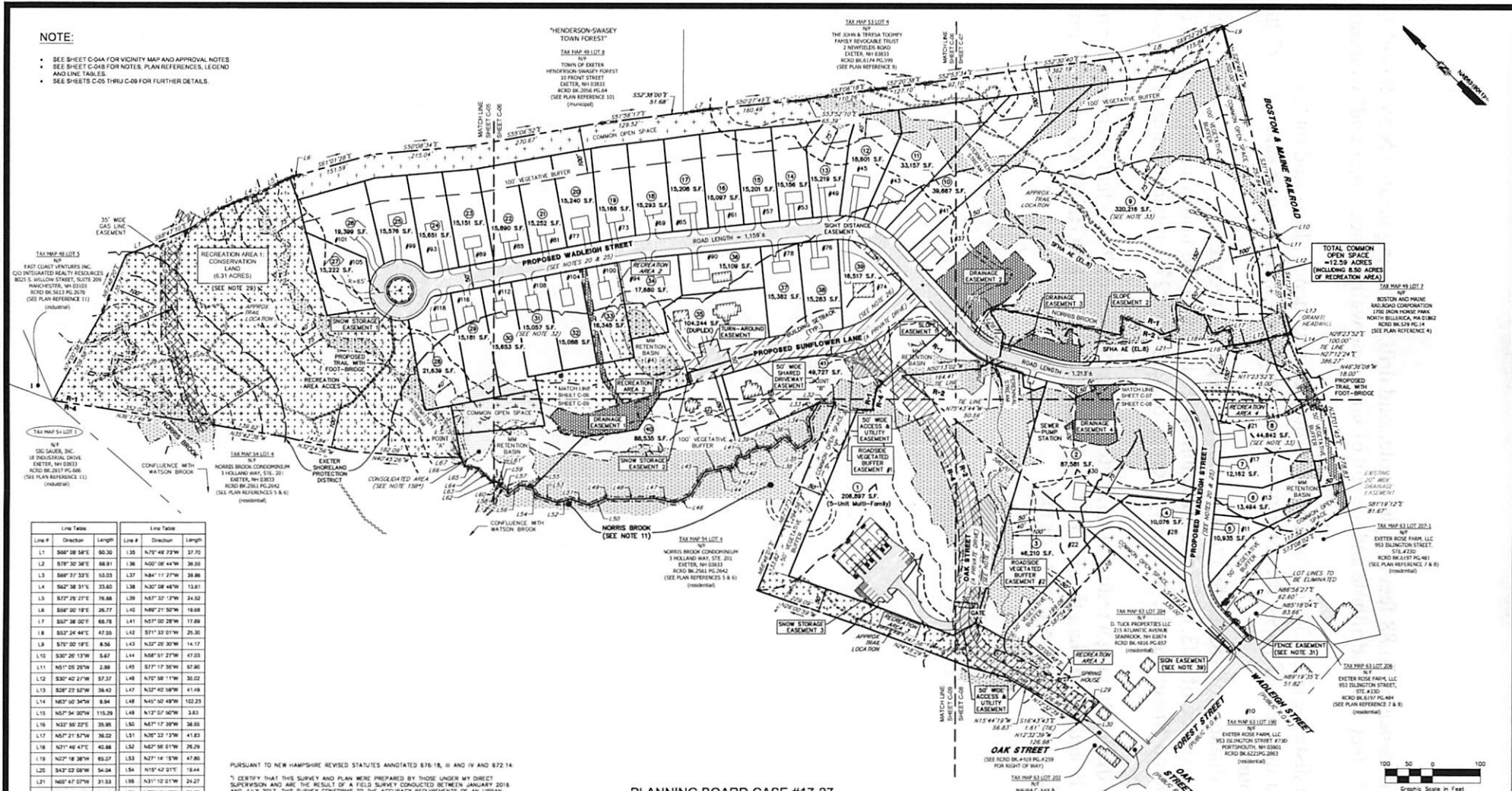
S 30°54'01" W a distance of 182.12 feet to a monument to be set; thence

S 53°59'14" E a distance of 103.11 feet to a monument to be set in the northwesterly sideline of "Proposed Wadleigh Street" at the southerly corner of said lot "27"; thence along "Proposed Wadleigh Street":

Along a curve to the left having a radius of 65.00 feet, an arc length of 78.33 feet, a chord bearing of S 25°31'02" E and chord length of 73.67 feet to the point of **BEGINNING**....containing 275,044 square feet (6.3141 acres), more or less.

NOTE:

- SEE SHEET C-04A FOR VICINITY MAP AND APPROVAL NOTES
- SEE SHEET C-04B FOR NOTES, PLAN REFERENCES, LL CODE AND LINE TABLES.
- SEE SHEETS C-05 THRU C-09 FOR FURTHER DETAILS.



Line #	Direction	Length	Line #	Direction	Length
L1	S68°08'58"E	50.20	L25	N70°48'23"W	37.75
L2	S78°30'38"E	68.81	L26	N60°08'44"W	38.50
L3	S68°37'33"E	53.23	L27	N84°11'27"W	38.84
L4	S62°38'31"E	33.63	L28	N30°58'48"W	13.81
L5	S77°25'27"E	78.88	L29	N87°33'12"W	24.52
L6	S68°00'19"E	26.77	L30	N80°21'50"W	19.68
L7	S52°28'02"E	68.78	L31	N87°50'28"W	17.89
L8	S52°24'44"E	47.30	L32	S31°33'01"W	26.35
L9	S70°00'19"E	8.56	L33	N32°25'30"W	14.17
L10	S30°26'13"W	5.87	L34	N58°51'27"W	47.23
L11	N51°09'25"W	2.88	L35	S77°17'38"W	57.80
L12	S30°42'21"W	57.37	L36	N70°58'11"W	35.22
L13	S28°23'52"W	28.43	L37	N32°42'58"W	41.48
L14	N67°50'34"W	8.84	L38	N45°50'49"W	102.23
L15	N57°54'20"W	115.29	L39	N15°22'30"W	2.82
L16	N30°58'29"E	35.96	L40	N43°17'39"W	38.26
L17	N67°21'57"W	38.23	L41	N30°32'13"W	41.83
L18	N21°46'47"E	65.88	L42	N67°46'01"W	26.29
L19	N23°16'38"W	65.27	L43	N27°14'15"W	47.80
L20	S43°22'08"W	54.04	L44	N15°42'21"E	18.44
L21	N68°47'07"W	91.93	L45	N31°10'21"W	24.27
L22	N21°01'11"W	35.42	L46	N78°18'18"W	33.52
L23	S50°20'21"W	29.25	L47	N20°54'07"E	7.83
L24	N42°42'01"W	205.61	L48	N09°29'23"W	11.35
L25	N71°43'28"W	17.57	L49	N67°02'35"W	2.18
L26	S1°32'04"W	52.88	L50	N22°57'25"E	4.78
L27	S52°48'44"W	48.83	L51	N08°05'51"E	8.96
L28	S80°50'58"W	64.84	L52	N30°08'08"W	16.48
L29	S88°41'08"W	28.00	L53	N03°42'52"E	22.80
L30	S78°08'33"W	18.95	L54	N13°28'18"W	26.81
L31	N20°30'19"W	80.87	L55	N41°27'28"W	20.33
L32	N43°52'08"W	32.82	L56	N22°44'22"E	20.35
L33	S74°57'47"W	40.90	L57	N42°21'04"W	37.18
L34	S38°28'51"W	41.14			

PURSUANT TO NEW HAMPSHIRE REVISED STATUTES ANNOTATED 876:18, II AND IV AND 872:14 I CERTIFY THAT THIS SURVEY AND PLAN WERE PREPARED BY THESE UNDER MY DIRECT SUPERVISION AND ARE THE RESULT OF A FIELD SURVEY CONDUCTED BETWEEN JANUARY 2016 AND JULY 2017. THIS SURVEY CONFORMS TO THE ACCURACY REQUIREMENTS OF AN URBAN SURVEY OF THE NEW HAMPSHIRE CODE OF ADMINISTRATIVE RULES OF THE BOARD OF LICENSURE FOR LAND SURVEYORS. I FURTHER CERTIFY THAT THIS SURVEY IS CORRECT TO THE BEST OF MY PROFESSIONAL KNOWLEDGE, AND THE FIELD TRAVERSE SURVEY EXCEEDS A PRECISION OF 1:15,000.

A COPY OF THIS PLAN HAS BEEN FILED WITH THE LOCAL PLANNING BOARD.

LICENSED LAND SURVEYOR DATE

PLANNING BOARD CASE #17-27

TOWN OF EXETER PLANNING BOARD

NO.	DATE	DESCRIPTION	BY	FOR
1	7/12/22	REVISED PER CONDITIONS OF APPROVAL	DMK	JCC
2	12/15/19	APPROVED BY EXETER PLANNING BOARD	DMK	JCC

Seacoast Division
TFM
 Civil Engineers
 Structural Engineers
 Traffic Engineers
 Land Surveyors
 Landscape Architects
 Scientists

170 Commerce Way, Suite 102
 Portsmouth, NH 03801
 Phone: (603) 431-2222
 Fax: (603) 431-0919
 www.tfmgroup.com

47175.00
 5.31 & 5.39
 47175.00 OPS
 C-04C

TAX MAP 54 LOTS 5, 6 & 7 & TAX MAP 63 LOT 205
OVERALL OPEN SPACE SUBDIVISION PLAN
EXETER ROSE FARM
FOREST STREET & OAK STREET
EXETER, NEW HAMPSHIRE, COUNTY OF ROCKINGHAM
 OWNED BY
EXETER ROSE FARM, LLC
 PREPARED FOR
EXETER ROSE FARM, LLC
 SCALE: 1"=100'
AUGUST 15, 2017

JUL 25, 2022 - 1:22pm
 F:\GIS\Projects\1715 - Oak Street Extension - Exeter\1715_02 - Urban\Projects\Drawings\OPEN SPACE\1715_02_C04 - Open Space Subdivision.dwg

Acceptance of Invest NH Funding



TOWN OF EXETER

Planning and Building Department

10 FRONT STREET • EXETER, NH • 03833-3792 • (603) 778-0591 • FAX 772-4709

www.exeternh.gov

Date: September 1, 2022
To: Russell Dean, Town Manager
From: Dave Sharples, Town Planner
Re: InvestNH Municipal Planning & Zoning Grant Program

I am writing this memorandum to inform you that I have heard from Plan NH that they will be sending an award letter for an InvestNH Municipal Planning and Zoning Grant of \$45,000. I do not have the award letter as of the writing of this memorandum but I have included an email I received from them. That said, I would like this memo to go into the Select Board packet for the meeting Tuesday. I spoke with Plan NH and they told me that they should be able to get the letter out before the meeting Tuesday night.

As you are aware, I have been exploring a town wide rezoning effort with the support of the Planning Board, Housing Advisory Committee, and Master Plan Oversight Committee. When planning a community, there are many limiting factors to growth that include water capacity, sewer capacity, natural resource capacity, school capacity, government services capacity, and transportation network capacity. The general philosophy behind the rezoning is to promote growth and development that provides a fiscal benefit over the more traditional development pattern while not overburdening the town's capacities. Ideally, growth should occur where infrastructure already exists to support it, where the impacts to natural resources are minimized, avoided or even enhanced, and where the development provides a fiscal benefit to our residents and businesses.

I started with this project myself but with the help of a consultant I will be able to move the project along in a timelier manner. I became aware of the InvestNH grant and submitted for funding and they will fund the project. There is no match required by the Town. I have enclosed the grant application that colors in more detail about this project and its desired outcomes. I have also provided a motion below in the event the Select Board is willing to accept the funding. I have a conflict and will be unable to attend the meeting Tuesday night. However, I would like to get started on this project so if you can present this for me it would be greatly appreciated.

Proposed Motion: I move that the Select Board accepts the InvestNH Municipal Planning & Zoning Grant of \$45,000 and to further authorize the Town Manager, or his designee, to execute any documents and take any and all actions necessary to complete the project within the available funding.

Thank You.



TOWN OF EXETER, NEW HAMPSHIRE

10 FRONT STREET • EXETER, NH • 03833-3792 • (603) 778-0591 • FAX 772-4709

www.exeternh.gov

August 10, 2022

InvestNH Municipal Planning & Zoning Grant Program

Exeter NH is a vibrant community with engaged and active residents. Exeter, through the Housing Advisory Committee, is seeking to increase its diversity of housing stock by removing barriers to allow for higher density housing development and limiting sprawl.

Name of municipality and address of town hall:

Town of Exeter, NH. 10 Front St. Exeter NH 03833

Project contact:

Dave Sharples, Town Planner, 603-773-6114, dsharples@exeternh.gov

Date of most recent Master Plan and sections(s) of the Master Plan that support this project:

February 2018

Exeter took a unique approach to the 2018 Master Plan. The plan holistically covers a host of topics and lays out a Vision for Exeter followed by an Action Agenda with specific tasks within six categories: Support, Steward, Grow, Connect, Prepare, and Communicate. While all these sections touch upon housing development in one way or another, the most relevant sections to this proposal are Our Vision for Exeter, Grow and Communicate. I highlight the specific statements in the Master Plan later in the application.

Phases of regulatory change being applied for:

The goal of the project is Regulatory Development but some Regulatory Audit will be needed to ensure that any existing provisions do not conflict with the proposed language and, if they do, the existing language can be revised to resolve the conflict. **We are requesting \$45,000.**

Unique Entity Identifier: X2M6NS6QR567

Dated signature of municipality's chief executive officer:

Melissa Ray, assistant
Town Manager

Russell Dean, Town Manager

Date: 8/10/2022

Application Narrative

Housing Challenge and Project Goals (maximum 750 words):

Like most communities in the Seacoast region, Exeter is experiencing an increase in monthly rents and cost to purchase a home. This is a concerning trend. Although we believe Exeter has its fair share of housing and meets its obligations under the workforce housing statute, Exeter is committed to doing what it can to maintain a diverse housing stock with options for all folks looking to rent or own in Exeter. Unlike some of our neighboring communities, Exeter has capacity to absorb additional residents without triggering significant upgrades to our municipal infrastructure or school system. We recently constructed a new \$55 million-dollar waste water treatment plant and are exploring additional groundwater resources to add to our capacity for drinking water. Although we are not without our challenges, we are able to provide additional housing stock in certain areas without exceeding our existing capacity.

While Exeter has encouraged the construction of denser housing, we do not control rental/sales prices or the cost of land, which continue to rise. One goal is to audit our land use regulations and identify the barriers to the development of denser housing. The challenge we face is to adopt land use regulations that incentivize the creation of denser and more affordable housing while, at the same time, discouraging less dense housing that only serves to exacerbate sprawl and does little to address the town's acute housing needs.

Another goal of this project is to educate the public about land use decisions and how these decisions affect the community. We will educate the community on the importance and value of denser housing options. The ultimate goal of the project is to create and adopt land use regulations that support and achieve these goals. While our current regulations (outside of the MUND mentioned later) are ahead of the curve in many aspects, they still do not do enough to address Exeter's housing needs.

Outcomes and Deliverables (maximum 500 words):

The outcome of this grant will be to put forward a comprehensive, town-wide zoning change to the voters in March 2023. This initiative will incentivize residential density in areas where infrastructure (utilities, drainage, sidewalks, etc.) exists and require a certain percentage of units to be affordable or have a maximum size that will keep rental and sale costs down.

Specifically, we envision an ordinance that removes barriers that result in raising the cost to buyers and renters. For example, Exeter recently adopted the Mixed-Use Neighborhood Development (MUND) district in our downtown and Lincoln St area. The MUND removed density (units/per acre and minimum lot size) as a limiting factor, significantly reduced parking requirements and increased the allowable height and number of stories. Density, parking and height are three main barriers to denser housing developments. Moreover, we wrote the MUND ordinance so the Planning Board can waive up to 100% of the parking requirements so there is

no need for any applicant to go to the Zoning Board for a variance from parking requirements. The town envisions utilizing this same practice in other areas of Exeter that are served by municipal water and sewer. The MUND was funded by a Municipal Technical Assistance Grant (MTAG) through Plan NH and received the 2020 NHPA Project of the Year Award.

The entire premise behind this project is to make good land use decisions that result in fiscal and environmental benefits for the town. Exeter has lower density housing on large lots on the outskirts of town but also has denser development in and around the downtown area. This project will increase our housing stock while discouraging any further extensions of the town's infrastructure. In other words, avoid building new roads, drainage, sewer lines, water lines, pump stations, etc. to support new development. We want to absorb new housing stock in areas already served by municipal infrastructure by increasing the density in these areas. This type of development will help reduce property taxes for all property owners by providing more payers to support the same infrastructure. It will also be a more sustainable way to grow by reducing greenfield development, minimizing stormwater runoff, and avoiding the sprawling pattern of growth that has become all too common in the region.

The first measure of success will be the voters adopting the proposed zoning changes. However, to get the voters to approve the proposal, we need to have a successful outreach and engagement effort to educate the voting public of the benefits of what we are trying to accomplish and the expected outcomes. Once adopted, we will measure success in the number of projects that utilize the new zoning incentives to build denser housing and mixed-use developments. The second measure will take time to evaluate as new developments and redevelopment do not happen quickly. That said, we do have several property owners interested in this zoning change and could likely see a couple of projects in the first few years after adoption.

Scope of Work and Budget:

The Exeter Zoning Reform Project is comprehensive in nature and will require a methodical process to ensure the residents, property owners, and officials in Exeter fully understand the scope of proposed changes. The Scope of Work and Budget provided below provides the framework for both public engagement and technical services related to zoning in a way that will allow the community and the consultant to move through the material in an iterative fashion. Based on past experience and a continued relationship, the Town intends to retain the Horsley Witten Group, Inc. (HW) to lead this effort. HW was the consultant that led both the development of Exeter's current Master Plan and the previously mentioned MUND zoning reform.

Task 1. Meetings and Engagement

The Town's general approach to community engagement is described below (Community Engagement Plan) along with many of the specific tools and techniques employed by the Town in past successful projects. While the content of engagement can be altered to meet the needs of the community at a given point in time, deliverables will likely include:

- Custom project website
- Educational fliers and posters
- Listening sessions
- On-line surveys or similar feedback mechanisms
- Two public forums
- Press releases
- Presentations to the Planning Board, Master Plan Oversight Committee, Select Board, and the Housing Advisory Committee
- Work sessions with the Planning Board

The project website will be developed at the outset of the project and regularly updated over the course of the project. Other engagement deliverables will occur over the course of the project with the tasks listed below.

Task 1 Budget: \$5,000

Task 2. Map Audit and Zoning Map Development

The Town Planner will provide a draft of the potential zoning districts as they may be consolidated or otherwise changed (in name and/or location). The consultant will use GIS software to quantify the relationship between newly proposed districts and those that exist today to provide the Town with perspective on the extent of change. The consultant will also identify important areas of change and rationale behind the proposed change. For example:

- Areas with no water or sewer service may be shifted to districts with lower development potential.
- Areas with unique, well-established uses may be placed in new zoning districts (e.g., Philips Exeter Academy, mobile home parks, etc).
- Zoning districts may be altered to better reflect property boundaries or important natural features (e.g., large wetland complexes).

Understanding the spatial extent of change and the rationale behind the changes will provide a strong platform for educating stakeholders about the value of proposed amendments to the districts.

The consultant will continue to adjust and amend the proposed Zoning Map as needed over the course of the project. The final product will be a revised Official Zoning Map.

Task 2 Budget: \$5,000

Task 3. Framing the Ordinance and Addressing Policy Issues

The consultant will use the results of the Map Audit as a starting point for a more in-depth review of the proposed Zoning Ordinance changes and what will be required to make the proposed districts function as intended. An important milestone in the project will be a concise narrative description of each district that will help residents understand the goals of each district as they relate to preservation, housing opportunity, commercial development, mix of uses, form, and scale.

The consultant will also use this phase to identify important policy issues and important “best practices” in developing zoning for housing diversity, parking management, site design, etc. These will be delivered in memorandum format and discussed at a single Planning Board work session.

Task 3 Budget: \$3,000

Task 4. Drafting Language

This Task will require the largest portion of project resources, as the consultant (lead), Town Planner, and Planning Board work to complete a full draft of the Zoning Ordinance. The consultant will draft a full ordinance for the Town to review and work through at a series of Planning Board sessions. While the exact outline of the ordinance remains to be determined, sections will likely include:

- Basic Authority Provisions
- Establishment of Districts
- Permit Procedures
- Allowable Uses (Use Table)
- Basic Dimensional Standards (e.g., lot size, setbacks)
- Parking Standards
- Site Design
- Special Uses (e.g., Planned Development, Assisted Living, Accessory Dwelling Units (ADU), etc.)
- Innovative Tools (e.g., Inclusionary Zoning)
- Provisions for Non-Conformity
- Protective Overlay Districts (e.g., Floodplain)

The consultant will attend approximately four work sessions with the Town as part of this iterative process.

Task 4 Budget: \$25,000

Task 5. Revisions and Final Draft

The consultant will lead revising the draft ordinance to address concerns, new ideas, or technical corrections in response to the work sessions performed in Task 4. The final product will be a “warrant ready” Zoning Ordinance that can be brought forward to the public hearing process. All deliverables will be provided to the Town in electronic format, including any data developed in GIS format.

Task 5 Budget: \$7,000

Proposed Project Budget			
	Task Name	Details	Cost
Task 1	Meetings & Engagement	See above	\$5,000
Task 2	Map Audit and Zoning Map Development	See above	\$5,000
Task 3	Framing the Ordinance and Addressing Policy Issues	See above	\$3,000
Task 4	Drafting Language	See above	\$25,000
Task 5	Revisions and Final Draft	See above	\$7,000
		Total:	\$45,000

Community Engagement Plan (maximum 500 words):

Exeter intends to utilize similar engagement efforts it has successfully employed for past projects such as the 2018 Master Plan and various other projects. As described above in the Scope of Work, we will utilize a variety of outreach efforts that will include a project website, surveys, listening sessions, public forums (at least 2), press releases, presentations to the Planning Board, Master Plan Oversight Committee, Select Board, and the Housing Advisory Committee.

As part of any public meeting (outside of the town boards and committees), we will provide options for food and child care. On prior projects, we have partnered with the School of Science and Technology (SST) in Exeter to provide childcare and we will continue this practice to ensure all interested folks can attend. We televise all our public meetings/forums and replay them on the local government access channel. We also place them on our website so they can be viewed on demand and are available on ROKU and Apple TV Apps.

Exeter’s IT Department has a Communications Coordinator that actively promotes town events and projects. The Communications Coordinator utilizes social media (YouTube, Facebook, Twitter, and Instagram). They also use Mail Chimp to send out emails, newsletters, and promotional material. We intend to utilize the Communications Coordinator for this project to drive public input and participation.

We also intend to fully utilize the UNH Cooperative Extension through the Housing Academy to expand our outreach efforts. Exeter is always searching for innovative ways to get the word out and inform people of our projects. We have utilized the UNH Cooperative Extension for engagement in the past and look forward to working with them on this effort. Dave Sharples, the Town Planner, and Kristen Murphy, the Conservation and Sustainability Planner, will participate in the community engagement training and welcome support from the Housing Academy. There

may be a third participant identified at a later date as we will solicit interest from our volunteer boards and commissions.

Consistency with Master Plan (maximum 250 words):


This project is consistent with the 2018 Master Plan. There are several action items in the 2018 Master Plan that specifically address the housing crisis and are directly related to this grant application. Here are six action items that are listed verbatim from the 2018 Master Plan:

- Continue to work with surrounding communities to address regional needs for workforce housing and provide more diverse housing options.
- Investigate potential expansion of allowed housing types in Exeter (e.g., cottage communities, etc.)
- Develop a public education campaign to raise awareness of housing needs in Exeter and the different housing that can meet those needs. Include the local business community to understand housing needs of their employees.
- Review zoning ordinances to identify recommended changes that will create a balance of housing types to meet projected future needs. This might include review of multi-family structures allowed in R-1 Districts, density and other incentives in the Affordable Housing Ordinance, and residential lot size requirements in single family residential districts.
- Research incentives for infill development in R-1 and R-2 zoning districts to encourage the creation of smaller, more affordable homes. Focus on approaches that ensure infill maintains the look and feel of the existing neighborhoods.
- Move forward on the most feasible incentive(s) for infill housing by incorporating them into local regulations and/or policies. (this follows prior action).

There are several other action items listed in the Master Plan that support this effort that include community engagement, mixed use development along major corridors, and assessing underutilized properties for redevelopment opportunities that include dense housing.

Exeter Zoning Project Timeline

	SEPTEMBER			OCTOBER			NOVEMBER			DECEMBER			JANUARY					
Task 1. Meetings & Engagement																		
Task 2. Zoning Audit and Map Development																		
Task 3. Framing the Ordinance and Policy Issues																		
Task 4. Drafting Language																		
Task 5. Revisions and Final Draft																		

-  Staff Meeting
-  Planning Board/Public Forum
-  Master Plan Oversight Committee

Tax Abatements, Credits & Exemptions

Permits & Approvals

Correspondence

66 Main Street, Suite B
Plymouth, NH 03264

International Drive
Portsmouth, NH



**Municipal
Resources, Inc.**

Telephone: (603) 279-0352
Toll Free: (866) 501-0352

all@mrigov.com
www.mrigov.com

Monthly Project Status Report Exeter, NH- August 2022

Project Phase (1)	Start Up Status: Complete
Project Phase (2)	Revaluation Process Status: Complete
Project Phase (3)	Database Preparation Status: Complete
Project Phase (4)	Commercial Valuation Status: Not applicable
Project Phase (5)	Error Reports Status: Complete
Project Phase (6)	Town Approval (Preliminary Values) Status: STOPPED
	Presented information 8/8/22 to the Select Board; Partial update stopped
Project Phase (7)	Informal Review Hearings Status: Not Started
Project Phase (8)	Town Approval (Final Values) Status: Not Started

Overview of the Revaluation Progress:

Town Approval Preliminary Values We presented preliminary values for the partial update to the Select Board on 8/8/22 with a recommendation to adjust values. We proposed adjustments which would have made the assessment to sale ratios of condominiums and mobile homes on rented sites more in line with the expected 2022 assessment ratio for the Municipality. A summary of adjustments, dated 8/3/22, was included in the Select Board meeting materials. During the meeting, the Select Board did not approve the partial update and decided to postpone any consideration of the project until spring 2023.

If you have any questions or concerns about the revaluation project, please do not hesitate to contact us.

Sincerely,

Michelle McDonald

Scott Marsh

Paul McKenney-Municipal Resources, Inc.



**ATTORNEY GENERAL
DEPARTMENT OF JUSTICE**

33 CAPITOL STREET
CONCORD, NEW HAMPSHIRE 03301-6397

JOHN M. FORMELLA
ATTORNEY GENERAL



JAMES T. BOFFETTI
DEPUTY ATTORNEY GENERAL

September 1, 2022

Russell Dean, Town Manager
Town of Exeter
10 Front Street
Exeter, NH 3833
rdean@exeternh.gov

**Re: STATE'S SETTLEMENT WITH JANSSEN
PHARMACEUTICALS/JOHNSON & JOHNSON**

Dear Town Manager Dean:

The New Hampshire Department of Justice has negotiated a settlement of all the State's opioid claims against Janssen Pharmaceuticals and Johnson & Johnson, which had been scheduled to go to trial in Merrimack County Superior Court in early September. The settlement requires the defendants to pay \$39.605 million; \$31.5 million of that amount will be dedicated exclusively to abate the opioid epidemic in this state. The settlement we negotiated represents millions more dollars than the State would have received under the national settlement we opted not to join. More importantly, we negotiated terms requiring the defendants to pay the full settlement up-front rather than spread over a period of nine years as the national settlement would have allowed.

The settlement also contains injunctive terms that ban Johnson & Johnson from selling and manufacturing opioids, promoting opioids or opioid products and conducting prescription savings programs. It also restricts Johnson & Johnson's lobbying activities and includes stringent enforcement provision to ensure compliance. We believe that New Hampshire's best interests are served by settling this case on the terms we negotiated.

You will remember from an earlier settlement with opioid distributors McKesson, Cardinal Health, and Amerisource Bergen that your jurisdiction was designated by those defendants as a "primary non-litigating subdivision." That characterization was based upon your population (i.e., 10,000 or greater) and the fact that you had not filed a lawsuit against them by the time the settlement was negotiated. All primary non-litigating subdivisions in that case were asked to

release any claims they might have against the distributors in order to settle the earlier litigation. You joined all the other primary non-litigating subdivisions in doing so.

Johnson & Johnson seeks the same type of release from primary non-litigating subdivisions in its case as the distributors received in the earlier case. Its reason is simple: it wants "global peace" for all opioid claims by the state and its subdivisions in exchange for the \$39.605 million settlement. In other words, the settlement would resolve the claims that are currently pending against Johnson & Johnson (by the litigating governmental subdivisions) and those that could have been brought (by non-litigating subdivisions) but were not.

The negotiated settlement will not be final, and the \$39.605 million will not be paid, until we receive signed releases from all the primary non-litigating subdivisions.

New Hampshire has enacted legislation that governs the disposition of any funds received as part of a consumer protection opioid settlement, such as this one with Johnson & Johnson. Under state law, 15% of those funds are distributed to the 23 political subdivisions that filed opioid lawsuits prior to September 1, 2019.⁵ The balance of the \$31.5 million will be deposited into the dedicated Opioid Abatement Trust Fund. (See RSA 126-A: 63-86). Your jurisdiction is eligible to apply for grants from that trust fund.

As you likely know, the Opioid Abatement Commission is currently accepting grant applications for the first distribution of opioid settlement funds obtained from previous settlements, which total approximately \$6.6 million. I encourage you to consider an application or applications for grants relevant to abating the opioid scourge in your community. Application materials can be found at <https://www.dhhs.nh.gov/about-dhhs/advisory-organizations/nh-opioid-abatement-trust-fund-advisory-commission>.

I write today to ask you and the other non-litigating subdivisions to execute and return the enclosed release form so that the State can finalize the negotiated settlement with Janssen Pharmaceuticals and Johnson & Johnson and replenish the Opioid Abatement Trust Fund with millions more in remedial funds. The \$39.05 million settlement offer will not be paid until and unless each of the primary non-litigating subdivisions join us in releasing any claims you could have but have not brought against them.

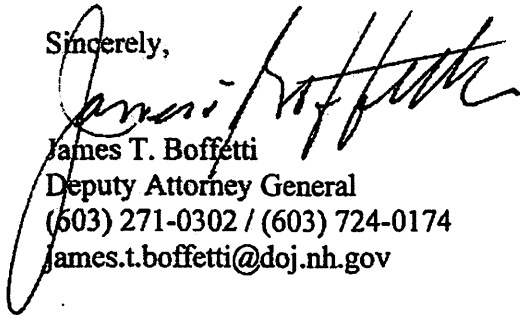
Also enclosed is a copy of the settlement agreement judgment that has been filed with the Merrimack County Superior Court. This settlement represents significant progress in our efforts against opioid manufacturers and distributors to hold them responsible for contributing to the opioid crisis. It provides substantial financial relief that can be delivered soon to New Hampshire communities to help abate this crisis. While no amount of money would be enough, this settlement is a significant improvement over the national settlement; combined with other settlements against other defendants, it will make a meaningful difference in the lives of those dealing with opioid use disorder.

⁵ The 23 subdivisions include all 10 counties plus Belmont, Berlin, Claremont, Concord, Derry, Dover, Franklin, Keene, Laconia, Londonderry, Manchester, Nashua and Rochester.

We hope that you will join us in this settlement. Time is of the essence in finalizing this settlement. We need to return signed releases to the defendants by the end of September.

I am available at your convenience to answer any of your question.

Sincerely,



James T. Boffetti
Deputy Attorney General
(603) 271-0302 / (603) 724-0174
james.t.boffetti@doj.nh.gov

JTB/cbw
Enclosures

JANSSEN NEW HAMPSHIRE STATE-WIDE OPIOID SETTLEMENT AGREEMENT

I. Overview

In accordance with the Term Sheet executed by Janssen and the State of New Hampshire on August 29, 2022, this settlement agreement (the "*Agreement*") sets forth the terms and conditions of a settlement agreement between and among Janssen, the State of New Hampshire, and Participating Subdivisions (as those terms are defined below). Janssen has agreed to the below terms for the sole purpose of settlement, and nothing herein may be taken as or construed to be an admission or concession of any violation of law, rule, or regulation, or of any other matter of fact or law, or of any liability or wrongdoing, all of which Janssen expressly denies. No part of this Agreement, including its statements and commitments, shall constitute evidence of any liability, fault, or wrongdoing by Janssen. Unless the contrary is expressly stated, this Agreement is not intended for use by any third party for any purpose, including submission to any court for any purpose.

II. Definitions

Unless otherwise specified, the following definitions apply:

1. "*Agreement*" means this agreement as set forth above, inclusive of all exhibits.
2. "*Alleged Harms*" means the alleged past, present, and future financial, societal, and related expenditures arising out of the alleged misuse and abuse of opioid products, that have allegedly been caused by Janssen.
3. "*Attorney*" means any of the following retained through a legal contract: a solo practitioner, multi-attorney law firm, or other legal representative of a Participating Subdivision.
4. "*Claim*" means any past, present or future cause of action, claim for relief, cross-claim or counterclaim, theory of liability, demand, derivative claim, request, assessment, charge, covenant, damage, debt, lien, loss, penalty, judgment, right, obligation, dispute, suit, contract, controversy, agreement, *parens patriae* claim, promise, performance, warranty, omission, or grievance of any nature whatsoever, whether legal, equitable, statutory, regulatory or administrative, whether arising under federal, state or local common law, statute, regulation, guidance, ordinance or principles of equity, whether filed or unfiled, whether asserted or unasserted, whether known or unknown, whether accrued or unaccrued, whether foreseen, unforeseen or unforeseeable, whether discovered or undiscovered, whether suspected or unsuspected, whether fixed or contingent, and whether existing or hereafter arising, in all such cases, including but not limited to any request for declaratory, injunctive, or equitable relief, compensatory, punitive, or statutory damages, absolute liability, strict liability, restitution, subrogation, contribution, indemnity, apportionment, disgorgement, reimbursement, attorney fees, expert fees, consultant fees, fines, penalties, expenses, costs or any other legal, equitable, civil, administrative, or regulatory remedy whatsoever.

5. “*Claim Over*” means a Claim asserted by a Non-Released Entity against a Released Entity on the basis of contribution, indemnity, or other claim-over on any theory relating to a Non-Party Covered Conduct Claim asserted by a Releasor.
6. “*Compensatory Restitution Amount*” means the aggregate amount of payments by Janssen hereunder other than amounts used for attorneys’ fees and costs.
7. “*Consent Judgment*” means a consent judgment in the form attached as Exhibit E.
8. “*Court*” means the court to which the Agreement and the Consent Judgment are presented for approval and/or entry.
9. “*Covered Conduct*” means any actual or alleged act, failure to act, negligence, statement, error, omission, breach of any duty, conduct, event, transaction, agreement, misstatement, misleading statement or other activity of any kind whatsoever from the beginning of time through the Effective Date (and any past, present, or future consequence of any such act, failure to act, negligence, statement, error, omission, breach of duty, conduct, event, transaction, agreement, misstatement, misleading statement or other activity) relating in any way to (a) the discovery, development, manufacture, packaging, repackaging, marketing, promotion, advertising, labeling, recall, withdrawal, distribution, delivery, monitoring, reporting, supply, sale, prescribing, dispensing, physical security, warehousing, use or abuse of, or operating procedures relating to any Product, or any system, plan, policy, or advocacy relating to any Product or class of Products, including but not limited to any unbranded promotion, marketing, programs, or campaigns relating to any Product or class of Products; (b) the characteristics, properties, risks, or benefits of any Product; (c) the reporting, disclosure, non-reporting or non-disclosure to federal, state or other regulators of orders for any Product placed with any Released Entity; (d) the selective breeding, harvesting, extracting, purifying, exporting, importing, applying for quota for, procuring quota for, handling, promoting, manufacturing, processing, packaging, supplying, distributing, converting, or selling of, or otherwise engaging in any activity relating to, precursor or component Products, including but not limited to natural, synthetic, semi-synthetic or chemical raw materials, starting materials, finished active pharmaceutical ingredients, drug substances, or any related intermediate Products; or (e) diversion control programs or suspicious order monitoring related to any Product.
10. “*Effective Date*” means the date on which this Agreement is executed by the State and Janssen.
11. “*Janssen*” means Johnson & Johnson, Janssen Pharmaceuticals, Inc., Ortho-McNeil-Janssen Pharmaceuticals, Inc., and Janssen Pharmaceutica, Inc.
12. “*Janssen National Settlement Agreement*” means the J&J Master Settlement Agreement, including exhibits, a copy of which is attached as Exhibit H hereto.

13. ***“Litigating Subdivision”*** means a Subdivision (or Subdivision official asserting the right of or for the Subdivision or the State to recover for alleged harms to the Subdivision, the State, and/or the people thereof) that brought any Released Claims against any Released Entity on or before the Effective Date that were not separately resolved prior to that date. A list of all Litigating Subdivisions known to the Parties is included in Exhibit F hereto.
14. ***“Non-Litigating Subdivision”*** means a Subdivision that is not a Litigating Subdivision.
15. ***“Non-Party Covered Conduct Claim”*** means a Claim against any Non-Released Entity involving, arising out of, or related to Covered Conduct (or conduct that would be Covered Conduct if engaged in by a Released Entity).
16. ***“Non-Party Settlement”*** means a settlement by any Releasor that settles any Non-Party Covered Conduct Claim and includes a release of any Non-Released Entity.
17. ***“Non-Released Entity”*** means an entity that is not a Released Entity.
18. ***“Participating Subdivision”*** means a Subdivision that meets the requirements for becoming a Participating Subdivision under Section VII.
19. ***“Parties”*** means Janssen and the State of New Hampshire (each, a ***“Party”***).
20. ***“Product”*** means any chemical substance, whether used for medicinal or non-medicinal purposes, and whether natural, synthetic, or semi-synthetic, or any finished pharmaceutical product made from or with such substance, that is an opioid or opiate, as well as any product containing any such substance. It also includes: 1) the following when used in combination with opioids or opiates: benzodiazepine, carisoprodol, zolpidem, or gabapentin; and 2) a combination or “cocktail” of any stimulant or other chemical substance prescribed, sold, bought, or dispensed to be used together that includes opioids or opiates. For the avoidance of doubt, “Product” does not include benzodiazepine, carisoprodol, zolpidem, or gabapentin when not used in combination with opioids or opiates. “Product” includes but is not limited to any substance consisting of or containing buprenorphine, codeine, fentanyl, hydrocodone, hydromorphone, meperidine, methadone, morphine, naloxone, naltrexone, oxycodone, oxymorphone, tapentadol, tramadol, opium, heroin, carfentanil, any variant of these substances, or any similar substance. “Product” also includes any natural, synthetic, semi-synthetic or chemical raw materials, starting materials, finished active pharmaceutical ingredients, drug substances, and any related intermediate products used or created in the manufacturing process for any of the substances described in the preceding sentence.
21. ***“Released Claims”*** means any and all Claims that directly or indirectly are based on, arise out of, or in any way relate to or concern the Covered Conduct occurring prior to the Effective Date. Without limiting the foregoing, “Released Claims” include any Claims that have been asserted against the Released Entities by the State or any of its

Litigating Subdivisions in any federal, state or local action or proceeding (whether judicial, arbitral, or administrative) based on, arising out of or relating to, in whole or in part, the Covered Conduct, or any such Claims that could be or could have been asserted now or in the future in those actions or in any comparable action or proceeding brought by the State, any of its Subdivisions, or any Releasors (whether or not such State, Subdivision, or Releasor has brought such action or proceeding), provided the Covered Conduct occurs prior to the Effective Date. Released Claims also include all Claims asserted in any proceeding to be dismissed pursuant to the Agreement, whether or not such claims relate to Covered Conduct, provided the Covered Conduct occurs prior to the Effective Date. The Parties intend that "Released Claims" be interpreted broadly. This Agreement does not release Claims by private individuals. It is the intent of the Parties that Claims by private individuals be treated in accordance with applicable law. Released Claims is also used herein to describe Claims brought by a Subdivision or other non-party Subdivision after the Effective Date that would have been Released Claims if they had been brought by a Releasor against a Released Entity.

22. "*Released Entities*" means Janssen and (1) all of Janssen's past and present direct or indirect parents, subsidiaries, divisions, predecessors, successors, assigns, including Noramco, Inc. and Tasmanian Alkaloids PTY. LTD.; (2) the past and present direct or indirect subsidiaries, divisions, and joint ventures, of any of the foregoing; (3) all of Janssen's insurers (solely in their role as insurers with respect to the Released Claims); (4) all of Janssen's, or of any entity described in subsection (1), past and present joint ventures; and (5) the respective past and present officers, directors, members, shareholders (solely in their capacity as shareholders of the foregoing entities), partners, trustees, agents, and employees of any of the foregoing (for actions that occurred during and related to their work for, or employment with, Janssen). Any person or entity described in subsections (3)-(5) shall be a Released Entity solely in the capacity described in such clause and shall not be a Released Entity with respect to its conduct in any other capacity. For the avoidance of doubt, the entities listed in Exhibit D are not Released Entities; and provided further that any joint venture partner of Janssen or Janssen's subsidiary is not a Released Entity unless it falls within subsections (1)-(5) above. A list of Janssen's present subsidiaries and affiliates is attached as Exhibit G. Janssen's predecessor entities include but are not limited to those entities listed on Exhibit A. For the avoidance of doubt, any entity acquired, or joint venture entered into, by Janssen after the Effective Date is not a Released Entity.
23. "*Releasors*" means (1) the State; (2) each Participating Subdivision; and (3) without limitation and to the maximum extent of the power of the State's Attorney General and/or Participating Subdivision to release the Claims, (a) the State's and Participating Subdivision's departments, agencies, divisions, boards, commissions, Subdivisions, districts, instrumentalities of any kind and attorneys, including its Attorney General, and any person in their official capacity whether elected or appointed to serve any of the foregoing and any agency, person, or other entity claiming by or through any of the foregoing, (b) any public entities, public

instrumentalities, public educational institutions, unincorporated districts, fire districts, irrigation districts, water districts, law enforcement districts, emergency services districts, school districts, hospital districts and other Subdivisions in the State, and (c) any person or entity acting in a *parens patriae*, sovereign, quasi-sovereign, private attorney general, qui tam, taxpayer, or other capacity seeking relief on behalf of or generally applicable to the general public with respect to the State or Subdivision in the State, whether or not any of them participate in the Agreement. The inclusion of a specific reference to a type of entity in this definition shall not be construed as meaning that the entity is not a Subdivision. In addition to being a Releasor as provided herein, a Participating Subdivision shall also provide the Settlement Participation Form referenced in Section VII providing for a release to the fullest extent of the Participating Subdivision's authority, which shall be attached as an exhibit to the Agreement. The State's Attorney General represents that he or she has or has obtained the authority set forth in the Representation and Warranty subsection of Section IV.

24. "*Special District*" means a formal and legally recognized sub-entity of the State that is authorized by State law to provide one or a limited number of designated functions, including but not limited to school districts, fire districts, healthcare & hospital districts, and emergency services districts.
25. "*State*" means the State of New Hampshire.
26. "*Subdivision*" means a formal and legally recognized sub-entity of the State that provides general governance for a defined area, including a county, city, town, village, or similar entity. Unless otherwise specified, "Subdivision" includes all functional counties and other functional levels of sub-entities of the State that provide general governance for a defined area. Historic, non-functioning sub-entities of the State are not Subdivisions, unless the entity has filed a lawsuit that includes a Released Claim against a Released Entity in a direct, *parens patriae*, or any other capacity. For purposes of this Agreement, the term Subdivision also includes Special Districts.
27. "*Settlement Participation Form*" means the form attached as Exhibit B that Participating Subdivisions must execute and return to Janssen and the State of New Hampshire, and which shall (1) make such Participating Subdivisions signatories to this Agreement, (2) include a full and complete release of any and of such Subdivision's claims, and (3) require the prompt dismissal with prejudice of any Released Claims that have been filed by any such Participating Subdivision.

III. Injunctive Relief

As part of the Consent Judgment, the Parties agree to the injunctive relief terms attached as Exhibit C.

IV. Release

- A. *Scope.* As of the Effective Date, the Released Entities will be released and forever discharged from all of the Releasors' Released Claims. The State of New Hampshire (for itself and its Releasors) and each Participating Subdivision (for itself and its Releasors) will, on or before the Effective Date, absolutely, unconditionally, and irrevocably covenant not to bring, file, or claim, or to cause, assist in bringing, or permit to be brought, filed, or claimed, or to otherwise seek to establish liability for any Released Claims against any Released Entity in any forum whatsoever. The releases provided for in the Agreement are intended by the Parties to be broad and shall be interpreted so as to give the Released Entities the broadest possible bar against any liability relating in any way to Released Claims and extend to the full extent of the power of the State and its Attorney General to release claims. The Release shall be a complete bar to any Released Claim.
- B. *Claim Over and Non-Party Settlement.*
1. *Statement of Intent.* It is the intent of the Parties that:
 - a. Released Entities should not seek contribution or indemnification (other than pursuant to an insurance contract) from other parties for their payment obligations under this Agreement;
 - b. the payments made under this Agreement shall be the sole payments made by the Released Entities to the Releasors involving, arising out of, or related to Covered Conduct (or conduct that would be Covered Conduct if engaged in by a Released Entity);
 - c. Claims by Releasors against non-Parties should not result in additional payments by Released Entities, whether through contribution, indemnification or any other means; and
 - d. the Agreement meets the requirements of the Uniform Contribution Among Joint Tortfeasors Act and any similar state law or doctrine that reduces or discharges a released party's liability to any other parties.
 - e. The provisions of this subsection IV.B are intended to be implemented consistent with these principles. This Agreement and the releases and dismissals provided for herein are made in good faith.
 2. *Contribution/Indemnity Prohibited.* No Released Entity shall seek to recover for amounts paid under this Agreement based on indemnification, contribution, or any other theory from a manufacturer, pharmacy, hospital, pharmacy benefit manager, health insurer, third-party vendor, trade association, distributor, or health care

practitioner, provided that a Released Entity shall be relieved of this prohibition with respect to any entity that asserts a Claim-Over against it. For the avoidance of doubt, nothing herein shall prohibit a Released Entity from recovering amounts owed pursuant to insurance contracts.

3. ***Non-Party Settlement.*** To the extent that, on or after the Effective Date, any Releasor enters into a Non-Party Settlement, including in any bankruptcy case or through any plan of reorganization (whether individually or as a class of creditors), the Releasor will include (or in the case of a Non-Party Settlement made in connection with a bankruptcy case, will cause the debtor to include), unless prohibited from doing so under applicable law, in the Non-Party Settlement a prohibition on contribution or indemnity of any kind substantially equivalent to that required from Janssen in subsection IV.B.2, or a release from such Non-Released Entity in favor of the Released Entities (in a form equivalent to the releases contained in this Agreement) of any Claim-Over. The obligation to obtain the prohibition and/or release required by this subsection is a material term of this Agreement.
4. ***Claim-Over.*** In the event that any Releasor obtains a judgment with respect to Non-Party Covered Conduct against a Non-Released Entity that does not contain a prohibition like that in subsection IV.B.3, or any Releasor files a Non-Party Covered Conduct Claim against a Non-Released Entity in bankruptcy or a Releasor is prevented for any reason from obtaining a prohibition/release in a Non-Party Settlement as provided in subsection IV.B.3, and such Non-Released Entity asserts a Claim-Over against a Released Entity, that Releasor and Janssen shall take the following actions to ensure that the Released Entities do not pay more with respect to Covered Conduct to Releasors or to Non-Released Entities than the amounts owed under this Agreement by Janssen:
 - a. Janssen shall notify that Releasor of the Claim-Over within thirty (30) days of the assertion of the Claim-Over or thirty (30) days of the Effective Date of this Agreement, whichever is later;
 - b. Janssen and that Releasor shall meet and confer concerning the means to hold Released Entities harmless and ensure that it is not required to pay more with respect to Covered Conduct than the amounts owed by Janssen under this Agreement;
 - c. That Releasor and Janssen shall take steps sufficient and permissible under the law of the State of the Releasor to hold Released Entities harmless from the Claim-Over and ensure Released Entities are not required to pay more with respect to Covered Conduct than the amounts owed by Janssen under this Settlement Agreement. Such steps may include, where permissible:
 - (1) Filing of motions to dismiss or such other appropriate motion by Janssen or Released Entities, and supported by Releasors, in response to any claim filed in litigation or arbitration;

- (2) Reduction of that Releasor's Claim and any judgment it has obtained or may obtain against such Non-Released Entity by whatever amount or percentage is necessary to extinguish such Claim-Over under applicable law, up to the amount that Releasor has obtained, may obtain, or has authority to control from such Non-Released Entity;
 - (3) Placement into escrow of funds paid by the Non-Released Entities such that those funds are available to satisfy the Claim-Over;
 - (4) Return of monies paid by Janssen to that Releasor under this Settlement Agreement to permit satisfaction of a judgment against or settlement with the Non-Released Entity to satisfy the Claim-Over;
 - (5) Payment of monies to Janssen by that Releasor to ensure it is held harmless from such Claim-Over, up to the amount that Releasor has obtained, may obtain, or has authority to control from such Non-Released Entity;
 - (6) Credit to Janssen under this Settlement Agreement to reduce the overall amounts to be paid under the Settlement Agreement such that it is held harmless from the Claim-Over; and
 - (7) Such other actions as that Releasor and Janssen may devise to hold Janssen harmless from the Claim Over.
- d. The actions of that Releasor and Janssen taken pursuant to paragraph (c) must, in combination, ensure Janssen is not required to pay more with respect to Covered Conduct than the amounts owed by Janssen under this Settlement Agreement.
 - e. In the event of any dispute over the sufficiency of the actions taken pursuant to paragraph (c), that Releasor and Janssen may seek review by the court that enters the Consent Judgment pursuant to Section X.
5. To the extent that the Claim-Over is based on a contractual indemnity, the obligations under subsection IV.B.4 shall extend solely to a Non-Party Covered Conduct Claim against a pharmacy, clinic, hospital or other purchaser or dispenser of Products, a manufacturer that sold Products, a consultant, and/or a pharmacy benefit manager or other third-party payor. Janssen shall notify the State, to the extent permitted by applicable law, in the event that any of these types of Non-Released Entities asserts a Claim-Over arising out of contractual indemnity against it.
- C. *General Release.* In connection with the releases provided for in the Agreement, the State (for itself and its Releasors) and each Participating Subdivision (for itself and its Releasors) will expressly waive, release, and forever discharge any and all provisions, rights, and benefits conferred by any law of any state or territory of the United States or other

jurisdiction, or principle of common law, which is similar, comparable, or equivalent to § 1542 of the California Civil Code, which reads:

General Release; extent. A general release does not extend to claims that the creditor or releasing party does not know or suspect to exist in his or her favor at the time of executing the release that, if known by him or her, would have materially affected his or her settlement with the debtor or released party.

A Releasor may thereafter discover facts other than or different from those which it knows, believes, or assumes to be true with respect to the Released Claims, but the State (for itself and its Releasors) and each Participating Subdivision (for itself and its Releasors) will expressly waive and fully, finally, and forever settle, release and discharge, upon the Effective Date, any and all Released Claims that may exist as of such date but which Releasors do not know or suspect to exist, whether through ignorance, oversight, error, negligence or through no fault whatsoever, and which, if known, would materially affect the State's decision to enter into the Agreement or the Participating Subdivisions' decision to participate in the Agreement.

- D. *Res Judicata.* Nothing in the Agreement shall be deemed to reduce the scope of the res judicata or claim preclusive effect that the settlement memorialized in the Agreement, and/or any Consent Judgment or other judgment entered on the Agreement, gives rise to under applicable law.
- E. *Representation and Warranty.* The signatories hereto on behalf of the State expressly represent and warrant that they will obtain on or before the Effective Date (or have obtained) the authority to settle and release, to the maximum extent of the State's power, all Released Claims of (1) the State; (2) all past and present executive departments, state agencies, divisions, boards, commissions and instrumentalities with the regulatory authority to enforce state and federal controlled substances acts; (3) any of the State's past and present executive departments, agencies, divisions, boards, commissions and instrumentalities that have the authority to bring Claims related to Covered Conduct seeking money (including abatement and/or remediation) or revocation of a pharmaceutical distribution license; and (4) any Participating Subdivisions. For the purposes of clause (3) above, executive departments, agencies, divisions, boards, commissions, and instrumentalities are those that are under the executive authority or direct control of the State's Governor. Also, for the purposes of clause (3), a release from the State's Governor is sufficient to demonstrate that the appropriate releases have been obtained.
- F. *Effectiveness.* The releases set forth in the Agreement shall not be impacted in any way by any dispute that exists, has existed, or may later exist between or among the Releasors. Nor shall such releases be impacted in any way by any current or future law, regulation, ordinance, or court or agency order limiting, seizing, or controlling the distribution or use of the settlement funds or any portion thereof, or by the enactment of future laws, or by any seizure of the settlement funds or any portion thereof.

- G. *Cooperation.* Releasors (i) will not encourage any person or entity to bring or maintain any Released Claim against any Released Entity and (ii) will reasonably cooperate with and not oppose any effort by a Released Entity to secure the prompt dismissal of any and all Released Claims.
- H. *Non-Released Claims.* Notwithstanding the foregoing or anything in the definition of Released Claims, the Agreement does not waive, release or limit any criminal liability, Claims for any outstanding liability under any tax or securities law, Claims against parties who are not Released Entities, Claims by private individuals and any claims arising under the Agreement for enforcement of the Agreement.

V. Monetary Relief and Payments

- A. As consideration for the releases from the State and Participating Subdivisions provided in Section IV above and the Settlement Participation Forms specified in Section VII and Exhibit B below, Janssen shall pay the State a lump sum of \$39,605,617.59 within 15 days after the entry of the Consent Judgment to be filed under Section VIII after delivery to Janssen of Settlement Participation Forms executed by all Subdivisions listed on Exhibit F.
- B. Within 15 days after the entry of the Consent Judgment to be filed under Section VIII after delivery to Janssen of Settlement Participation Forms executed by all Subdivisions listed on Exhibit F, Janssen shall pay into an escrow account designated by Joseph Tann, Esq. a lump sum equal to the amount that attorneys for Participating Subdivisions would have received from the Contingency Fee Fund established under the Janssen National Settlement Agreement, had the Participating Subdivisions joined that settlement. That amount is presently estimated to be \$919,617.30, but the final amount due shall be determined by Mr. Tann, applying the methodology specified in Exhibit R to the Janssen National Settlement Agreement. Mr. Tann shall direct the escrow agent to disburse the escrowed funds to attorneys for the Participating Subdivisions in accordance with his determination of the amount that would have been received by each attorney.

VI. Intra-State Allocation

Janssen's payments shall be allocated as determined by the State and its Subdivisions and pursuant to the State's Opioids Abatement Trust Fund legislation.

VII. Participation by Subdivisions

A Subdivision may become a Participating Subdivision by returning an executed Settlement Participation Form to Janssen and the State and upon prompt dismissal of its legal action pursuant to the terms of this Agreement and the Settlement Participation Form.

VIII. Filing of Consent Judgment and Dismissals with Prejudice

No later than 15 days from delivery to Janssen of Settlement Participation Forms for all Subdivisions listed on Exhibit F, the State and Janssen will proceed to file the Consent Judgment. No later than 30 days after receipt of Janssen's payments under Section V, the State and the

Participating Subdivisions shall dismiss all actions asserting Released claims with prejudice.

IX. Attorney Fee and Cost Payments

- A. Janssen shall not be responsible for making payments for State's or any Participating Subdivision's attorneys' fees and costs beyond the amounts paid under Section V.
- B. An Attorney may not receive any payment for attorney fees unless the Attorney represents that s/he has no present intent to represent or participate in the representation of any Subdivision or any Releasor with respect to Released Claims against Released Entities brought after the Effective Date.

X. Enforcement and Dispute Resolution

- A. The terms of the Agreement and Consent Judgment applicable to the State will be enforceable solely by the State and Janssen.
- B. Janssen consents to the jurisdiction of the Court in which the Consent Judgment is filed, limited to resolution of disputes identified in subsection X:D for resolution in the Court in which the Consent Judgment is filed.
- C. The parties to a dispute shall promptly meet and confer in good faith to resolve any dispute. If the parties cannot resolve the dispute informally, and unless otherwise agreed in writing, they shall follow the remaining provisions of this section to resolve the dispute.
- D. Disputes not resolved informally shall be resolved in the Court that entered the Consent Judgment.

XI. Miscellaneous

- A. *No Admission.* Janssen does not admit liability or wrongdoing. Neither this Agreement nor the Consent Judgment shall be considered, construed, or represented to be (1) an admission, concession, or evidence of liability or wrongdoing or (2) a waiver or any limitation of any defense otherwise available to Janssen.
- B. *Nature of Payment.* Janssen, the State, and the Participating Subdivisions acknowledge and agree that notwithstanding anything to the contrary in this Agreement, including, but not limited to, the scope of the Released Claims:
 - 1. Janssen has entered into this Agreement to avoid the delay, expense, inconvenience, and uncertainty of further litigation;
 - 2. The State and the Participating Subdivisions sought compensatory restitution (within the meaning of 26 U.S.C. § 162(f)(2)(A)) for the Alleged Harms allegedly suffered by the State and Participating Subdivisions;
 - 3. By executing this Agreement the State and the Participating Subdivisions certify that: (a) the Compensatory Restitution Amount is no greater than the amount, in the

aggregate, of the Alleged Harms allegedly suffered by the State and Participating Subdivisions; and (b) the portion of the Compensatory Restitution Amount received by the State or Participating Subdivision is no greater than the amount of the Alleged Harms allegedly suffered by the State or Participating Subdivision;

4. The payment of the Compensatory Restitution Amount by Janssen constitutes, and is paid for, compensatory restitution (within the meaning of 26 U.S.C. § 162(f)(2)(A)) for Alleged Harms allegedly caused by Janssen;
5. The Compensatory Restitution Amount is being paid as compensatory restitution (within the meaning of 26 U.S.C. § 162(f)(2)(A)) in order to restore, in whole or in part, the State and Participating Subdivisions to the same position or condition that they would be in had the State and Participating Subdivisions not suffered the Alleged Harms;
6. For the avoidance of doubt: (a) no portion of the Compensatory Restitution Amount represents reimbursement to the State, any Participating Subdivision, or other person or entity for the costs of any investigation or litigation, (b) the entire Compensatory Restitution Amount is properly characterized as described in this subsection XI.B, and (c) no portion of the Compensatory Restitution Amount constitutes disgorgement or is properly characterized as the payment of statutory or other fines, penalties, punitive damages, other punitive assessments, or attorneys' fees; and
7. The State, on behalf of all itself and Participating Subdivisions (the "Form 1098-F Filer") shall complete and file Form 1098-F with the Internal Revenue Service on or before February 28 (March 31 if filed electronically) of the year following the calendar year in which the order entering this Agreement becomes binding. On the Form 1098-F, the Form 1098-F Filer shall identify the entire Compensatory Restitution Amount received by the Form 1098-F Filer as remediation/restitution. The Form 1098-F Filer shall also, on or before January 31 of the year following the calendar year in which the order entering this Agreement becomes binding, furnish Copy B of such Form 1098-F (or an acceptable substitute statement) to Janssen.

C. *Tax Reporting and Cooperation.*

1. Upon request by Janssen, the State and Participating Subdivisions agree to perform such further acts and to execute and deliver such further documents as may be reasonably necessary for Janssen to establish the statements set forth in subsection XI.B to the satisfaction of their tax advisors, their independent financial auditors, the Internal Revenue Service, or any other governmental authority, including as contemplated by Treasury Regulations Section 1.162-21(b)(3)(ii) and any subsequently proposed or finalized relevant regulations or administrative guidance.
2. Without limiting the generality of this subsection XI.C, the State and each Participating Subdivision shall cooperate in good faith with Janssen with respect to any tax claim, dispute, investigation, audit, examination, contest, litigation, or other proceeding relating to this Agreement.

3. The State, on behalf of itself and Participating Subdivisions, shall designate one of its officers or employees to act as the "appropriate official" within the meaning of Treasury Regulations Section 1.6050X-1(f)(1)(ii)(B) (the "Appropriate Official").
 4. For the avoidance of doubt, neither Janssen nor the State and Participating Subdivisions make any warranty or representation to any Settling jurisdiction or Releasor as to the tax consequences of the payment of the Compensatory Restitution Amount (or any portion thereof).
- D. *No Third-Party Beneficiaries.* Except as expressly provided in this Agreement, no portion of this Agreement shall provide any rights to, or be enforceable by, any person or entity that is not the State or a Released Entity. The State may not assign or otherwise convey any right to enforce any provision of this Agreement.
- E. *Calculation.* Any figure or percentage referred to in this Agreement shall be carried to seven decimal places.
- F. *Construction.* None of the Parties and no Participating Subdivision shall be considered to be the drafter of this Agreement or of any of its provisions for the purpose of any statute, case law, or rule of interpretation or construction that would or might cause any provision to be construed against the drafter of this Agreement. The headings of the provisions of this Agreement are not binding and are for reference only and do not limit, expand, or otherwise affect the contents or meaning of this Agreement.
- G. *Cooperation.* Each Party and each Participating Subdivision agrees to use its best efforts and to cooperate with the other Parties and Participating Subdivisions to cause this Agreement and the Consent Judgment to become effective, to obtain all necessary approvals, consents and authorizations, if any, and to execute all documents and to take such other action as may be appropriate in connection herewith. Consistent with the foregoing, each Party and each Participating Subdivision agrees that it will not directly or indirectly assist or encourage any challenge to this Agreement or the Consent Judgment by any other person, and will support the integrity and enforcement of the terms of this Agreement and the Consent Judgment.
- H. *Entire Agreement.* This Agreement, its exhibits and any other attachments embodies the entire agreement and understanding between and among the Parties and Participating Subdivisions relating to the subject matter hereof and supersedes (1) all prior agreements and understandings relating to such subject matter, whether written or oral and (2) all purportedly contemporaneous oral agreements and understandings relating to such subject matter.
- I. *Execution.* This Agreement may be executed in counterparts and by different signatories on separate counterparts, each of which shall be deemed an original, but all of which shall together be one and the same Agreement. One or more counterparts of this Agreement may be delivered by facsimile or electronic transmission with the intent that it or they shall constitute an original counterpart hereof. One or more counterparts of this Agreement may be signed by electronic signature.

- J. *Good Faith and Voluntary Entry.* Each Party warrants and represents that it negotiated the terms of this Agreement in good faith. Each of the Parties and signatories to this Agreement warrants and represents that it freely and voluntarily entered into this Agreement without any degree of duress or compulsion. The Parties state that no promise of any kind or nature whatsoever (other than the written terms of this Agreement) was made to them to induce them to enter into this Agreement.
- K. *No Prevailing Party.* The Parties each agree that they are not the prevailing party in this action, for purposes of any claim for fees, costs, or expenses as prevailing parties arising under common law or under the terms of any statute, because the Parties have reached a good faith settlement. The Parties each further waive any right to challenge or contest the validity of this Agreement on any ground, including, without limitation, that any term is unconstitutional or is preempted by, or in conflict with, any current or future law.
- L. *Non-Admissibility.* The settlement negotiations resulting in this Agreement have been undertaken by the Parties and by certain representatives of the Participating Subdivisions in good faith and for settlement purposes only, and no evidence of negotiations or discussions underlying this Agreement shall be offered or received in evidence in any action or proceeding for any purpose. This Agreement shall not be offered or received in evidence in any action or proceeding for any purpose other than in an action or proceeding arising under or relating to this Agreement.
- M. *Severability.* If any provision of this Agreement—excepting Section IV (Release), Section V (Monetary Relief and Payments), Section VII (Participation by Local Governments), Section IX (Attorney Fee and Cost Payments), Section XI.B (Nature of Payment), and Section XI.C (Tax Reporting and Cooperation)—were for any reason held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provision of this Agreement.
- N. *Notices.* All notices or other communications under this Agreement shall be in writing (including but not limited to electronic communications) and shall be given to the recipients indicated below:

For Janssen:

Charles C. Lifland
Daniel R. Suvor
400 South Hope Street, 18th Floor Los Angeles, CA 90071
Phone: (213) 430-6000
clifland@omm.com
dsuvor@omm.com

For the Attorney General:

James T. Boffetti
Deputy Attorney General

New Hampshire Department of Justice
33 Capitol Street, Concord, NH 03301
Phone: (603) 271-0302
James.T.Boffetti@doj.nh.gov

Any Party may change or add the contact information of the persons designated to receive notice on its behalf by notice given (effective upon the giving of such notice) as provided in this subsection.

- O. *No Waiver.* The waiver of any rights conferred hereunder shall be effective only if made by written instrument executed by the waiving Party or Parties. The waiver by any Party of any breach of this Agreement shall not be deemed to be or construed as a waiver of any other breach, whether prior, subsequent, or contemporaneous, nor shall such waiver be deemed to be or construed as a waiver by any other Party.
- P. *Preservation of Privilege.* Nothing contained in this Agreement or any Consent Judgment, and no act required to be performed pursuant to this Agreement or any Consent Judgment, is intended to constitute, cause, or effect any waiver (in whole or in part) of any attorney-client privilege, work product protection, or common interest/joint defense privilege, and each Party agrees that it shall not make or cause to be made in any forum any assertion to the contrary.
- Q. *Successors.* This Agreement shall be binding upon, and inure to the benefit of, Janssen and its respective successors and assigns. Janssen shall not sell the majority of its voting stock or substantially all its assets without obtaining the acquiror's agreement that it will constitute a successor with respect to Janssen's obligations under this Agreement.
- R. *Modification, Amendment, Alteration.* This Agreement may be modified, amended, or altered by a written agreement of the Parties or, in the case of the Consent Judgment, by court proceedings resulting in a modified judgment of the Court. For purposes of modifying this Agreement or the Consent Judgment, Janssen may contact the New Hampshire Attorney General to coordinate this process.
- S. *Termination.*
 - 1. Unless otherwise agreed to by Janssen and the State, this Agreement and all of its terms (except subsection XI.L and any other non-admissibility provisions, which shall continue in full force and effect) shall be canceled and terminated with respect to the State, and the Agreement and all orders issued by the Court pursuant to the Agreement shall become null and void and of no effect if one or more of the following conditions applies:
 - a. A Consent Judgment approving this Agreement without modification of any of the Agreement's terms has not been entered as to the State by a court of competent jurisdiction on or before one hundred eighty (180) days after Janssen's payment under Section V; or

Dated: August 31, 2022

THE STATE OF NEW HAMPSHIRE

By:


James T. Boffetti, Deputy Attorney General

EXHIBIT B

Settlement Participation Form

Governmental Entity:	State:
Authorized Official:	
Address 1:	
Address 2:	
City, State, Zip:	
Phone:	
Email:	

The governmental entity identified above ("Governmental Entity"), in order to obtain and in consideration for the benefits provided to the Governmental Entity pursuant to the Settlement Agreement dated August 31, 2022 ("Janssen Settlement"), and acting through the undersigned authorized official, hereby elects to participate in the Janssen Settlement, release all Released Claims against all Released Entities, and agrees as follows.

1. The Governmental Entity is aware of and has reviewed the Janssen Settlement, understands that all terms in this Election and Release have the meanings defined therein, and agrees that by this Election, the Governmental Entity elects to participate in the Janssen Settlement and become a Participating Subdivision as provided therein.
2. The Governmental Entity shall, within 30 days of the filing of the Consent Judgment, secure the dismissal with prejudice of any Released Claims that it has filed.
3. The Governmental Entity agrees to the terms of the Janssen Settlement pertaining to Subdivisions as defined therein.
4. By agreeing to the terms of the Janssen Settlement and becoming a Releasor, the Governmental Entity is entitled to the benefits provided therein, including, if applicable, monetary payments beginning after the Effective Date.
5. The Governmental Entity agrees to use any monies it receives through the Janssen Settlement solely for the purposes provided therein.
6. The Governmental Entity submits to the jurisdiction of the court where the Consent Judgment is filed for purposes limited to that court's role as provided in, and for resolving disputes to the extent provided in, the Janssen Settlement.
7. The Governmental Entity, as a Participating Subdivision, hereby becomes a Releasor for all purposes in the Janssen Settlement, including but not limited to all provisions of Section IV (Release), and along with all departments, agencies, divisions, boards, commissions, districts, instrumentalities of any kind and attorneys, and any person in their official capacity elected or appointed to serve any of the foregoing and any agency, person, or other entity claiming by or through any of the foregoing, and any other entity identified in the definition

of Releasor, provides for a release to the fullest extent of its authority. As a Releasor, the Governmental Entity hereby absolutely, unconditionally, and irrevocably covenants not to bring, file, or claim, or to cause, assist or permit to be brought, filed, or claimed, or to otherwise seek to establish liability for any Released Claims against any Released Entity in any forum whatsoever. The releases provided for in the Janssen Settlement are intended by the Parties to be broad and shall be interpreted so as to give the Released Entities the broadest possible bar against any liability relating in any way to Released Claims and extend to the full extent of the power of the Governmental Entity to release claims. The Janssen Settlement shall be a complete bar to any Released Claim.

8. In connection with the releases provided for in the Janssen Settlement, each Governmental Entity expressly waives, releases, and forever discharges any and all provisions, rights, and benefits conferred by any law of any state or territory of the United States or other jurisdiction, or principle of common law, which is similar, comparable, or equivalent to § 1542 of the California Civil Code, which reads:

General Release; extent. A general release does not extend to claims that the creditor or releasing party does not know or suspect to exist in his or her favor at the time of executing the release that, if known by him or her, would have materially affected his or her settlement with the debtor or released party.

A Releasor may hereafter discover facts other than or different from those which it knows, believes, or assumes to be true with respect to the Released Claims, but each Governmental Entity hereby expressly waives and fully, finally, and forever settles, releases and discharges, upon the Effective Date, any and all Released Claims that may exist as of such date but which Releasors do not know or suspect to exist, whether through ignorance, oversight, error, negligence or through no fault whatsoever, and which, if known, would materially affect the Governmental Entities' decision to participate in the Janssen Settlement.

9. This Settlement Participation Form shall be deemed effective as of the Effective Date of the Janssen Settlement.
10. Nothing herein is intended to modify in any way the terms of the Janssen Settlement, to which Governmental Entity hereby agrees. To the extent this Election and Release is interpreted differently from the Janssen Settlement in any respect, the Janssen Settlement controls.

I have all necessary power and authorization to execute this Election and Release on behalf of the Governmental Entity.

Signature: _____

Name: _____

Title: _____

Date: _____