

Site Readiness Grant Agreement Template

Technical Assistance Grants

This template is provided for informational purposes only.

**COMMONWEALTH SITE READINESS PROGRAM
TECHNICAL ASSISTANCE GRANT AGREEMENT**

THIS GRANT AGREEMENT (the “Agreement”) dated this _____ day of _____, 202_ (the “Effective Date”), between MASSACHUSETTS DEVELOPMENT FINANCE AGENCY, a Massachusetts body politic and corporate established and existing under Chapter 23G of the Massachusetts General Laws, having its principal place of business at 99 High Street, Boston, Massachusetts 02110 (“MassDevelopment”), and [GRANTEE/RECIPIENT], a Massachusetts [ENTITY TYPE] having a mailing address at [MAILING ADDRESS] (the “Recipient”). MassDevelopment and Recipient are sometimes referred to herein individually as a (“Party”) and collectively as the (“Parties”).

RECITALS

WHEREAS, the Site Readiness Program (“the Program”) was created pursuant to *An Act Relative to Job Creation and Workforce Development*, 2016 Mass. Acts c. 219, § 2A (the “Enabling Legislation”) to fund site assembly, site assessment, predevelopment permitting and other predevelopment marketing activities that enhance a site’s readiness for commercial, industrial or mixed-use development; and

WHEREAS, MassDevelopment’s Board of Directors voted to approve guidelines for the Program on January 12, 2017, and amended and ratified those guidelines on June 8, 2017, September 13, 2018, and October 10, 2019; and

WHEREAS, on September 13, 2024 MassDevelopment’s Board of Directors approved a Program award on behalf of the Recipient; and

WHEREAS, the Recipient desires to improve site readiness at [PROJECT ADDRESS AND PARCEL ID(s)] comprising approximately X acres and as further defined in Exhibit C attached hereto (the “Site”); and

WHEREAS, this Agreement is entered into for the public purpose, consistent with the Enabling Legislation and the Program’s guidelines, of assisting the Recipient in [CHARACTERIZE GRANT PURPOSE] to improve site readiness at the Site (the “Project”); and

WHEREAS, the Recipient and MassDevelopment agree that MassDevelopment will contract with [CONSULTANTS] (collectively, the “Consultant Team”) to provide certain services in connection with the Project as further described in Exhibit A attached hereto and made part hereof (the “Services”); and

WHEREAS, the Recipient and MassDevelopment intend by this Agreement to establish clearly articulated responsibilities expressly agreed upon by both Parties.

TERMS

NOW, THEREFORE, in consideration of the foregoing and the mutual promises set forth herein and of other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties hereto hereby agree as follows:

1. MassDevelopment's Obligations.

- (a) MassDevelopment shall allocate and expend up to [GRANT AMOUNT WRITTEN OUT] [\$GRANT AMOUNT] in the delivery of the Services, exclusive of the expenses and costs of its staff time (the "MassDevelopment Funds"). The amount of the MassDevelopment Funds actually disbursed that have not already been repaid to MassDevelopment are referred to as the "Disbursed Funds."

2. Recipient's Obligations.

- (a) Intentionally Deleted.
- (b) Intentionally Deleted.
- (c) Intentionally Deleted.
- (d) Intentionally Deleted.
- (e) Recipient hereby represents and warrants that:
 - (i) The Disbursed Funds shall be used exclusively for the Services and/or Site acquisition.
 - (ii) The Recipient has the legal power and authority to enter into and perform this Agreement and any related documents in which it is named as a Party, to fulfill its obligations set forth herein and therein and to carry out the transactions contemplated hereby and thereby.
 - (iii) This Agreement and any other documents delivered to MassDevelopment by the Recipient pursuant hereto are the legal, valid and binding obligations of the Recipient, enforceable against the Recipient in accordance with their respective terms. There are no actions, suits, proceedings, adverse findings or investigations pending or, to the knowledge of the Recipient, threatened, anticipated or contemplated (nor, to the knowledge of the Recipient, is there any basis therefor) against or affecting the Recipient before any court or governmental department, commission, board, bureau, agency or instrumentality, domestic or foreign, that call into question the validity of this Agreement or any action taken or to be taken in connection with the transactions contemplated hereby;
 - (iv) Each of the representations and warranties of this section shall survive the termination of this Agreement and to the extent permitted by law, Recipient shall indemnify and hold harmless MassDevelopment and any members, officers, employees, or directors thereof (the "Indemnitees") from and against all loss, expense or liability directly or indirectly resulting from the

breach thereof, including, without limitation, the cost of defending or settling any claim arising therefrom against the Indemnitees.

(f) The Recipient shall reimburse MassDevelopment for the Disbursed Funds as follows:

(i) If the Site or any portion thereof is sold, conveyed, gifted, demised, ground leased, otherwise transferred, or refinanced, and as a result, Recipient, or any affiliate, receives funds that exceed the aggregate amount necessary for repayment of existing monetary liens, mortgage loans, and other debt on the Project and all of the costs incurred by them in the acquisition, development, ownership, and sale of the Site or of the portion of the Site transferred (the "Net Proceeds"), then Recipient shall notify MassDevelopment within thirty (30) days of the transfer and shall reimburse MassDevelopment the full amount of the Net Proceeds, in an amount up to the Disbursed Funds. In the event of a ground lease or other stream of income derived from the Site, Recipient shall provide MassDevelopment with relevant agreement(s) and a cash flow statement and MassDevelopment and Recipient shall agree on repayment terms regarding the Disbursed Funds, taking into account the Project debt of the Recipient. This Section 2(f)(i) shall only apply from the Effective Date established above through 11:59 P.M. on the date thirty (30) years thereafter, but shall survive the earlier expiration or termination of this Agreement.

(g) The Recipient hereby promises to repay the Disbursed Funds in accordance with the foregoing terms and conditions. Recipient further agrees to execute and enter into any and all documents that reaffirm the terms and conditions of this section, as reasonably requested by MassDevelopment, and as relates to the Disbursed Funds and Recipient's obligations hereunder. Attached hereto as **Exhibit B** is a commitment letter from the Recipient agreeing to the foregoing reimbursement obligations.

(h) The Recipient shall meet with MassDevelopment staff and/or its consultants on an as needed basis, during the period when the Services are being performed or as MassDevelopment reasonably requests thereafter. The Recipient's Project Manager (as identified in Section 4) shall assist MassDevelopment and its consultants in accessing the assistance of other municipal agencies or staff, as necessary. The Recipient shall work diligently with MassDevelopment in coordinating and resolving any issues that may arise in connection with the Project.

(i) The Recipient shall provide annual update reports to MassDevelopment that include Project goals, updates, timelines, Net Proceeds, and economic benefit to the municipality; the annual reports are due on or before July 31st of each calendar year, until the earlier of: (i) the date MassDevelopment has been fully reimbursed for the Disbursed Funds or (ii) from the Effective Date established above through 11:59 P.M. on the date five (5) years thereafter.

3. Contracts with Third Parties. If the Parties agree that MassDevelopment shall retain,

manage and oversee the performance by the Consultant Team of the Services, MassDevelopment, with the prior consent of the Recipient, may contract or subcontract with third parties, consistent with any applicable procurement laws, rules, or regulations, for goods and services, permitting services, urban design services, and other consulting services for all activities that MassDevelopment deems necessary or desirable in the course of performing the Services.

4. Project Personnel. Both MassDevelopment and the Recipient have designated the following persons to serve as Project Manager to support effective communication between MassDevelopment and the Recipient and to report on the Project's progress:

For MassDevelopment:

Name/Title:

Telephone:

E-mail

For Recipient:

Name/Title:

Telephone:

E-mail

5. Ownership and Use of Materials. All materials produced by MassDevelopment, including, without limitation, disks, plans, specifications, reports, manuals, pamphlets, and articles ("Documentary Materials"), shall be the property of MassDevelopment, and shall appropriately designate MassDevelopment as the owner. MassDevelopment shall make these materials available to the Recipient for economic development purposes. Upon full repayment of the Disbursed Funds, ownership of the Documentary Materials shall transfer to the Recipient.
6. Term. The term of this Agreement shall commence upon the Effective Date established above and shall expire on [DATE OF SCOPE END].
7. Survival. The provisions of this Agreement, which expressly or by their nature survive expiration or termination of this Agreement, will remain in effect after the termination of this Agreement.
8. Compliance with Laws. In connection with this Agreement, the Parties shall, and shall require all of their employees, contractors, and agents to, comply with all federal, state, and local laws, regulations, rules, ordinances, and orders of any kind that are applicable to the performance of the Services.
9. MassDevelopment Liability.

(a) In no event shall MassDevelopment be held liable with respect to:

(i) Any contract entered into with a third party by the Recipient relating to the

subject matter of this Agreement or otherwise;

- (ii) Any recommendations, proposals, suggestions, comments, or actions taken or omitted in connection with this Agreement, unless MassDevelopment is grossly negligent; or
 - (iii) Any work performed by any contractor as part of the Services provided under this Agreement.
- (b) MassDevelopment shall have no obligation to perform, or have performed, any work described in the Services with internal staff resources, nor shall MassDevelopment be obliged to incur any costs if the Recipient shall unreasonably fail to provide MassDevelopment with material information necessary to deliver the work described in the Services.
- (c) MassDevelopment shall have no obligation to perform, or have performed, any particular work described in the Services if it determines, in its sole discretion, that doing so is beyond the scope of this Agreement or is otherwise unadvisable or impractical.

10. Assignability. The Parties agree not to assign any rights or interests arising under this Agreement or make any person a third-party beneficiary of this Agreement, without obtaining, on each occasion, the prior consent of the other Party, which consent may be withheld for any reason or for no reason, in such Party's sole and absolute discretion.

11. Nature of Relationship; Independent Contractor.

- (a) The Parties acknowledge that MassDevelopment is providing services solely for public purposes as set forth herein and that no agency, partnership, joint venture or other ownership relationship is intended to be or is created by this Agreement, and, except as is expressly set forth herein, MassDevelopment shall act as an independent contractor pursuant to this Agreement.
- (b) MassDevelopment's participation in this Agreement in no way obligates any further action or financial assistance by MassDevelopment with respect to the Project or the Recipient.
- (c) MassDevelopment understands that it has no authority to make or imply any commitments, which are binding upon the Recipient.
- (d) The Parties understand and agree that the ultimate feasibility or economic viability of the Project, or any other project arising out of this Agreement is not being guaranteed or assured by MassDevelopment or the Recipient. Notwithstanding the foregoing, the Parties acknowledge they have a special relationship with a duty of loyalty and a duty to act in good faith toward each other.

12. Notices. All notices shall be in writing and shall be deemed given when delivered by hand or when deposited in the United States Postal Service via certified or registered first class

15. Exculpation. There shall be absolutely no personal liability on the part of MassDevelopment or the Recipient or on the part of any of its/their employees, agents, subcontractors, invitees or guests for monetary damages with respect to terms, covenants, and conditions of this Agreement; this exculpation of personal liability is to be absolute and without exception.
16. Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the Commonwealth of Massachusetts without regard to its conflict-of-law rules.
17. Entire Agreement. This Agreement supersedes all earlier letters, conversations, purchase orders, proposals, memoranda and other written and oral communications, and it contains all the terms agreed on by the Parties, with respect to the subject matter hereof, and no changes in, additions to, or subtractions from, this Agreement will be binding on the Parties unless in writing and signed by MassDevelopment and the Recipient.
18. Limitation of Rights. Nothing contained herein shall be construed to confer upon any person other than the Parties hereto any rights, remedies, privileges, benefits, or causes of action to any extent whatsoever.
19. Authority to Enter Agreement. Each signatory to this Agreement represents and warrants to the other that it has full power, and has taken all necessary action, to authorize the execution, delivery, and performance of this Agreement, and this Agreement constitutes the legal, valid, and binding obligation of such Party enforceable in accordance with its terms.
20. Severability. If any term or provision of this Agreement or the application thereof to any circumstance shall be invalid or unenforceable the remainder of this Agreement or the application thereof to any circumstance other than that to which it is invalid or unenforceable shall not be affected thereby.
21. Counterparts: Electronic Execution. This Agreement may be executed in any number of counterparts and by different Parties and separate counterparts, each of which when so executed and delivered, shall be deemed an original, and all of which, when taken together, shall constitute one and the same instrument. Delivery of an executed counterpart of a signature page to this Agreement by electronic means shall be as effective as delivery of a manually executed counterpart of this Assignment. Any Party delivering an executed counterpart of this Agreement by electronic means also shall deliver a manually executed counterpart of this Agreement, but the failure to deliver a manually executed counterpart shall not affect the validity, enforceability, and binding effect of this Agreement.
22. Dispute Resolution. The Parties agree to use their respective best efforts to resolve any dispute(s) that may arise regarding this Agreement. Any dispute that arises under or with respect to this Agreement that cannot be resolved in the daily management and implementation of this Agreement shall in the first instance be the subject of informal negotiations between the [RECIPIENT'S REPRESENTATIVE – NAME AND TITLE] and the Executive Vice President, Real Estate for MassDevelopment, who shall use their respective best efforts to resolve such dispute. In the event that the Parties cannot resolve a

dispute by such informal negotiations, the Parties agree to submit the dispute to mediation. Within forty-five (45) days following the date on which the dispute was first identified, the Parties shall propose and agree upon a neutral and otherwise qualified mediator. In the event that the Parties fail to agree upon a mediator, the Parties shall request the American Arbitration Association to appoint a mediator. The mediation shall be conducted in accordance with the commercial arbitration rules of the American Arbitration Association. The Parties shall be responsible for equal shares of the costs associated with locating and obtaining the services of a mediator (the "Mediation Costs"). The period for mediation shall commence upon the appointment of the mediator and shall not exceed thirty (30) days, unless such time period is modified by mutual agreement. In the event that (i) the actual Mediation Costs exceed \$5,000 per Party, or (ii) the period for mediation exceeds the 30-day period specified above, then either Party shall have the option to withdraw from all mediation proceedings without penalty, and the Parties may seek redress in whatever forum may be available to them under applicable law. Notwithstanding the foregoing, in the event that the nature of the Parties' dispute is such that one or both Parties are likely to suffer irreparable harm, such Party or Parties may seek immediate judicial relief without resorting to the mediation process described above.

[Remainder of the page is intentionally blank]

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed by their duly authorized representatives as of the day and year first set forth above.

**MASSACHUSETTS DEVELOPMENT
FINANCE AGENCY**

Approved as to form:

Agency Counsel

By: _____

Name: _____

Title: _____

[RECIPIENT]

By: _____

Name: _____

Title: _____

*[Signature page for SRP Technical Assistance Grant Agreement between MassDevelopment and
[RECIPIENT]]*

EXHIBIT A
SCOPE OF SERVICES

TEMPLATE

EXHIBIT B

CONTENT OF COMMITMENT LETTER

The [RECIPIENT] having a mailing address at [ADDRESS] (the “Municipality”) wishes to express support for the [CHARACTERIZE PROJECT], which will pertain to the property located at [ADDRESS] (the “Site”). It is the opinion of the Municipality that assistance through the Commonwealth Site Readiness Program, administered by the Massachusetts Development Finance Agency (“MassDevelopment”), would prepare the site for market and provide significant public benefits, described below.

[CHARACTERIZE BENEFITS]

In signing this letter of support, the Municipality agrees to comply with the applicable terms of the form grant agreement included in the Request for Proposals issued by MassDevelopment dated [DATE]. Specifically, the Municipality commits to obtain a vote of the [CITY COUNCIL/BOARD OF SELECTMEN], agreeing that if the Site or any portion thereof is sold, conveyed, gifted, demised, ground leased, or otherwise transferred, or refinanced, and as a result of said transaction, the Recipient receives funds that exceed the aggregate amount necessary for repayment of existing monetary liens, mortgage loans, and other debt on the Project and all of the costs incurred by them in the acquisition, development, ownership, and sale of the Site or of the portion of the Site, then Recipient shall reimburse MassDevelopment the full amount of the Net Proceeds up to the amount of the Recoverable Grant that has been disbursed and has not already been repaid to MassDevelopment

The signatory to this letter represents and warrants to MassDevelopment that it has full power, and has taken all necessary action, to authorize the execution, delivery, and performance of this letter, and this letter constitutes the legal, valid, and binding obligation of such party enforceable in accordance with its terms.

[RECIPIENT]

By: _____

Name: _____

Title: _____

EXHIBIT B-1

SAMPLE VOTE [DO NOT FILL OUT]

[ACTUAL VOTE WILL DIFFER BASED ON MUNICIPALITY'S BYLAWS AND CIRCUMSTANCES OF THE GRANT]

RESOLUTION IN SUPPORT OF THE SITE READINESS GRANT

WHEREAS, the land located at [ADDRESS] (the "Site") has been deemed a site suitable for the site assessment program administered by the Massachusetts Development Finance Agency ("MassDevelopment");

WHEREAS, [NAME OF GRANTEE], a Massachusetts [ENTITY TYPE] having a mailing address at [STREET, MUNICIPALITY, STATE ZIP] ("Recipient") has been awarded a site readiness recoverable grant in the amount of \$ _____ from MassDevelopment (the "Recoverable Grant") for readiness assistance related to the Site (the "Project");

WHEREAS, the Recoverable Grant was formalized through a grant agreement dated [DATE] entered into by and between the Municipality and MassDevelopment (the "Grant Agreement"); and

WHEREAS, the Municipality has agreed to repay the Recoverable Grant.

NOW, THEREFORE, the [ENTITY] votes as follows:

If the Site or any portion thereof is sold, conveyed, gifted, demised, ground leased, or otherwise transferred, or refinanced, and as a result of said transaction, the Recipient receives funds that exceed the aggregate amount necessary for repayment of existing monetary liens, mortgage loans, and other debt on the Project and all of the costs incurred by them in the acquisition, development, ownership, and sale of the Site or of the portion of the Site transferred (the "Net Proceeds"), then Recipient shall reimburse MassDevelopment the full amount of the Net Proceeds up to the amount of the Recoverable Grant that has been disbursed and has not already been repaid to MassDevelopment (the "Disbursed Funds").

[INSERT NECESSARY CERTIFICATIONS]

EXHIBIT C

PROJECT AREA MAP AND DESCRIPTION

TEMPLATE

Site Readiness Grant Agreement Template

Applicant Managed Grants

This template is provided for informational purposes only.

**COMMONWEALTH SITE READINESS PROGRAM
GRANT AGREEMENT**

THIS GRANT AGREEMENT (the “Agreement”) dated this _____ day of _____, 202_ (the “Effective Date”), between MASSACHUSETTS DEVELOPMENT FINANCE AGENCY, a Massachusetts body politic and corporate established and existing under Chapter 23G of the Massachusetts General Laws, having its principal place of business at 99 High Street, Boston, Massachusetts 02110 (“MassDevelopment”), and [GRANTEE/RECIPIENT], a Massachusetts [ENTITY TYPE] having a mailing address at [MAILING ADDRESS] (the “Recipient”). MassDevelopment and Recipient are sometimes referred to herein individually as a (“Party”) and collectively as the (“Parties”).

RECITALS

WHEREAS, the Site Readiness Program (“the Program”) was created pursuant to *An Act Relative to Job Creation and Workforce Development*, 2016 Mass. Acts c. 219, § 2A (the “Enabling Legislation”) to fund site assembly, site assessment, predevelopment permitting and other predevelopment marketing activities that enhance a site’s readiness for commercial, industrial or mixed-use development; and

WHEREAS, MassDevelopment’s Board of Directors voted to approve guidelines for the Program on January 12, 2017, and amended and ratified those guidelines on June 8, 2017, September 13, 2018, and October 10, 2019; and

WHEREAS, on [DATE OF BOARD MEETING], MassDevelopment’s Board of Directors approved a Program award on behalf of the Recipient; and

WHEREAS, the Recipient desires to improve site readiness at [PROJECT ADDRESS AND PARCEL ID(s)] comprising approximately X acres and as further defined in **Exhibit E** attached hereto (the “Site”); and

WHEREAS, this Agreement is entered into for the public purpose, consistent with the Enabling Legislation and the Program’s guidelines, of assisting the Recipient in [CHARACTERIZE GRANT PURPOSE] to improve site readiness at the Site (the “Project”); and

WHEREAS, the Recipient and MassDevelopment agree that Recipient will contract with [CONSULTANTS] (collectively, the “Consultant Team”) to provide certain services in connection with the Project as further described in **Exhibit A** attached hereto and made part hereof (the “Services”); and

WHEREAS, the Recipient and MassDevelopment intend by this Agreement to establish clearly articulated responsibilities expressly agreed upon by both Parties.

TERMS

NOW, THEREFORE, in consideration of the foregoing and the mutual promises set forth herein and of other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties hereto hereby agree as follows:

1. MassDevelopment's Obligations.

- (a) MassDevelopment shall allocate and expend up to [GRANT AMOUNT WRITTEN OUT] [\$GRANT AMOUNT] in the delivery of the Services, exclusive of the expenses and costs of its staff time (the "MassDevelopment Funds"). The amount of the MassDevelopment Funds actually disbursed that have not already been repaid to MassDevelopment are referred to as the "Disbursed Funds."

2. Recipient's Obligations.

- (a) The Recipient shall retain, manage, and oversee the performance by the Consultant Team of the Services.
- (b) Recipient shall cause the Consultant Team to perform the Services in a professional, competent, and timely manner. Recipient shall pay Consultant Team invoices directly. Recipient shall email approved/paid Consultant Team invoices to the Project Manager at MassDevelopment within ten (10) business days of processing by Recipient. MassDevelopment will submit reimbursement check(s) for the paid invoice(s) made out to Recipient in the amount of the approved invoice(s) and will send the reimbursement check(s) to the Recipient. The Project Manager designations are outlined in Section 4 below. Recipient shall be solely liable for any late payment fees incurred, due to timing of payments. Recipient shall include proof of payment and a brief written project update as part of the Invoice Submission Form (see attached **Exhibit D**) that includes information on project status, work percentage complete, and completion timeline, with each invoice submission to MassDevelopment. Photos of any related Site progress, if applicable, may be attached to the Invoice Submission Form.
- (c) Recipient shall comply with MassDevelopment's "Contractor Policy" attached hereto as **Exhibit C** and made a part hereof, which requires that the Recipient or its affiliates have not and will not enter into a contract for work financed by MassDevelopment with any vendor or contractor listed as debarred or suspended on the debarment lists maintained by the Commonwealth of Massachusetts' Division of Capital Asset Management and Maintenance, the Department of Transportation, the Department of Industrial Accidents, the Office of the Attorney General, and the Federal Government (the "Debarment Lists"). It is the policy of the Commonwealth and MassDevelopment to promote equity of opportunity in state contracting; and, to that end, to encourage full participation of Diverse Business Enterprises (as defined below) in all areas of state contracting pursuant to Executive Orders 565, 523, and 526. For purposes of this section, "Diverse Business Enterprise(s)" means a minority-owned business enterprise ("MBE"), women-owned business enterprise ("WBE"), veteran-owned business enterprise ("VBE"), or service-disabled veteran-

owned business enterprise (“SDVOBE”). MassDevelopment strongly encourages the use of Diverse Business Enterprises as contractors, subcontractors, consultants, subconsultants, and suppliers. Lists of Diverse Business Enterprises certified or verified by the Supplier Diversity Office are located at www.mass.gov/sdo.

(d) Recipient shall cause the Consultant Team to perform the Services in a professional, competent, and timely manner.

(e) Recipient hereby represents and warrants that:

- (i) The Disbursed Funds shall be used exclusively for the Services and/or Site acquisition.
- (ii) The Recipient has the legal power and authority to enter into and perform this Agreement and any related documents in which it is named as a Party, to fulfill its obligations set forth herein and therein and to carry out the transactions contemplated hereby and thereby.
- (iii) This Agreement and any other documents delivered to MassDevelopment by the Recipient pursuant hereto are the legal, valid and binding obligations of the Recipient, enforceable against the Recipient in accordance with their respective terms. There are no actions, suits, proceedings, adverse findings or investigations pending or, to the knowledge of the Recipient, threatened, anticipated or contemplated (nor, to the knowledge of the Recipient, is there any basis therefor) against or affecting the Recipient before any court or governmental department, commission, board, bureau, agency or instrumentality, domestic or foreign, that call into question the validity of this Agreement or any action taken or to be taken in connection with the transactions contemplated hereby;
- (iv) Each of the representations and warranties of this section shall survive the termination of this Agreement and to the extent permitted by law, Recipient shall indemnify and hold harmless MassDevelopment and any members, officers, employees, or directors thereof (the “Indemnitees”) from and against all loss, expense or liability directly or indirectly resulting from the breach thereof, including, without limitation, the cost of defending or settling any claim arising therefrom against the Indemnitees.

(f) The Recipient shall reimburse MassDevelopment for the Disbursed Funds as follows:

- (i) If the Site or any portion thereof is sold, conveyed, gifted, demised, ground leased, otherwise transferred, or refinanced, and as a result, Recipient, or any affiliate, receives funds that exceed the aggregate amount necessary for repayment of existing monetary liens, mortgage loans, and other debt on the Project and all of the costs incurred by them in the acquisition, development, ownership, and sale of the Site or of the portion of the Site transferred (the “Net Proceeds”), then Recipient shall notify MassDevelopment within thirty (30) days of the transfer and shall reimburse MassDevelopment the full amount of the Net Proceeds, in an amount up to the Disbursed Funds. In the

event of a ground lease or other stream of income derived from the Site, Recipient shall provide MassDevelopment with relevant agreement(s) and a cash flow statement and MassDevelopment and Recipient shall agree on repayment terms regarding the Disbursed Funds, taking into account the Project debt of the Recipient. This Section 2(f)(i) shall only apply from the Effective Date established above through 11:59 P.M. on the date thirty (30) years thereafter, but shall survive the earlier expiration or termination of this Agreement.

- (g) The Recipient hereby promises to repay the Disbursed Funds in accordance with the foregoing terms and conditions. Recipient further agrees to execute and enter into any and all documents that reaffirm the terms and conditions of this section, as reasonably requested by MassDevelopment, and as relates to the Disbursed Funds and Recipient's obligations hereunder. Attached hereto as **Exhibit B** is a commitment letter from the Recipient agreeing to the foregoing reimbursement obligations.
 - (h) The Recipient shall meet with MassDevelopment staff and/or its consultants on an as needed basis, during the period when the Services are being performed or as MassDevelopment reasonably requests thereafter. The Recipient's Project Manager (as identified in Section 4) shall assist MassDevelopment and its consultants in accessing the assistance of other municipal agencies or staff, as necessary. The Recipient shall work diligently with MassDevelopment in coordinating and resolving any issues that may arise in connection with the Project.
 - (i) The Recipient shall provide annual update reports to MassDevelopment that include Project goals, updates, timelines, Net Proceeds, and economic benefit to the municipality; the annual reports are due on or before July 31st of each calendar year, until the earlier of: (i) the date MassDevelopment has been fully reimbursed for the Disbursed Funds or (ii) from the Effective Date established above through 11:59 P.M. on the date five (5) years thereafter.
3. Contracts with Third Parties. If the Parties agree that MassDevelopment shall retain, manage and oversee the performance by the Consultant Team of the Services, MassDevelopment, with the prior consent of the Recipient, may contract or subcontract with third parties, consistent with any applicable procurement laws, rules, or regulations, for goods and services, permitting services, urban design services, and other consulting services for all activities that MassDevelopment deems necessary or desirable in the course of performing the Services.
4. Project Personnel. Both MassDevelopment and the Recipient have designated the following persons to serve as Project Manager to support effective communication between MassDevelopment and the Recipient and to report on the Project's progress:

For MassDevelopment:

Name/Title:

Telephone:

E-mail

For Recipient:

Name/Title:

Telephone:

E-mail

5. Ownership and Use of Materials. All materials produced by MassDevelopment, including, without limitation, disks, plans, specifications, reports, manuals, pamphlets, and articles (“Documentary Materials”), shall be the property of MassDevelopment, and shall appropriately designate MassDevelopment as the owner. MassDevelopment shall make these materials available to the Recipient for economic development purposes. Upon full repayment of the Disbursed Funds, ownership of the Documentary Materials shall transfer to the Recipient.
6. Term. The term of this Agreement shall commence upon the Effective Date established above and shall expire on [DATE OF SCOPE END].
7. Survival. The provisions of this Agreement, which expressly or by their nature survive expiration or termination of this Agreement, will remain in effect after the termination of this Agreement.
8. Compliance with Laws. In connection with this Agreement, the Parties shall, and shall require all of their employees, contractors, and agents to, comply with all federal, state, and local laws, regulations, rules, ordinances, and orders of any kind that are applicable to the performance of the Services.
9. MassDevelopment Liability.
 - (a) In no event shall MassDevelopment be held liable with respect to:
 - (i) Any contract entered into with a third party by the Recipient relating to the subject matter of this Agreement or otherwise;
 - (ii) Any recommendations, proposals, suggestions, comments, or actions taken or omitted in connection with this Agreement, unless MassDevelopment is grossly negligent; or
 - (iii) Any work performed by any contractor as part of the Services provided under this Agreement.
 - (b) MassDevelopment shall have no obligation to perform, or have performed, any work described in the Services with internal staff resources, nor shall MassDevelopment be obliged to incur any costs if the Recipient shall unreasonably fail to provide MassDevelopment with material information necessary to deliver the work described in the Services.

- (c) MassDevelopment shall have no obligation to perform, or have performed, any particular work described in the Services if it determines, in its sole discretion, that doing so is beyond the scope of this Agreement or is otherwise unadvisable or impractical.

10. Assignability. The Parties agree not to assign any rights or interests arising under this Agreement or make any person a third-party beneficiary of this Agreement, without obtaining, on each occasion, the prior consent of the other Party, which consent may be withheld for any reason or for no reason, in such Party's sole and absolute discretion.

11. Nature of Relationship; Independent Contractor.

- (a) The Parties acknowledge that MassDevelopment is providing services solely for public purposes as set forth herein and that no agency, partnership, joint venture or other ownership relationship is intended to be or is created by this Agreement, and, except as is expressly set forth herein, MassDevelopment shall act as an independent contractor pursuant to this Agreement.
- (b) MassDevelopment's participation in this Agreement in no way obligates any further action or financial assistance by MassDevelopment with respect to the Project or the Recipient.
- (c) MassDevelopment understands that it has no authority to make or imply any commitments, which are binding upon the Recipient.
- (d) The Parties understand and agree that the ultimate feasibility or economic viability of the Project, or any other project arising out of this Agreement is not being guaranteed or assured by MassDevelopment or the Recipient. Notwithstanding the foregoing, the Parties acknowledge they have a special relationship with a duty of loyalty and a duty to act in good faith toward each other.

12. Notices. All notices shall be in writing and shall be deemed given when delivered by hand or when deposited in the United States Postal Service via certified or registered first class mail, return receipt requested, or via overnight delivery with confirmation of process and shall be addressed as follows:

To MassDevelopment:

Massachusetts Development Finance Agency
99 High Street, 11th Floor
Boston, Massachusetts 02110
Attention: Executive Vice President Real Estate

With a copy to:

Massachusetts Development Finance Agency
99 High Street, 11th Floor
Boston, MA 02110
Attention: General Counsel

To the Recipient:

[RECIPIENT NAME, ADDRESS, AND TITLE]

Either Party may change any of its notification information for the purpose of this section by giving the other Party prior notice thereof in accordance herewith.

13. Termination.

(a) This Agreement may be terminated:

- (i) At any time, upon the mutual written agreement of MassDevelopment and the Recipient;
- (ii) At the option of MassDevelopment, for any reason or no reason, upon no less than sixty (60) days written notice to the Recipient; or
- (iii) By either MassDevelopment or the Recipient, upon the other Party's failure to perform or observe any of its obligations under this Agreement (a "Default"), after a period of thirty (30) days or the additional time, if any, that is reasonably necessary to promptly and diligently cure such Default, after such defaulting Party receives notice from the non-defaulting Party setting forth in reasonable detail the nature and extent of the failure and identifying the applicable provisions of this Agreement.

(b) Upon notice of a Default under this Agreement, the non-defaulting Party shall have no further obligation to the defaulting Party under this Agreement until and unless the Default is cured.

(c) Upon an event of Default under this Agreement beyond any applicable grace period, this Agreement shall be terminated. Termination of this Agreement for any reason shall not release either Party from any accrued liability to the other Party. A Party's right to terminate this Agreement as provided herein shall be without prejudice to any other rights provided to it by law or in equity.

14. Publicity. Each of the Parties agree not to make, issue, or cause to be made, press releases or other publicity concerning this Agreement or the Project, without the prior consent of the other Parties.

15. Exculpation. There shall be absolutely no personal liability on the part of MassDevelopment or the Recipient or on the part of any of its/their employees, agents, subcontractors, invitees or guests for monetary damages with respect to terms, covenants, and conditions of this Agreement; this exculpation of personal liability is to be absolute and without exception.

16. Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the Commonwealth of Massachusetts without regard to its conflict-of-law rules.

17. Entire Agreement. This Agreement supersedes all earlier letters, conversations, purchase orders, proposals, memoranda and other written and oral communications, and it contains all the terms agreed on by the Parties, with respect to the subject matter hereof, and no changes in, additions to, or subtractions from, this Agreement will be binding on the Parties unless in writing and signed by MassDevelopment and the Recipient.

18. Limitation of Rights. Nothing contained herein shall be construed to confer upon any person other than the Parties hereto any rights, remedies, privileges, benefits, or causes of action to any extent whatsoever.
19. Authority to Enter Agreement. Each signatory to this Agreement represents and warrants to the other that it has full power, and has taken all necessary action, to authorize the execution, delivery, and performance of this Agreement, and this Agreement constitutes the legal, valid, and binding obligation of such Party enforceable in accordance with its terms.
20. Severability. If any term or provision of this Agreement or the application thereof to any circumstance shall be invalid or unenforceable the remainder of this Agreement or the application thereof to any circumstance other than that to which it is invalid or unenforceable shall not be affected thereby.
21. Counterparts: Electronic Execution. This Agreement may be executed in any number of counterparts and by different Parties and separate counterparts, each of which when so executed and delivered, shall be deemed an original, and all of which, when taken together, shall constitute one and the same instrument. Delivery of an executed counterpart of a signature page to this Agreement by electronic means shall be as effective as delivery of a manually executed counterpart of this Assignment. Any Party delivering an executed counterpart of this Agreement by electronic means also shall deliver a manually executed counterpart of this Agreement, but the failure to deliver a manually executed counterpart shall not affect the validity, enforceability, and binding effect of this Agreement.
22. Dispute Resolution. The Parties agree to use their respective best efforts to resolve any dispute(s) that may arise regarding this Agreement. Any dispute that arises under or with respect to this Agreement that cannot be resolved in the daily management and implementation of this Agreement shall in the first instance be the subject of informal negotiations between the [RECIPIENT'S REPRESENTATIVE – NAME AND TITLE] and the Executive Vice President, Real Estate for MassDevelopment, who shall use their respective best efforts to resolve such dispute. In the event that the Parties cannot resolve a dispute by such informal negotiations, the Parties agree to submit the dispute to mediation. Within forty-five (45) days following the date on which the dispute was first identified, the Parties shall propose and agree upon a neutral and otherwise qualified mediator. In the event that the Parties fail to agree upon a mediator, the Parties shall request the American Arbitration Association to appoint a mediator. The mediation shall be conducted in accordance with the commercial arbitration rules of the American Arbitration Association. The Parties shall be responsible for equal shares of the costs associated with locating and obtaining the services of a mediator (the "Mediation Costs"). The period for mediation shall commence upon the appointment of the mediator and shall not exceed thirty (30) days, unless such time period is modified by mutual agreement. In the event that (i) the actual Mediation Costs exceed \$5,000 per Party, or (ii) the period for mediation exceeds the 30-day period specified above, then either Party shall have the option to withdraw from all mediation proceedings without penalty, and the Parties may seek redress in whatever forum may be available to them under applicable law. Notwithstanding the foregoing, in the event that the nature of the Parties' dispute is such that one or both Parties are likely to suffer irreparable

harm, such Party or Parties may seek immediate judicial relief without resorting to the mediation process described above.

[Remainder of the page is intentionally blank]

TEMPLATE

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed by their duly authorized representatives as of the day and year first set forth above.

**MASSACHUSETTS DEVELOPMENT
FINANCE AGENCY**

Approved as to form:

Agency Counsel

By: _____

Name: _____

Title: _____

[RECIPIENT]

By: _____

Name: _____

Title: _____

*[Signature page for SRP Technical Assistance Grant Agreement between MassDevelopment and
[RECIPIENT]]*

EXHIBIT A
SCOPE OF SERVICES

TEMPLATE

EXHIBIT B

CONTENT OF COMMITMENT LETTER

The [RECIPIENT] having a mailing address at [ADDRESS] (the “Municipality”) wishes to express support for the [CHARACTERIZE PROJECT], which will pertain to the property located at [ADDRESS] (the “Site”). It is the opinion of the Municipality that assistance through the Commonwealth Site Readiness Program, administered by the Massachusetts Development Finance Agency (“MassDevelopment”), would prepare the site for market and provide significant public benefits, described below.

[CHARACTERIZE BENEFITS]

In signing this letter of support, the Municipality agrees to comply with the applicable terms of the form grant agreement included in the Request for Proposals issued by MassDevelopment dated [DATE]. Specifically, the Municipality commits to obtain a vote of the [CITY COUNCIL/BOARD OF SELECTMEN], agreeing that if the Site or any portion thereof is sold, conveyed, gifted, demised, ground leased, or otherwise transferred, or refinanced, and as a result of said transaction, the Recipient receives funds that exceed the aggregate amount necessary for repayment of existing monetary liens, mortgage loans, and other debt on the Project and all of the costs incurred by them in the acquisition, development, ownership, and sale of the Site or of the portion of the Site, then Recipient shall reimburse MassDevelopment the full amount of the Net Proceeds up to the amount of the Recoverable Grant that has been disbursed and has not already been repaid to MassDevelopment

The signatory to this letter represents and warrants to MassDevelopment that it has full power, and has taken all necessary action, to authorize the execution, delivery, and performance of this letter, and this letter constitutes the legal, valid, and binding obligation of such party enforceable in accordance with its terms.

[RECIPIENT]

By: _____

Name: _____

Title: _____

EXHIBIT B-1

SAMPLE VOTE [DO NOT FILL OUT]

[ACTUAL VOTE WILL DIFFER BASED ON MUNICIPALITY'S BYLAWS AND CIRCUMSTANCES OF THE GRANT]

RESOLUTION IN SUPPORT OF THE SITE READINESS GRANT

WHEREAS, the land located at [ADDRESS] (the "Site") has been deemed a site suitable for the site assessment program administered by the Massachusetts Development Finance Agency ("MassDevelopment");

WHEREAS, [NAME OF GRANTEE], a Massachusetts [ENTITY TYPE] having a mailing address at [STREET, MUNICIPALITY, STATE ZIP] ("Recipient") has been awarded a site readiness recoverable grant in the amount of \$_____ from MassDevelopment (the "Recoverable Grant") for readiness assistance related to the Site (the "Project");

WHEREAS, the Recoverable Grant was formalized through a grant agreement dated [DATE] entered into by and between the Municipality and MassDevelopment (the "Grant Agreement"); and

WHEREAS, the Municipality has agreed to repay the Recoverable Grant.

NOW, THEREFORE, the [ENTITY] votes as follows:

If the Site or any portion thereof is sold, conveyed, gifted, demised, ground leased, or otherwise transferred, or refinanced, and as a result of said transaction, the Recipient receives funds that exceed the aggregate amount necessary for repayment of existing monetary liens, mortgage loans, and other debt on the Project and all of the costs incurred by them in the acquisition, development, ownership, and sale of the Site or of the portion of the Site transferred (the "Net Proceeds"), then Recipient shall reimburse MassDevelopment the full amount of the Net Proceeds up to the amount of the Recoverable Grant that has been disbursed and has not already been repaid to MassDevelopment (the "Disbursed Funds").

[INSERT NECESSARY CERTIFICATIONS]

EXHIBIT C

MASSEVELOPMENT CONTRACTOR POLICY

MassDevelopment must comply with certain laws, including M.G.L. c. 29, § 29F(h), which prohibits public agencies from soliciting or considering offers, bids, or proposals from, and from executing, renewing, or extending any contract with, a debarred or suspended contractor, and prohibits a contractor from contracting for supplies or services from a debarred or suspended subcontractor on any public contract. Agency policy requires that for construction costs financed by the Agency (including Brownfields Program funds), borrowers/grantees must not knowingly engage with vendors listed as debarred or suspended by any of the aforementioned entities. “Vendors” includes construction contractors and construction managers as well as consultants and other individuals or businesses with which a borrower might contract for a project.

The Recipient agrees it will comply with MassDevelopment’s Contractor Policy. By signing below, Recipient agrees that for costs of the Project which are to be financed by MassDevelopment, Recipient or its affiliates have not and will not enter into a contract with any vendor listed as debarred or suspended on the debarment lists maintained by the Commonwealth of Massachusetts’ Division of Capital Asset Management and Maintenance, the Department of Transportation, the Department of Industrial Accidents, the Office of the Attorney General and the Federal Government (the “Debarment Lists”).

Recipient is required to provide the name of its general contractor or construction manager (if one is engaged) to MassDevelopment at least 10 business days prior to a disbursement. At the time of the disbursement, Recipient must certify that it has checked the Debarment Lists and that for costs of the project financed by MassDevelopment it has not and will not contract with any general contractor, construction manager or other vendor listed on the Debarment Lists. Recipient must also require that its general contractor or construction manager (if one is engaged) certify in the contract with applicant for MassDevelopment financed work that the general contractor or construction manager: (i) will check the Debarment Lists before directly engaging a subcontractor or other vendor; and (ii) has not and not will contract directly with a subcontractor or other vendor listed on a Debarment List. The certification in the general contractor or construction manager contract shall further provide that general contractor or construction manager understands and acknowledges that noncompliance may result in debarment from future MassDevelopment funded projects for a period of one year from the date of written notification of noncompliance. The form of Contractor’s certification is below.

If Recipient cannot make the above certifications at the time of disbursement, MassDevelopment reserves the right not to proceed with the Recipient’s disbursement. MassDevelopment will not advance any proceeds against requisitions for payment of vendors that MassDevelopment learns were debarred or suspended at the time the relevant contract was created.

The Commonwealth’s Division of Capital Asset Management and Maintenance has a webpage with a link to the above named lists, [Debarred, Suspended or Decertified Contractors | Mass.gov](#).

CONTRACTOR POLICY CONTRACT LANGUAGE INSERT

General Contractor and subcontractor[s] certify that neither is listed as debarred or suspended on the debarment lists maintained by the Commonwealth of Massachusetts' Division of Capital Asset Management, the Department of Transportation, the Department of Industrial Accidents, the Office of the Attorney General, or the Federal government (the "Debarment Lists").

General Contractor and subcontractor[s] agree to review the Debarment Lists before soliciting or considering bids, contracting or negotiating with any sub-contractor for work under this agreement and [Contractor] will not knowingly solicit or consider bids, contract or negotiate with, or approve a subcontract with any vendor listed as debarred or suspended on the Debarment Lists.

General Contractor and subcontractor[s] agree that any sub-contracts for work under this agreement will: (i) include a certification that the sub-contractor is not listed as debarred or suspended on the Debarment Lists, and (ii) require that the sub-contractor confirm that it will review the Debarment Lists and not knowingly solicit or consider bids, contract or negotiate with, or approve a subcontract with any vendor listed as debarred or suspended on the Debarment Lists.

TEMPLATE

EXHIBIT D

MASSDEVELOPMENT INVOICE SUBMISSION FORM

TEMPLATE

EXHIBIT E

PROJECT AREA MAP AND DESCRIPTION

TEMPLATE