

Request for Qualifications
For
PROFESSIONAL LANDSCAPE DESIGN AND SITE PLAN REVIEW SERVICES

For the City of Chelsea, MA

Contract # 2015-133

January 2014

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City of Chelsea Standard City Contract for Services over \$10,000 Sample
Exhibit A – Additional CDBG Terms and Conditions

MANDATORY SUBMITTALS:

RESPONDER INFORMATION FORM (To be first page of Bid)
CERTIFICATE OF NON-COLLUSION
STATEMENT OF CORPORATE AUTHORITY (If responder is a Corporation)
REFERENCE FORM

LEGAL NOTICE

REQUEST FOR QUALIFICATIONS FOR PROFESSIONAL LANDSCAPE DESIGN AND SITE PLAN REVIEW SERVICES

The City of Chelsea, Massachusetts, through its Department of Planning and Development, is seeking qualifications from experienced landscape architectural consultants for professional landscape design, park design, and site plan review services on an as-needed basis. The City will qualify one (1) firm to provide these services.

Copies of the full Request for Qualifications, which describes the proposed work, the minimum qualifications for submittal, and the submittal process, can be obtained from the Chelsea Procurement Office, 500 Broadway, Room 206, Chelsea, MA 02150. Questions regarding the project should be directed to Dylan Cook, Chief Procurement Officer Procurement Office, City Hall, Rm 206, 500 Broadway, Chelsea, MA 02150, dcook@chelseama.gov, 617-466-4220 (office), 617-466-4225 (fax).

Qualifications should be comprised of two (2) separate sealed submissions: a brief overall qualifications statement and an hourly rate schedule in another sealed submission, both to be received no later than 2:00 PM, February 11, 2015. Submissions should be delivered or mailed to: Dylan Cook, Chief Procurement Officer, Procurement Office, 500 Broadway, Room 206, Chelsea, MA 02150.

The City of Chelsea is an Equal Opportunity Employer. Minority and women business participation is encouraged. The City of Chelsea reserves the right to reject any and all proposals. No submissions will be considered after the February 11, 2015 deadline.

Chelsea Record, 1/22/2015, 1/29/2015

Section 1 Procurement Scope

The City of Chelsea, Massachusetts, through its Department of Planning and Development, is seeking qualifications from experienced landscape architectural consultants for professional landscape design, park design, and site plan review services on an as-needed basis. The City will qualify one (1) firm to provide these services.

1.1 Authority

Request for Qualifications Procedures and award of the Contract shall be in accordance with Massachusetts General Law, Chapter 30B, plus all applicable Federal, State and Local laws and regulations.

1.2 Withdraw , Modify, and Amend Bids

Responders who wish to withdraw, modify or amend their response must do so in writing utilizing electronic mail to the City of Chelsea Chief Procurement Officer at Dcook@chelseama.gov or via fax at 617-466-4225, no later than the time and date set forth herein for the receipt of the Request for Responses. All such withdrawals, modifications or amendments must so state in the subject line of the email correspondence. Any withdrawal, modification or amendment arriving after the date and time set forth for accepting responses will not be considered. After the opening of the responses, a responder may not change any provision of the response in a manner prejudicial to the interests of the City of Chelsea or fair competition. Minor informalities will be waived by the City of Chelsea.

1.3 Familiarity with Requirements

Responders are to thoroughly familiarize themselves with the requirements of this Request for Qualifications. Ignorance of the requirements will not relieve the responder from any obligations or liabilities of any contract(s) issued as a result of this Request for Qualifications.

1.4 Independent Party

Under this Request for Qualifications, the successful responder declares itself to be at all times acting and performing as an independent party and nothing in this request for response or any subsequent contract(s) is intended to constitute a partnership or joint venture between the responder and the City of Chelsea.

1.5 Conflict of Interest

No officer or employee of the City of Chelsea shall participate in any decision relating to any contract which would affect their financial or personal interest or the interest of any corporation, partnership, sole proprietorship or association in which they are directly or indirectly interested.

1.6 Political Activity Prohibited

None of the services to be provided by any responder shall be used for any partisan political activity or to further the election of any candidate for public office.

1.7 Assignment by Contractor

The successful responder or contractor shall not assign in whole or in part or otherwise transfer any interest in any contract without the written consent of the City of Chelsea, provided however, that the present and prospective claims for money due owing to the Contractor from the City of Chelsea or any other Buyer may be assigned to a bank or trust company or to a financial institution insured by the Federal Deposit Insurance Corporation (FDIC) without such consent so long as notice of such assignment is promptly furnished to the City of Chelsea. Any complete or partial assignment of the contractor's or successful responder's interest in any such contract shall require the assignee, at the City of Chelsea's discretion, to supply such further information as the City of Chelsea deems necessary to comply with the City of Chelsea rules and regulations governing contracts for services. Any such assignment, in whole or in part, shall also be expressly made subject to all defenses, set-offs or counter claims which would have been made available to the City of Chelsea against the successful responder in the absence of such assignment.

1.8 Subcontracting

None of the services to be provided by the contractor pursuant to any contract shall be subcontracted or delegated in whole or in part to any other organization, association, individual, corporation, partnership, or any other such entity without the prior written approval of the City of Chelsea. All intended subcontracts must be in writing and must be submitted with the Request for Qualifications documents. All intended subcontracts shall be provisions, which are functionally identical to and consistent with the language of this Request for Qualifications.

1.9 Choice of Law

Any contracts awarded as a result of this Request for Qualifications shall be construed under the laws of the Commonwealth of Massachusetts. The successful responder and agents thereof agree to bring any federal or state legal proceedings arising from any such contract in which the City of Chelsea is a party in a court of competent jurisdiction within the Commonwealth of Massachusetts. This section shall not be construed to limit any rights any party may have to intervene in any action in any court or wherever pending in which the other is a party.

1.10 Notices

Unless otherwise specified, any notice hereunder shall be in writing and shall be deemed delivered when sent via electronic mail (e-mail), given in person to either party or deposited in the U.S. Mail, postage prepaid and addressed to the persons indicated in any contract or as specified by any amendment hereto.

1.11 Severable Sections Do Not Affect Entire Contract

If any provision of the Request for Qualifications or any subsequent contract is declared or found to be illegal, unenforceable or void, then both parties shall be relieved of all obligations under the provision. The remainder of the Request for Qualifications and any subsequent contract shall remain in full force and effect and enforceable to the fullest extent provided by law.

1.12 Contract Performance

The failure of any party to insist in any one or more situations, upon performance of any of the terms or provisions of any part of this Request for Qualifications or resulting contract shall not be considered as a waiver or relinquishment of the right of either party to future performance of any such term or provision, and the rights and obligations of the parties to such future performance shall continue in full force and effect.

1.13 Funding & Fiscal Year Appropriation

Appropriations for expenditures by the City of Chelsea and authorizations to spend for a particular purpose are ordinarily made on a fiscal year basis. The fiscal year for the City of Chelsea, MA begins on July 1st and ends June 30th of the following year. The obligations of the City of Chelsea under any contract resulting from this Request for Qualifications for any subsequent fiscal year following the fiscal year in which the initial contract is awarded is subject to the appropriations to the City of Chelsea of funds sufficient to discharge its obligations, which accrue in such subsequent fiscal year, and to the authorization to spend such funds for the purposes of this Request for Qualifications. In the absence of such appropriation or authorization, any contract resulting from this Request for Qualifications shall be terminated immediately without liability for damages, penalties or other charges arising from early termination. Expenditures for contracted services, which will extend beyond a single fiscal year shall not exceed in any fiscal year the amount appropriated and authorized for the said fiscal year.

1.14 Procurement Calendar

The City of Chelsea solicits Requests for Proposals that will result in a contract. The schedule of events for this solicitation, subject to amendment by the City of Chelsea is:

Event	Date
RFQ Released	January 22, 2015
Deadline for Written Inquiries	February 6, 2015
Response to Written Inquiries	February 9, 2015
Due Date for Responses	February 11, 2015 at 2:00pm

1.15 Duration of Contract

The selected firm will be required to enter into a professional services contract with the City of Chelsea for a period of two (2) years with an option for an additional one (1) year at the City's discretion. The selected firm will be commissioned to conduct work as the City's schedule demands.

Section 2 General Response Information

2.1 Required RFQ Sections

The Responder must provide, in its response, a reply to the particular specifications included in the Request for Qualifications.

2.2 Minority or Woman Business Enterprise Participation

In accordance with the Minority Business Enterprise Plan for the City of Chelsea, all qualified Minority-Owned Business Enterprises (MBE) or Woman-Owned Business Enterprises (WBE) are strongly encouraged to submit proposals in response to this Request for Qualifications. For the purpose of this RFQ, the term MBE or WBE shall mean a vendor who is certified as a minority business enterprise by the State Office of Minority and Women-Owned Business Assistance (SOMWBA), and who is certified at the time the vendor's Request for Qualifications is submitted.

All minority owned businesses are encouraged to apply for SOMWBA certification. For further information on SOMWBA proposals or access to SOMWBA vendor lists, contact the State Office of Minority and Women Owned Business Assistance at (617)-727-8692.

2.3 The Contract Award

Based upon the responses received, the contract will be awarded to the most responsive, responsible responder. The proposer(s) submitting the proposals and price proposal considered to be most advantageous to the City will be notified of this status by the City, the City has no obligation to select the proposer offering the lowest rate(s).

2.4 ADA, Regulatory, Compliance and Standards

Responders are expected to provide services and commodities that are in compliance with Section 504 of the Federal Rehabilitation Act of 1973, the Americans with Disabilities Act of 1990, the Telecommunications Act of 1996, and all successor federal and related legislation throughout the term of any contract resulting from this solicitation.

2.5 Indemnification

Any successor in exchange for entering into an agreement or contract resulting from this Request for Qualifications shall indemnify and hold harmless the City of Chelsea and all persons acting for or on behalf of either of them from all suits and claims against them, or either of them, arising from or occasioned by the use of any service, material, equipment or apparatus, or any part thereof, which infringes or is alleged to infringe on any patent rights. In case such service, material, equipment or apparatus, or any part thereof in any suit is held to constitute infringement, the successful bidder, within a reasonable time, will at its expense, and as the City of Chelsea may elect, replace such material, equipment or apparatus with non infringing material, equipment or apparatus or remove the material, equipment or apparatus and refund the amounts paid therefore. Said indemnification includes reasonable attorney's fees related thereto.

Furthermore, any successful responder in exchange for entering into any agreement or contract resulting from this Request for Qualifications agrees to indemnify and hold harmless, release and forever discharge the City of Chelsea as well as their officers, agents and employees as well as their successors and assigns from any and all manner of actions, suits, claims, demands, judgments, damages and liability in law and in equity which may arise or result from performance under this contract. This includes any discrimination, labor or employment claims against the successful responder and the City of Chelsea and any and all manners of legal action brought against the successful responder and /or the City of Chelsea. Said indemnification includes reasonable attorney's fees related thereto.

2.6 Federal, State and Local Laws

The successful responder will comply with all applicable Federal, State and Local laws and regulations.

2.7 Tax Exempt

Purchases made by municipalities and government are exempt from Federal Excise Taxes and Massachusetts Sales Taxes and response prices must show the exclusion of such taxes. Tax exemption certificates will be furnished as required.

2.8 Insurance

The successful responder in addition to any insurance required by State or local Law, shall maintain in force during the term of any contract(s) issued as a result of this Request for Qualifications the following insurance issued by an insurance company licensed to do business in the Commonwealth of Massachusetts. Failure to provide or maintain such insurance shall be grounds to reject a bid or execute a contract.

- a. Public Commercial Liability coverage in the amount of \$1,000,000.00 per occurrence and \$2,000,000.00 aggregate. Automobile Liability Insurance coverage in the amount of \$500,000.00 per person, \$1,000,000.00 per occurrence. Property damage Insurance in the amount of \$250,000.00.
- b. Worker's Compensation Insurance in the amounts required by Massachusetts Law.
- c. Evidence of such insurance must name the City of Chelsea as the named insured as well as the successful bidder.
- d. An Insurance Certificate giving evidence of the insurance must be delivered to the City of Chelsea within 10 days by the successful responder receiving the award of this Request for Qualifications.

2.9 Confidentiality

The successful responder will comply with all provisions of Executive Order No. 11246 of September 24, 1975 and the successful responder acknowledges that in performance of any contract resulting from the Request for Qualifications it may require or have access to “personal data” and become a “holder” of personal data as defined by M.G. L. c. 66A. The successful responder shall comply with all laws and regulations relating to confidentiality and privacy, including but not limited to any rules and regulations of the City of Chelsea. The successful responder shall at all times recognize the City of Chelsea’s ownership of personal data and the exclusive right and jurisdiction of the City, and “data subjects” (as defined in chapter 66A) to control the use of personal data. The successful responder shall immediately notify the City of Chelsea both orally and in writing if any personal data in its possession is subpoenaed, improperly used, copied or removed by anyone except an authorized representative of the City of Chelsea. The successful responder shall cooperate with the City of Chelsea in taking all steps it deems advisable to enjoin misuse regain possession and/or otherwise protect the City of Chelsea’s rights and data subject’s privacy. The successful responder shall allow access to any personal data held in their possession solely to those employees of the City of Chelsea who require such information in the performance of their occupational responsibilities. All personal data held by the successful responder shall be delivered to the City of Chelsea within 14 calendar days after termination of any contract resulting from this Request for Qualifications. The successful responder agrees to take reasonable steps to insure the physical security of such data under its control, including but not limited to fire protection, protection against smoke and water damage, alarm system, locked removal of manually held data, passwords, access logs, badges or other methods reasonably expected to prevent loss or unauthorized access to electronically or mechanically held data, limited terminal access, access to electronically or mechanically held data, limited terminal access, access to input documents and design provisions to limit use of personal data. The successful responder agrees that it will inform each of its employees having any involvement with their personal data or confidentiality. The City of Chelsea shall have access at all times to any data maintained pursuant to any contract resulting from this Request for Qualifications, without the consent of the data subject. The successful bidder shall use personal data, and material derived from such data, only as necessary for the performance of the subject contract. Failure of the successful responder to comply with the requirements of this section may be grounds for terminating any contract resulting from this Request for Qualifications.

2.10 Force Majure

Neither the City of Chelsea of the successful responder shall be liable to the other, nor deemed to be in breach of any contract resulting from this Request for Qualifications for failure or delay in rendering performance rising out of causes factually beyond its control and without its fault or negligence. Such causes may include, but are not limited to, Acts of God or the public enemy, wars, fires, flood, epidemics, quarantine restrictions, strikes, unforeseen freight embargos or unusually severe weather. Dates of times of performance shall be extended to the extent of delays excused by this section, provided that the party whose performance is affected notifies the other party promptly of the existence and nature of such a delay. It is agreed that since the performance dates of the subject contract are of the essence and important to the implementation of essential City of Chelsea work, continued failure to perform for periods aggregating 45 or more calendar days, even for causes beyond the control of the successful responder, shall afford the City of

Chelsea the right to terminate any contract resulting from this Request for Qualifications without assessment of termination costs or penalties.

2.11 Equal Opportunity

During the performance of this contract, the successful responder agrees as follows:

- a. The successful responder will not discriminate against any employee or applicant for employment because of race, religion, color, sex or national origin, sexual orientation, which shall not include persons whose sexual orientation involves minor children as the sex object, genetic information or ancestry. The successful responder will take affirmative action to ensure that applicants are employed and that the employees are treated during employment without regard to their race, religion, color, sex, nation origin or sexual orientation, which shall not include persons whose sexual orientation involves minor children as the sex object, genetic information or ancestry.
- b. The successful responder will comply with all provisions of Executive Order No. 11246 of September 24, 1975 and all of the rules, regulations and relevant orders of the Secretary of Labor.

2.12 Termination

The responders for this Request for Qualifications should note that the City of Chelsea reserves the right to terminate any contract resulting from this Request for Qualifications in whole or in part, by written notice:

- **Without cause:** Either party may terminate the subject contract by giving written notice to the other party at least 60 calendar days prior to the normal contractual effective date of termination as stated or such other period as is mutually agreed upon in advance by the parties
- **For cause:** If, in the opinion of the city of Chelsea, the successful responder fails to fulfill its obligations, the City of Chelsea may terminate any contract resulting from this Request for Qualifications by giving 30 days written notice to the successful responder at any time. The subject contract shall be terminated immediately in the event of fraud or program abuse.
- **Emergency:** The City of Chelsea may terminate or suspend any contract resulting from this Request for Qualifications up to 60 calendar days by providing written notice to the successful responder, stating the grounds for the City of Chelsea's action, in the form of U.S. Mail, hand-carried letter, or other appropriate written means, if the City of Chelsea determines that immediate action is necessary to protect City, State and/or Federal funds or property, or to protect persons from injury. Such termination or suspension shall be effective upon receipt of notice of either suspension or termination by the successful responder. In the case of a suspension under this paragraph, the notice of suspension shall be accompanied by instructions from the City of Chelsea specifying requisite actions by the successful responder to remove the suspension, proposed timetable for meeting those requirements and a description by the City of Chelsea of allowable activities and costs, if

any, during the suspension period. Failure by the successful responder to remedy the stated deficiencies according to the timetable prescribed by the City of Chelsea shall be cause for immediate termination.

- **Elimination or Reduction of Funding:** In the event of a reduction of funding for any reason, the City of Chelsea may terminate any contract resulting from this Request for Qualifications by providing notice of termination in a reasonable time. The City of Chelsea may provide a conditional notice of termination with a proposed amendment to the subject contract. Any such notice shall provide that the subject contract will terminate automatically 30 calendar days after the date of the conditional notice of termination unless the successful responder submits to the City of Chelsea a properly signed copy of the amendment, or such modification form of amendment as may be agreeable to the City of Chelsea, within 20 calendar days after the date of the conditional notice of termination, or such other time as it is otherwise specified in the conditional notice.
- **Office's Remedies:** Upon Termination for Cause or for Emergencies: Notwithstanding the terms contained in this section, in the event of termination, the successful responder shall not be relieved of liability to the City of Chelsea by virtue of any breach of any contract resulting from this Request for Qualifications by the successful responder. In the event of termination pursuant to this section, the City of Chelsea may withhold any payments to the successful responder for the purpose of set-off until such time as the exact amount of damages due to the City of Chelsea from the successful responder is determined. In addition to and notwithstanding the above, the successful responder covenants and agrees that in the event of termination of any contract resulting from this Request for Qualifications, the successful responder shall pay to the City of Chelsea as damages: (a) such sum as, at the time of termination, the City of Chelsea reasonably determines that is, shall require to compensate a subsequent contractor to complete the delivery of service, and (b) the sum, reasonably determined by the City of Chelsea, which will compensate the City of Chelsea for all the direct and indirect costs resulting from delay in the delivery of services upon the successful responder's default. The successful responder further covenants and agrees with the City of Chelsea that the successful responder shall pay all of the City of Chelsea's costs and expenses (including attorney's fees) incurred or paid in obtaining and enforcing any court order favorable to the City of Chelsea for any obligation of the successful bidder under any contract resulting from this Request for Qualifications.

2.13 Obligation in the Event of Termination

Upon termination of any contract resulting from this Request for Qualifications, all documents finished or unfinished, data, studies and reports prepared by the successful responder pursuant to the subject contract shall become the property of the City of Chelsea. Copies of finished and unfinished documents, data, studies and reports generated as a necessary part of performing the subject contract shall be delivered to the City of Chelsea upon reasonable request and shall be retained by the successful responder for future use. The City of Chelsea shall promptly pay the successful responder for all services performed and for all costs and un-cancelable commitments reasonably incurred in performance of the subject contract to the effective date of termination,

provided the successful responder is not in default of the terms of the subject contract and submits to the City of Chelsea properly completed invoices with supporting documentation covering such services no later than 45 days after the effective date of termination, and that the successful responder make every reasonable effort to minimize or recover costs incurred.

2.14 Ownership of Furnishings & Equipment:

Unless otherwise provided by law or a federal grant award, title to all furnishings and equipment provided by the City of Chelsea or that the awarded responder provides under the terms of this Request for Qualifications and paid for with public funds, shall vest in and be retained by the City of Chelsea. Upon completion of performance of the awarded responder's contract, the awarded responder shall return such furnishings and equipment in its possession in the same condition as at the commencement of any contract resulting from this Request for Qualifications, normal wear and tear excepted.

2.15 Anti-Boycott Warranty:

During the term of any contract resulting from this Request for Qualifications, neither the successful responder nor any "affiliated company" as hereafter described, shall participate in or cooperate with an international boycott, as defined in section 999(b)(3) and (4) of the Internal revenue Code of 1954, as amended by the Tax Reform Act of 1986, or engage on conduct declared to be unlawful by sections 2 and 4 of Chapter 151E of The Massachusetts General Laws. As used herein, an "affiliated company" shall be any business entity or which at least 51% of the ownership interests are directly or indirectly owned by the successful responder or by a person or persons or business entity or entities which directly own at least 51% of the ownership interest of the successful responder.

End of Section

Section 3 Responder Response Information

3.1 Responder Communications

Responders are prohibited from communicating directly with any employee of the Purchasing Department and any other member of the City of Chelsea except as specified in this Request for Qualifications, and no other individual City of Chelsea employee or representative is authorized to provide any information or respond to any question or inquiry concerning this Request for Qualifications. Responders may contact the person identified on the cover sheet of this Request for Qualifications in the event this Request for Qualifications is incomplete.

3.2 Reasonable Accommodation

Responders with disabilities or hardships that seek reasonable accommodation, which may include the receipt of the Request for Qualifications information in an alternative format, must communicate such requests in writing, via electronic mail (e-mail) to the contact person. Requests for accommodation will be addressed on a case by case basis. A responder requesting accommodation must submit a written statement, via e-mail which describes the responder's disability and the requested accommodation to the contact person for the Request for Qualifications. The City of Chelsea reserves the right to reject unreasonable request.

3.3 Public Records

All responses and information submitted in response to this Request for Qualifications are subject to the Massachusetts Public record Law, M.G.L., Chapter 66, Section 10, and to Chapter 4, Section 2, Subsection 26. Any statements in the responder's responses inconsistent with these statutes will be disregarded.

3.4 Brand Name or Equal

Unless otherwise specified in this Request for Qualifications, any reference to a particular trademark, trade name, patent, design, type, specification, producer or supplier is not intended to restrict this Request for Qualifications to any manufacturer or proprietor or to constitute an endorsement of any good or service, and the City of Chelsea must consider clearly identified offers if substantially equivalent goods and services submitted in response to such reference.

3.5 Publicity

Any responder awarded a contract under this Request for Qualifications is prohibited from selling or distributing any information collected or derived from the contract, including lists of participating or eligible departments, employee names, telephone numbers, e-mail addresses, addresses or any other reports or information except as specifically authorized under this contract.

3.6 Costs

Costs for services that are not specifically identified in the responder's response and identified as part of a contract, will not be compensated under any contract awarded pursuant to this Request for Qualifications.

The City of Chelsea will not be responsible for any costs or expenses incurred by responders responding to this Request for Qualifications.

3.7 Required Contract Attachments

All responders are required to complete, sign and return the following documents along with the Required Submittals, Section 4.2:

Certificate of Non-Collusion- By signing the attached Non-Collusion Statement, the responder is declaring the fact that its response was formulated without collusion with any person, representative, agent or party submitting a competing response. No response will be accepted without the signed Non-Collusion Statement attached to the original response.

Vote of Corporation (If Responder is a Corporation) - If the responder is a Corporation, a vote of the Corporation approving participation in this Request for Qualifications process must be signed by the corporate officers with the Corporate Seal Affixed and attached to the original Request for Qualifications.

If the Responder is a Corporation, the names and addresses of the corporate Officers and the state and date of incorporation must be included. The responder must state if the Corporation is publicly held or privately held. If the Corporation is publicly held, the exchange on which it is traded and the symbol under which it is traded is required.

Sole Proprietorship (If Responder is a Sole Proprietorship) - If the responder is a Sole Proprietorship, a partnership or any other legal business entity, the names and addresses of the officers must be included, the parent state of business and the numbers of years this entity has been in business. In short, a complete business profile must be included in the bid.

Reference Form- To include three current contract references, at least one of which is a government agency that can be contacted during the Request for Qualifications process. Two of the references must be customers for which the proposer is or has provided services similar to those outlined in the Scope of Services of the Request for Qualifications. Include customer name, contact person, his/her title, address and telephone number.

3.8 Submitted Responses

The City of Chelsea shall be under no obligation to return any responses or materials submitted by the responder in response to this Request for Qualifications. All materials submitted by responders become the property of the City of Chelsea and will not be returned to the responder. The City of Chelsea has the right to use any ideas, concepts or configurations that are presented in the responder's response whether or not the response is selected for contract award.

3.9 Clarification of Response

The City of Chelsea is not required to seek clarification of responses; therefore, the bidder should be as clear as possible in all of its responses to this Request for Qualifications.

3.10 Evaluation and Award of Contract

All pricing must remain constant for the entire term of the contract, as well as any possible extension offered. Responses will be evaluated and awarded based upon the most responsive and responsible response offering the best price for the service.

3.11 Rejection of Responder's Response

A responder's response may be rejected by the City of Chelsea if the responders' response:

- Fails to adhere to one or more of the requirements
- Fails to submit its bid to the required address on or before the Request for Qualifications due date
- Fails to submit a bid in accordance to the format and instructions specified or to supply the minimum information requested in this Request for Qualifications.
- Fails to meet unconditionally or is unable to demonstrate competence to meet the requirements of this Request for Qualifications.
- Misrepresents its equipment, systems or services or provides demonstrably false information in its response or fails to provide material information.
- Violates the restrictions on contacts with the City of Chelsea employees and representatives
- Refuses, is unable to, or fails to provide clarification requested by the City of Chelsea in a reasonable time frame.

3.12 Request for Qualifications Cancellation

The City of Chelsea retains the right to cancel this Request for Qualifications, or any portion thereof, at any time prior to the execution and approval of a contract. If this Request for Qualifications is cancelled, all responses received to this Request for Qualifications will be rejected. All expenses related to the preparation of responses to this Request for Qualifications remain the responsibility of the responder.

3.13 No Guarantee of Purchase

The City of Chelsea makes no guarantee that any purchases will take place from any contract resulting from this Request for Qualifications, nor does the City of Chelsea guarantee any minimum quantity of purchases from any contract resulting from this Request for Qualifications. Any estimated or past procurement volumes referenced in this Request for Qualifications are included only for the convenience of the bidders, and not to be relied upon as any indication of future purchases.

The responder may not place, as a condition for providing the cost levels proposed, any minimum purchase requirements.

3.14 Prime Contractors and Subcontractors

Prior approval of the eligible entity is required for any subcontracted service of the contract. Contractors are responsible for the satisfactory performance and adequate oversight of it subcontractors. Subcontractors are required to meet the same state and federal financial program and reporting requirements and are held to the same reimbursable cost standards as the successful responder.

The City of Chelsea requires a single point of contact for any contract resulting from this Request for Qualifications. Subcontractors may be used, but the successful responder, as prime contractors, shall be responsible for meeting all of the terms of any contract resulting from this Request for Qualifications and must accept full responsibility for any subcontractor's performance.

Responder's must provide a list of subcontractors, a description of each subcontractor's responsibility in regards to this contract and signed letters of agreement between the responder as the prime contractor, and its subcontractor(s) identifying their responsibilities and their relationship to the prime contractor. The prime contractor must notify each individual account (eligible entity) in writing; the name of their subcontractor both initially and when a sub contractor is changed. If a subcontractor has filed for Chapter 11 Bankruptcy or Chapter 7 Bankruptcy, the prime contractor also must notify the City of Chelsea. The notification must be written and must be within one week of the events noted above.

3.15 Written Inquires

Responders may submit written inquiries concerning any part or attachment of this Request for Qualifications. Written inquiries regarding issues outside of the scope of this Request for Qualifications will not be considered.

All inquiries must be submitted by the required date and time, to the contact listed on the cover page of this Request for Qualifications.

All written inquiries must be submitted via electronic mail (email) only. No other manner of submission will be accepted.

Any change to this submission date and/or time will be made by a notice sent electronically to all responders. The responder is responsible for confirming receipt of its written inquiries with Dylan Cook, Chief Procurement Officer, City of Chelsea at Dcook@chelseama.gov.

The City of Chelsea will provide written responses via electronic mail (e-mail) to all written inquiries received by the required due date. Responses will not identify the inquiry by responder.

End of Section

Section 4 Scope of Work

SCOPE OF SERVICES

The selected firm will provide landscape design and plan review services to the City of Chelsea in the areas that may include, but not limited to:

- Preparation of professional landscape design and park design plans and specifications;
- Review of development plans for suggestions on improving landscape design;
- Construction administration and project management during landscape or park improvement projects;
- Development of concepts, plans, and/or designs for parks, playgrounds, public spaces, and landscape/urban design elements related to neighborhood planning, municipal buildings, and infrastructure improvements
- Preparation of Open Space and Recreation Plan in accordance with Massachusetts EOEEA's Division of Conservation and Recreation service requirements.
- Assistance with the preparation and submittal of grant applications including, but not limited to, the Massachusetts Parkland Acquisitions and Renovations for Communities (PARC) Program and the Massachusetts Local Acquisitions for Natural Diversity (LAND) Program;
- Selection and tagging of landscape material; and general information on plants and plant species.
- Attending site visits, meeting with City staff and boards/commissions, presentations before boards/commissions and the general public, holding public design charrettes, project management and oversight, meetings with contractors, and attendance at public hearings (days, evenings, and possibly weekends).

For each project for which the City has determined that landscape architectural services will be requested, the City will identify the specific services required and the consultant will provide a scope and cost estimate based on hourly rates included in the response to this RFQ. After review of the scope and cost estimate and discussion with the selected consultant, the City will issue a notice to proceed to the consultant.

The selected firm will be required to work closely with the Department of Planning and Development and/or the Department of Public Works. The selected firm may also represent the City and/or Department before local boards/commissions, consultants and contractors.

SCHEDULE

The selected firm will be required to enter into a professional services contract with the City of Chelsea for a period of two (2) years with an option for an additional one (1) year at the City's discretion. The selected firm will be commissioned to conduct work as the City's schedule demands.

SUBMITTAL REQUIREMENTS

Interested firms should submit **five (5) copies** of a qualifications statement addressing the objectives, scope and schedule described in this RFQ no later than February 11, 2015 at 2:00 P.M. Submittals should be **thorough but brief** and must include, at a minimum, each of the following:

Sealed Submission 1, clearly marked "Qualifications for Professional Landscape Design and Site Plan Review Services":

1. A cover letter signed by an authorized officer of the firm, binding the firm to all of the commitments made in the proposal;
2. General description of the firm's experience, including the firm's general policy and approach to landscape design;
3. Description of the firm's specific experience in landscape and park design, both passive and active, particularly as it relates to densely populated urban communities;
4. Description of the firm's specific experience in completing projects on a timely basis, limit examples to three (3) projects and provide dates;
5. Description of the assigned staff's experience, availability, and chain of responsibility, including the name and title of the principal and project manager assigned to Chelsea-related projects;
6. A list of at least three (3) references, ideally municipal, arising from projects completed within the last five (5) years, including name, title, agency, address, and telephone number;
7. Signed Statement of Corporate Authority, and Non-Collusion Form and Tax Compliance Form; and
8. Any other **pertinent** information about the firm which would aid the City in evaluating the firm's qualifications and in making a selection.

Sealed Submission 2, clearly marked "Cost Proposal for Professional Landscape Design and Site Plan Review Services":

Submission 2 should describe assigned project staff and hourly billing rates which shall include all travel and expenses. The selected firm shall hold the hourly rate for the full term of the contract.

It is not necessary to repeat any information in the two sealed submissions. For example, resumes need not be included in both the Qualifications submission and the Cost Proposal submission, unless required for clarification. Where appropriate, such information can be included in one document and referenced in the other.

Qualifications will be received until 2:00 P.M. on February 11, 2015. No Qualifications will be accepted after this deadline. Qualifications must be sent to Dylan Cook, Chief Procurement Officer, Procurement Office, Chelsea City Hall, Room 206, 500 Broadway, Chelsea, MA, 02150. No faxed or electronic copies will be accepted.

Please note that City Hall hours are as follows:

Monday, Wednesday, Thursday	--	8:00 A.M. to 4:00 P.M.
Tuesday	--	8:00 A.M. to 7:00 P.M.
Friday	--	8:00 A.M. to 12:00 Noon.

MINIMUM CRITERIA

At a minimum, the proposing firm must meet the following requirements:

1. The firm must have full-time staff that hold appropriate licenses/registrations in applicable categories for the Commonwealth of Massachusetts and shall have been registered for at least five (5) years;
2. The principal and project manager assigned to Chelsea-related projects must be available for meetings with the City of Chelsea days, evenings, and weekends as required. By order of the City Manager, public meetings on weekdays do not start any earlier than 6:00 PM. As the City is open until 7:00 PM on Tuesday evenings, most of the City sponsored meetings are held on that night; however, this does not preclude meetings on other evenings, other times of the day, or on weekends to fit particular schedules or to provide for adequate public notice;
5. The volume of the firm's current workload must not adversely affect its ability to immediately initiate the work described in this Request for Qualifications;
6. The firm must have experience working with a multi-cultural and environmental justice community. Since the City of Chelsea is a multi-cultural community, the selected firm should be familiar with the needs of different cultures and to be able to solicit input and respond to inquiries from the many cultures represented in the City. This includes, but is not limited to, Hispanic, Southeast Asian, Ethiopian, Somalian and Brazilian cultures;
7. The firm must have experience working with local government agencies, especially planning agencies and public works departments;
9. The firm must demonstrate familiarity with a variety of funding sources for landscaping, open space, and recreation programs, including, but not limited to, Community Development Block Grants, Community Transit Grants, and the Gateway Cities Park Program; and
10. The firm must be thoroughly familiar with public construction bid document requirements, State and Federal prevailing wage rate laws, and Massachusetts procurement regulations.

COMPARATIVE EVALUATION CRITERIA

In addition to the submittal requirements and the minimum criteria listed above, for which the firm will receive one (1) point each if submitted and/or in compliance, the qualifications will be reviewed based on the comparative evaluation criteria rating system below:

Highly Advantageous (3 points) – Excels on the specific evaluation criterion

Advantageous (2 points) – Fully meets the specific evaluation criterion

Not Advantageous (1 point) – Meets some, but not all of the specific evaluation criterion

Unacceptable (0 points) – Fails to meet the specific evaluation criterion or insufficient information to determine compliance.

EVALUATION CRITERIA	Highly Advantageous (3 points)	Advantageous (2 point)	Not Advantageous (1 point)	Unacceptable (0 points)
1. Description of the firm's general overall experience in providing professional landscape architecture, park/playground design, and site plan review services to Massachusetts municipalities.	Over five (5) years of experience providing professional landscaping and park design services to Massachusetts municipalities.	Five (5) years of experience providing professional landscaping and park design services to Massachusetts municipalities.	Three (3) to five (5) years of experience providing professional landscaping and park design services to Massachusetts municipalities.	Less than three (3) years of experience providing professional landscaping and park design services to Massachusetts municipalities or insufficient information provided.
2. Description of the firm's approach to landscaping and park design services. Please submit at least 3 of the most relevant and recent projects completed with: <ul style="list-style-type: none"> ▪ Name, Location & Dates ▪ Project Budget & Scope of Work ▪ Design Rendering ▪ References 	Shows a commitment to creatively designing for people and in harmony with nature; shows a commitment to enhancing the urban environment with design that is both economical and sustainable.	Shows an understanding of community needs through park design and an ability to accommodate certain environmental necessities.	Shows a partial, but incomplete understanding of community and environmental needs.	Does not take into account the community or the environment in design or insufficient information provided.
3. Description of the firm's experience with park design, especially in relation to densely populated urban communities	More than three (3) such projects of park design in dense urban communities.	Three (3) such projects.	Two (2) such projects.	Fewer than two (2) projects or insufficient information provided.
4. Description of the project manager's qualifications related to developing and managing innovative projects from conceptualization through construction within the past five (5) years	Exceptional background in developing creative and tactful projects that were competently managed within the past five (5) years.	Acceptable experience in developing satisfactory projects that were acceptably managed within the past five (5) years.	Marginal experience in professionally developing and managing projects within the past five (5) years.	No experience in developing creative or contemporary projects that were adequately managed within the past five (5) years.

5. Description of the project manager's familiarity and general compliance with relevant state and local laws related to labors and wages, the environment, and public bidding.	Evident intuitive knowledge of applicable state and federal regulations.	Shows working knowledge of applicable state and federal regulations.	Demonstrates some knowledge of applicable state and federal regulations.	Does not possess knowledge of applicable state and federal regulations.
6. Overall level of familiarity with Chelsea's history and needs in regards to parks, landscaping and open space.	Expressly familiar with Chelsea's history in regards to parks and open space.	Familiar with Chelsea's history in regards to parks and open space.	Moderately familiar with Chelsea's history in regards to parks and open space.	No level of familiarity with Chelsea's parks and open space.
7. Description of the firm's experience with PARC and LAND program requirements	Shows a unique understanding of the program requirements and/or has worked on more than two (2) grant applications	Shows familiarity with the program requirements and/or has worked on at least one (1) grant application	Shows nominal knowledge of the program and/or has not worked on any grant applications.	No such experience or insufficient information provided
8. Description of the firm's experience with a variety of funding sources for landscaping, open space, and recreation programs, including, but not limited to, EOEEA, , CDBG, and the Gateway Cities Park Program.	Shows an thorough understanding of listed funding programs as well as other potential funding sources	Shows an understanding of listed funding programs	Shows a partial understanding of listed funding programs or shows an understanding of some, but not all, of the listed funding programs.	No such experience or insufficient provided
9. Description of the firm's experience working with local government agencies in Massachusetts	Prior experience with dense, urban communities; prior experience with working with planning and public works departments	Prior experience working with governmental agencies in Massachusetts, including municipalities.	Some prior experience working on projects for government agencies in Massachusetts.	No such experience or insufficient information provided.

It is important that the submittal clearly address all the submittal requirements; that is, the proposal should include a section addressing all of the minimum submittal requirements, the minimum criteria requirements, and each of the comparative evaluation criteria. Read all of the minimum submittal requirements, minimum criteria and evaluation criteria sections carefully and address all of the requirements. The proposal will be reviewed based on each of these items and it will be to the benefit of the proposer to clearly address each of the items. Where appropriate, provide specific examples of how the firm meets the requirement. Where the requirements specify a minimum level of experience, or experience within a certain time period, indicate the dates of said experience. Failure to address each of the submittal requirements and the minimum scope of services will result in the loss of points in the qualifications evaluation review process.

PROPOSAL EVALUATION PROCESS AND CRITERIA

Qualifications will be evaluated by a Review Committee composed of, at a minimum, staff from the Department of Planning and Development along with the Chief Procurement Officer. The City reserves the right to conduct interviews with proposing firms at any time during the proposal review process.

After the qualifications are ranked according to review system described above, the sealed price bids will be opened. The project manager will present the technical evaluations and the rates to the Chief Procurement Officer with a recommended awardee. The Chief Procurement Officer will weigh the evaluations, the rates, and the recommendation in order to identify the most advantageous proposal for the City.

Once the Chief Procurement Officer has identified the most advantageous proposal for the City, a contract will be negotiated and executed between the first chosen proposer and the City. If within a reasonable period of time a contract cannot be agreed upon and executed between the first chosen proposer and the City, then the City may contract with the second chosen proposer, and so on until a contract is signed.

The contact person and project manager for this project is Alexander Train, Planner / Project Manager, Department of Planning & Development, City Hall, Room 101, 500 Broadway, Chelsea, Massachusetts 02150, atrain@chelseama.gov, (617) 466-4192, fax (617) 466-4195.

The City of Chelsea reserves the right to reject any and all proposals, to waive minor informalities, and to make an award for professional services as may be deemed to be in the best interest of the City of Chelsea within the guidelines for qualification review set forth in this document.

Responder Information Form
PROFESSIONAL LANDSCAPE DESIGN AND SITE PLAN REVIEW SERVICES
(To be first page of Response)

Name of Company:

Address:

Telephone #:

Fax #:

Email Contact:

Is the Company a:

Corporation _____

Partnership _____

Sole Proprietorship _____

Publicly Held _____

Privately Held _____

Names and address of the Principals, Owners, Directors, Officers:

Signature of authorizing party

CITY OF CHELSEA

REQUIRED RESPONSE SUBMITTAL FORM

Certificate of Non-Collusion

The undersigned certifies under the penalties of perjury that this proposal has been made and submitted in good faith and without collusion or fraud with any other person. As used in this Certification the word "person" shall mean any natural person, business, partnership, corporation, union, committee, club or other organization, entity or group of individuals.

Signature

Date

Name (Please Print)

Title

Company

Address

Contact Number

STATEMENT OF CORPORATE AUTHORITY

REQUIRED (IF CORPORATION) IF A CORPORATION, COMPLTE BELOW OR ATTACH TO EACH SIGNED COPYOF THE BID A NOTORIZED COPY OF VOTE OF CORPORATION AUTHORIZING THE SIGNATORY TO SIGN THIS CONTRACT. IF ATTESTING CLERK IS THE SAME PERSON AS THE INDIVIDUAL EXECUTING THIS CONTRACT, HAVE SIGNATURE NOTORIZED ABOVE.

At a duly authorized meeting of the Board of Directors of _____ held
on _____ Date Name of Corporation

at which time all voted that _____
Name Officer

of this Company, be and hereby is authorized to execute contracts and bonds in the name and behalf of said Company, and affix its Corporate Seal thereto, and such execution of any contract of obligation in this Company's name on its behalf by such person _____ under seal of the Company, shall be valid and binding upon this company.

A TRUE COPY,

ATTEST: _____
Clerk

PLACE OF BUSINESS: _____

DATE OF THIS CONTRACT: _____

I hereby certify that I am the Clerk of the _____
_____ and that _____ is

duly elected _____ of said Company, and that
the above vote has not been amended or rescinded and remains in
full force and effect as of the date of this contract.

(Clerk's Signature)

(CORPORATE SEAL)

On this _____ day of _____, 2014, before me, the undersigned notary public, personally
appeared _____, proved to me through satisfactory evidence of identification,
which were _____
to be the person whose name is signed on the preceding or attached document in my presence.

Notary Public

My Commission Expires:

CITY OF CHELSEA
REQUIRED RESPONSE SUBMITTAL FORM

REFERENCE FORM

Responder: _____

Title of Project: **PROFESSIONAL LANDSCAPE DESIGN AND SITE PLAN REVIEW SERVICES**

Responder must provide references for:

All contracts performed within the past five years of similar size and scope to this contract

- Reference: _____
- Address: _____
- Contact: _____
- Phone: _____
- Fax: _____
- Description and date(s) of services provided:

- Reference: _____
- Address: _____
- Contact: _____
- Phone: _____
- Fax: _____
- Description and date(s) of services provided:

- Reference: _____
- Address: _____
- Contact: _____
- Phone: _____
- Fax: _____
- Description and date(s) of services provided:

**CITY OF CHELSEA
CONTRACT FOR SERVICES
over \$10,000**

This agreement (the "Agreement") is made and entered into by and between the City of Chelsea (hereinafter the CITY), a municipal corporation organized and existing under the laws of the Commonwealth of Massachusetts, and

[NAME]
[ADDRESS]
(hereinafter the CONTRACTOR)

For mutual consideration the Parties hereby agree as follows:

ARTICLE 1. DEFINITION.

This CONTRACT as used herein shall consist of this Agreement, and the "contract documents" which include but are not limited to the following identified items and all documents, and forms submitted therewith, or attached hereby.

- Attachment A: Scope of Services, and/or other bid package materials
- Attachment B: Additional Contract Terms and Conditions
- Attachment C: Certificate of Non-Collusion, Tax Compliance Certification, Statement of Corporate Authority
- Attachment D: Summaries of Laws Regarding State Ethics - Acknowledgment of Receipt
- Addenda through #

ARTICLE II. AMOUNT AND TERM.

Pursuant to the terms and conditions stated in the Contract, this CITY agrees to pay an amount not to exceed \$_____, and the Contractor agrees to perform the services detailed in the Contract. The Contract shall commence on or about _____ (the "Commencing Date") unless earlier terminated pursuant to Article IV, Termination and shall terminate no later than _____, unless a written amendment to renew or extend this contract is executed in accordance with the provisions of this CONTRACT.

ARTICLE III. PERFORMANCE.

The Contractor agrees to provide all goods and/or services set forth in the Invitation for Bid/Request for Proposal Documents, Scope of Service, the Contractor's proposal for "_____", and/or as outlined in ATTACHMENT A - SCOPE OF SERVICES.

ARTICLE IV. TERMINATION.

- i) Without Cause. The CITY may terminate this CONTRACT on sixty (60) calendar days notice, or may suspend this CONTRACT for up to sixty (60) calendar days upon receipt of notice, when in the best interests of the CITY, by providing notice to the CONTRACTOR, which shall be in writing and shall be deemed delivered and received when given in person to the CONTRACTOR, or when received by fax, express mail, certified mail return receipt requested,

regular mail postage prepaid or delivered by any other appropriate method evidencing actual receipt by the CONTRACTOR.

ii) For Cause. If the CONTRACTOR is determined by the CITY to be in default of any term or condition of CONTRACT, the CITY may terminate this contract on thirty (30) days notice by providing notice to the CONTRACTOR, which shall be in writing and shall be deemed delivered and received when given in person to the CONTRACTOR, or when received by fax, express mail, certified mail return receipt requested, regular mail postage prepaid or delivered by any other appropriate method evidencing actual receipt by the CONTRACTOR. If the CITY is determined by the CONTRACTOR to be in default of any term or condition of this CONTRACT the CONTRACTOR may terminate this contract on thirty (30) days notice by providing notice to the CITY, which shall be in writing and shall be deemed delivered and received when given in person to the CITY, or when received by fax, express mail, certified mail return receipt requested, regular mail postage prepaid or delivered by any other appropriate method evidencing actual receipt by the CITY.

iii) Default. Events of default under this CONTRACT shall include, but are not limited to the following: a) any material misrepresentation made by the CONTRACTOR to the CITY, b) any failure to perform any of its obligations under this CONTRACT including, but not limited to the following: (i) failure to commence performance of this CONTRACT at the time specified in this CONTRACT due to a reason or circumstance within the CONTRACTOR'S reasonable control, (ii) failure to perform this CONTRACT with sufficient personnel and equipment or with sufficient material to ensure the completion of this CONTRACT within the specified time due to a reason or circumstance within the CONTRACTOR'S reasonable control, (iii) failure to perform this CONTRACT in a manner reasonably satisfactory to the CITY, (iv) failure to promptly re-perform with reasonable time the services that were rejected by the CITY as unsatisfactory, or erroneous, (v) discontinuance of the services for reasons not beyond the CONTRACTOR'S reasonable control, (vi) failure to comply with a material term of this CONTRACT, including, but not limited to, the provision of insurance or failure to comply with nondiscrimination provisions, and (vii) any other acts specifically and expressly stated in this CONTRACT as constituting a basis for termination of this CONTRACT, and (viii) failure to comply with any and all requirements of state law, and/or regulations, and City ordinances, and/or regulations.

ARTICLE V. REMEDIES OF THE CITY.

The City hereby retains all remedies in law and equity, including but not limited to, the right to deduct the cost of any substitute contract or performance for expenses, losses, and all damages and the right to withhold from payment, any amounts for expenses, losses, and damages from sums due, or which become due.

ARTICLE VI. REMEDIES OF THE CONTRACTOR.

If the Contractor, due to any act or omission for which the City is legally responsible, sustains damages, other than loss, non-conformance, or non performance, the Contractor may request, within 30 days of the alleged act or omission from the City, a sum equal to the amount of such damages sustained by the Contractor, which amount may be determined by the City in writing, at the City 's sole discretion, provided that the Contractor has provided to all signatories of this Agreement, a detailed, written statement of such damages and cause thereof within said 30 day period.

ARTICLE VII. ASSIGNABILITY.

The CONTRACTOR shall not assign, subcontract or in any way transfer any interest, rights or obligations in this CONTRACT without the prior written consent of the City Manager. In the

event of such assignment the CITY reserves the right to deal with any assignee subcontractor or transferee directly and the CONTRACTOR agrees to remain bound by all terms and conditions of this CONTRACT in accordance with its original tenor and in no way shall the CONTRACTOR be relieved of its responsibilities and obligations under this CONTRACT. The provisions of this CONTRACT shall be binding upon, and shall inure to the benefit of, the successors and assigns of the CONTRACTOR and any public body or bodies succeeding the interests of the CITY.

ARTICLE VIII. INDEMNIFICATION.

The CONTRACTOR shall assume the defense, indemnify and hold harmless the CITY, the CITY'S agents and employees, from and against all losses and all claims, demands, payments, suits, actions, recoveries and judgments of every nature and description brought or recovered against them by reason of acts, in actions, omissions, negligence, reckless or intentional misconduct of the said CONTRACTOR, its agent(s), officers, employees, or subcontractors; in the execution of the work or in guarding the same. Unless otherwise provided by law, the CITY may elect, at its sole discretion, to indemnify the CONTRACTOR for claims arising in tort if it is determined that the CONTRACTOR performed its obligations under this CONTRACT pursuant to the direct supervision and control of the CITY or its designated agent(s).

ARTICLE IX. WORKER'S COMPENSATION AND OTHER INSURANCE.

The CONTRACTOR shall provide insurance for the payment of compensation and the furnishing of other benefits under Chapter 152 of the General Laws of Massachusetts (The Worker's Compensation Act) to all employees of the CONTRACTOR who are subject to the provisions of Chapter 152 of the General Laws of Massachusetts.

Failure to provide and continue in force such insurance during the period of this contract shall be deemed a material breach of this contract, shall operate as an immediate termination thereof, and CONTRACTOR shall indemnify the CITY for all losses, claims, and actions resulting from the failure to provide the insurance required by this Article.

The Contractor shall furnish to the CITY evidence of such insurance prior to the execution of this contract and before the same shall be binding on the parties thereto, except if specifically waived in Attachment B.

Prior to commencement of any work and until completion of its work under this CONTRACT, the CONTRACTOR shall maintain the following insurance coverage, at its cost, from insurance acceptable to the CITY, giving evidence of such coverage to the CITY prior to execution of this CONTRACT, a copy of such insurance coverage to be attached herewith:

1. Comprehensive Automobile Liability Insurance covering the use of all owned, non-owned and hired automobiles in connection with its operations with a combined single limit of \$1,000,000. The comprehensive Automobile Liability insurance may be provided through primary and excess or umbrella insurance policies.
2. CONTRACTOR'S Equipment Coverage (or a certification of self-insurance satisfactory to the CITY) must be provided on an "All Risks" basis, covering physical damage to all tools and equipment, including automotive equipment owned, rented, or used by the CONTRACTOR.
3. Commercial General Liability Insurance coverage which may be provided through primary and excess or umbrella liability policies for limits of \$1,000,000 general aggregate, and \$500,000 per occurrence.

All required insurance must be endorsed to name the CITY as Additional Insured. All required insurance shall be endorsed to waive the insurer's rights of subrogation against the City. All policies and certificates of insurance must contain language that the insurance shall not be canceled, materially changed or non-renewed without at least thirty (30) days advance written notice to the CITY. The CONTRACTOR under this CONTRACT shall not allow its subcontractors to begin work until similar insurance has been so obtained and certificates of insurance approved by the CONTRACTOR.

ARTICLE X. CORPORATE CONTRACTOR.

If CONTRACTOR is a corporation, CONTRACTOR shall endorse the Certificate of Corporate Authority for the CONTRACTORS' signatory (Exhibit C), or shall otherwise provide a form similar in nature and substance acceptable to the CITY at the City's sole discretion.

If CONTRACTOR is a non-profit corporation, CONTRACTOR shall provide satisfactory proof of present status as a non-profit corporation. Such proof shall be in the form of a certification from the Massachusetts Secretary of State's office and/or from the Internal Revenue Service and shall provide the Federal Tax Identification Number of the non-profit corporation. This CONTRACT shall not be enforceable against the CITY unless and until the CONTRACTOR complies with this Article. Failure to inform the CITY in writing of revocation, or other loss of non-profit status shall be deemed a material breach of this contract and operate as an immediate termination thereof.

ARTICLE XI. SUBJECT TO APPROPRIATION.

The obligations of the CITY under this CONTRACT shall be subject to appropriation. In the absence of appropriation this CONTRACT shall be immediately terminated without liability for damages, penalties, or other charges.

In the event any portion of this Agreement is to be funded with alternate funding including but not limited to state, local, federal or private grant funding. In the requisite circumstances, the obligations of the CITY under this CONTRACT shall be subject to the formal award of such state, local, federal or private grant.

ARTICLE XII. DOCUMENTS, MATERIALS, ETC.

Any materials, reports, information, data, etc. given to or prepared or assembled by the CONTRACTOR under this CONTRACT are to be kept confidential and shall not be made available to any individual or organization by the CONTRACTOR (except agents, servants, or employees of the CONTRACTOR) without the prior written approval of the CITY. The CONTRACTOR understands that he/she/it may acquire or have access to "personal data" otherwise kept by the CITY. The CONTRACTOR shall comply with the provisions Chapter 66A of the General Laws of Massachusetts as it relates to public documents, and all other state and federal laws and regulations relating to confidentiality, security, privacy and use of confidential data.

Any materials produced in whole or in part under this CONTRACT shall not be subject to copyright, except by the CITY, in the United States or any other country. The CITY shall have unrestricted authority to, without payment of any royalty, commission, or additional fee of any type or nature, publicly disclose, reproduce, distribute and otherwise use, and authorize other to use, in whole or in part, any reports, data or other materials prepared under this CONTRACT.

All data, reports, programs, software, equipment, furnishings, and any other documentation or product paid for by the CITY shall vest in the CITY at the termination of this CONTRACT. The CONTRACTOR shall at all times, during or after termination of this CONTRACT, obtain the

prior written approval of the CITY before making any statement bearing on the work performed or data collected under this CONTRACT to the press or issues any material for publication through any medium.

ARTICLE XIII. AUDIT, INSPECTION, RECORDKEEPING.

At any time during normal business hours, and as often as the CITY may deem it reasonably necessary, there shall be made available in the office of the CONTRACTOR for the purpose of audit, examination, and/or to make excerpts or transcripts, all records, contracts, invoices, materials, payrolls, records of personnel, conditions of employment and other data relating to all matters covered by this agreement.

Further the CONTRACTOR agrees to make its work papers, records and other evidence of audit available to the CITY for a period of three years after final payment under his CONTRACT. The CITY shall be entitled to reproduce any or all such documents at its own expense, for which provision shall be made at such time.

ARTICLE XIV. WEEKLY PAYROLL RECORDS REPORT.

In accordance with Massachusetts General Law c. 149, s. 27B, a true and accurate record must be kept of all individuals employed on a public works construction project for which prevailing wage rates are applicable.

In addition, every contractor and subcontractor is required to submit, on a weekly basis, a copy of their weekly payroll records to the awarding authority. Once collected, the awarding authority is also required to preserve those records for three years.

ARTICLE XV. CONFLICT OF INTEREST.

i) CITY. No officer, member or employee of the CITY and no members of its governing body who exercise any function or responsibility in review or approval of the undertaking or carrying out of this CONTRACT shall participate in any decision relating to the CONTRACT which affects his/her personal interests or the interest of any corporation, partnership, or association in which he/she has a direct or indirect pecuniary interest. None of the services to be provided by the CONTRACTOR shall be used for any partisan political activity or further the election or defeat of any candidate for political office in the CITY. Compliance with this section shall be material to the CONTRACT.

ii) CONTRACTOR. CONTRACTOR agrees that his/her/its agents, servants, and employees have neither presently nor during the period of this CONTRACT any interest direct or indirect which would impair, detract, or conflict in any manner or degree with the performance of services required under this CONTRACT. The CONTRACTOR, his/her/its agents, servants and employees further stipulate that in the performance of this CONTRACT, no person having any such interest shall be employed. Conflicts of Interest include but are not limited to (a) immediate family relationships with officials of the CITY, (b) instances where the CONTRACTOR, his/her/its agents, servants or employees during the period of this CONTRACT was connected as an officer, employee or member of the governing body of the CITY, and (c) instances where the CONTRACTOR has an interest in any CITY department, its agents, servants or employees or parcels of land within the CITY. Compliance with this section shall be material to the CONTRACT. The CONTRACTOR, his/her/its agents, servants and employees must disclose any and all such interests in writing to the CITY.

ARTICLE XVI. PAYMENT.

The City agrees to make all reasonable efforts to pay to the CONTRACTOR the sum set forth any invoice which has been approved by the City Manager or his authorized designee within thirty (30) days of receipt of such invoice at the Office of the City Auditor. Each invoice shall detail the work completed.

Subject to pending statutory appeal rights, the City hereby reserves the right and the CONTRACTOR hereby agrees that the City may deduct from the sum(s) otherwise payable under this CONTRACT any outstanding taxes, fines, fees and/or other municipal charges prior to disbursement to the CONTRACTOR.

ARTICLE XVII. CONFLICT.

In the event there is a conflict between these Articles and Attachment A, Attachment A shall supersede these Articles.

ARTICLE XVIII. WAIVER AND AMENDMENT.

The provisions contained in this CONTRACT may be modified only by the express written consent of the Parties. Any amendments, must be made only by written amendment executed by all signatories to the original agreement, prior to the effective date of the amendment.

The failure of any party to insist on the strict performance of any term, covenant or condition to this CONTRACT, at anytime, or in any one or more instances, or its failure to take advantage of any of its rights, or any course of conduct or dealing, shall not be construed as a waiver or a relinquishment of any such rights or conditions at any future time and shall, in no way act, as a waiver by any party of a breach of another party or have any affect on the continuance of or the full force and affect of any or all of the provisions of this Contract. The waiver of any provisions must be in writing and executed by all signatories to this Agreement prior to the force and effect of any such waiver.

Forbearance or indulgence in any form or manner by a party shall not be construed as a waiver, nor in any manner limit the legal or equitable remedies available to that party. No waiver by either party of any default or breach shall constitute a waiver of any subsequent default or breach of a similar or different matter.

ARTICLE XIX. CERTIFICATION.

IN WITNESS WHEREOF, THE CONTRACTOR CERTIFIES, UNDER THE PAINS AND PENALTIES OF PERJURY, THAT THE CONTRACTOR IS IN COMPLIANCE WITH EACH OF THE FOLLOWING:

- a. TAXES. PURSUANT to M.G.L. c. 62C, s. 49A, the CONTRACTOR has filed all state tax returns and complied with all laws of the Commonwealth relating to taxes.
- b. DEBARMENT. The CONTRACTOR is not currently debarred or suspended by the Commonwealth of Massachusetts, or any of its entities or subdivisions.
- c. AMERICANS WITH DISABILITIES ACT. The CONTRACTOR is aware of the Americans with Disabilities Act which prohibits discrimination based upon disability and shall meet any relevant standards, and/or conditions set out in the bid/proposal documents, bid/proposal specifications, and/or ATTACHMENT A - SCOPE OF SERVICES.

ARTICLE XX. FORUM AND CHOICE OF LAW

This CONTRACT and any performance herein shall be governed by and be construed in accordance with the laws of Commonwealth of Massachusetts, exclusive of its conflicts of law provisions. Any and all proceedings or actions relating to subject matter herein shall be brought and maintained in the courts of the Commonwealth of Massachusetts or the federal district court sitting in the Commonwealth of Massachusetts, which shall have exclusive jurisdiction thereof. Each of the Parties hereto irrevocably consents to and waives any objection to the exercise of personal jurisdiction by the state and federal courts of the Commonwealth of Massachusetts. This paragraph shall not be construed to limit any other legal rights of the parties.

ARTICLE XXI. TAXES

CONTRACTOR shall be solely responsible for the payment of any taxes, levies, betterments or assessments, fees or charges, whether in existence on the date hereof or becoming applicable pursuant to this Contract, which may be assessed against the CONTRACTOR or the CITY which are directly attributable to CONTRACTOR'S activities under this CONTRACT (the "Taxes"). CONTRACTOR shall pay all Taxes directly to the taxing authority before delinquency and before any fine, interest or penalty shall become due or be imposed by operation of law for their nonpayment.

ARTICLE XXII. NOTICES

All notices, demands, requests, consents, approvals and other instruments required or permitted to be given pursuant to the terms hereof (hereinafter "Notice"), shall be in writing and shall be deemed to have been properly given when delivered in hand or deposited in registered or certified United States mail, postage prepaid, return receipt requested, addressed, as described herein or when delivered by messenger or overnight mail service to the correct addressee. Unless otherwise specified, Notice shall be deemed received when actually received or when the proffered Notice has been refused by the Addressee. The signature of an employee, servant or agent of the Addressee shall be determinative on the issue of actual receipt.

All notices shall be sent to the persons and addresses listed below. CONTRACTOR and the CITY shall, at any time and from time to time, have the right to specify as their proper addresses for purposes of this CONTRACT any other address or addresses giving fifteen (15) days' written notice thereof to the other party.

All Notices shall be forwarded to:

FOR THE CITY
Edward Keefe, Acting City Manager
500 Broadway
City Hall
Chelsea, MA 02150

With a Copy to:
Cheryl Watson Fisher
City Solicitor
Law Department, Room 307
500 Broadway
Chelsea, MA 02150

FOR THE CONTRACTOR:
[NAME]
[ADDRESS]

ARTICLE XXIII. CONSIDERATION

The Parties mutually agree to enter into this CONTRACT for good and valuable consideration.

ARTICLE XXIV. REPRESENTATIONS AND WARRANTIES OF THE CONTRACTOR

The CONTRACTOR represents and warrants (i) the CONTRACTOR has all requisite corporate power and authority to enter into this CONTRACT and to perform the obligations of the CONTRACTOR; (ii) that this CONTRACT has been duly and validly authorized, executed and delivered by the CONTRACTOR; (iii) the execution and delivery of this CONTRACT does not violate or conflict with any other agreement, license or obligation; (iv) the CONTRACTOR is duly organized, legal and validly existing and in good standing in the Commonwealth of Massachusetts; (v) that the CONTRACTOR is duly qualified and authorized to do business in the Commonwealth of Massachusetts; (vi) the CONTRACTOR is in compliance and is current with any payments under all federal, state and local tax laws; (vii) the CONTRACTOR will obtain any and all permits which may be necessary to perform the obligations of this CONTRACT; (viii) the CONTRACTOR will timely perform its obligations required by this CONTRACT.

ARTICLE XXV. THIRD PARTY BENEFICIARIES

This CONTRACT shall not be construed to create any third party beneficiary rights in favor of any other parties or any right or privilege for the benefit of any other parties.

ARTICLE XXVI. ENTIRE CONTRACT

This CONTRACT constitutes the entire Agreement of the parties hereto with respect to the subject matter hereof, and no representations, inducements, promises, or agreements, oral or otherwise, between the parties hereto with respect to the subject matter hereof not embodied herein shall be of any force or effect.

ARTICLE XXVII. LIABILITY OF MUNICIPALITY

The CITY shall not be liable to CONTRACTOR for any loss of business or any indirect, incidental, special, consequential or exemplary damages or lost profits unless expressly specified herein.

ARTICLE XXVIII. HEADINGS

Heading used in this Agreement are for convenience of reference only and shall not be construed as altering the meaning of this CONTRACT or any of its provisions.

ARTICLE XXIX. DAYS

Any reference to "days" in this CONTRACT, shall be deemed to mean business days (Monday through Friday, excluding generally recognized holidays) except where specific reference is made to calendar days.

ARTICLE XXX. SURVIVAL

The parties agree that the provisions of ARTICLE II – AMOUNT AND TERM; ARTICLE III – PERFORMANCE; ARTICLE V- REMEDIES OF THE CITY; ARTICLE VI- REMEDIES OF THE CONTRACTOR. ARTICLE VII – ASSIGNABILITY; ARTICLE VIII – INDEMNIFICATION; ARTICLE IX- WORKER’S COMPENSATION AND OTHER INSURANCE; ARTICLE XI-SUBJECT TO APPROPRIATION; ARTICLE XII – DOCUMENTS, MATERIALS, ETC; ARTICLE XIII – AUDIT, INSPECTION, RECORDKEEPING; ARTICLE XIV- WEEKLY PAYROLL RECORDS REPORT; ARTICLE XVI – PAYMENT; ARTICLE XVIII – WAIVER AND AMENDMENT; ARTICLE XIX – CERTIFICATION; ARTICLE XX- FORUM AND CHOICE OF LAW; ARTICLE XXI –

TAXES; ARTICLE XXIV- REPRESENTATIONS AND WARRANTIES OF THE CONTRACTOR; ARTICLE XXVII- LIABILITY OF THE MUNICIPALITY; ARTICLE XXX – SURVIVAL; and ARTICLE XXXI - SEVERABILITY shall survive the expiration or any earlier termination of this CONTRACT.

ARTICLE XXXI. SEVERABILITY

If any provision of this CONTRACT is held to be illegal, invalid or unenforceable, the remaining terms shall not be affected and shall remain in full force and effect. The Agreement shall be interpreted as if the illegal, invalid or unenforceable provision had not been included in it and the invalid or unenforceable provision shall be stricken and shall be replaced by a mutually acceptable provision which being valid and enforceable comes closest to the intention of the parties with respect to the invalid or unenforceable provision.

ARTICLE XXXII. ADVICE AND COUNSEL

The CONTRACTOR hereby acknowledges and agrees that CONTRACTOR has read this Agreement in its entirety and that CONTRACTOR has had the opportunity to consult legal and financial advisors of their choosing regarding the execution, delivery and performance of their obligations, hereunder.

ARTICLE XXXIII. COUNTERPARTS

This CONTRACT may be executed in counterpart.

THE REMAINDER OF THIS PAGE LEFT INTENTIONALLY BLANK

IN WITNESS WHEREOF the parties have hereto and to three other identical instruments set forth their hands the day and year first above written.

THE CONTRACTOR

CITY MANAGER

Company Name

Jay Ash

Status (Corporation/Non-corporate)

Signature & Title

Please Print Name & Title

Dylan Cook
Procurement Officer

Date

Taxpayer Identification Number

APPROVED AS TO FORM:

Cheryl Watson Fisher
City Solicitor

Approved as to Contract Manager:

I CERTIFY THAT FUNDS HAVE BEEN
ENCUMBERED IN THE AMOUNT OF
\$_____ FOR THIS CONTRACT
Appropriation Number:

Department Head Name
Department Name
City of Chelsea

Edward M. Dunn
City Auditor

ATTACHMENT A

SCOPE OF SERVICES

INSTRUCTIONS FOR DEPARTMENT AND CONTRACTOR: Please attach for reference purposes a copy of all bid/proposal documents, including but not limited to (i) invitations/instructions for bidders (ii) invitation/instructions for proposers, (iii) general and specific conditions, and please provide a detailed description of all types of goods and/or services that will be provided pursuant to this CONTRACT, not otherwise provided in any bid/proposal instructions, specifications, conditions or other documents.

ATTACHMENT B

ADDITIONAL CONTRACT TERMS AND CONDITIONS

INSTRUCTIONS FOR DEPARTMENTS: Please specify any additions or modifications to the terms and conditions (not to conflict with the public procurement laws or City ordinances or regulations):

Exhibit A – Additional CDBG Terms and Conditions

ATTACHMENT C

CERTIFICATE OF NON-COLLUSION

TAX COMPLIANCE CERTIFICATION

STATEMENT OF CORPORATE AUTHORITY

CERTIFICATE OF NON-COLLUSION
MANDATORY

The undersigned certifies under penalties of perjury that this bid or proposal has been made and submitted in good faith and without collusion or fraud with any other person. As used in this certification, the word "person" shall mean any natural person, business, partnership, corporation, union, committee, club, or other organization, entity, or group of individuals.

Dated: _____

Name of Company or Corporation

Authorized Official's Signature

BIDDERS/RESPONDENTS MUST SUBMIT THIS FORM FULLY COMPLETED.

TAX COMPLIANCE CERTIFICATION

Pursuant to M.G.L. c. 62C, Section 49A, I certify under penalties of perjury that I, to my best knowledge and belief, have filed all Massachusetts tax returns and paid all Massachusetts taxes required under law, as well as paid all contributions and payments in lieu of contributions pursuant to M.G.L., c. 151A, Section 19A(b).

I further certify that I have complied with all federal, state and local laws relating to taxes, including but not limited to the withholding and reporting of any income taxes for employees and contractors, and the withholding and remittance of child support.

Signature

Social Security or Federal ID No.

Date

BIDDERS/RESPONDENTS MUST SUBMIT THIS FORM FULLY COMPLETED.

STATEMENT OF CORPORATE AUTHORITY

At a duly authorized meeting of the Board of Directors of _____

held on _____ at which time all voted that _____

of this Company, be and hereby is authorized to execute contracts and bonds in the name and on behalf of said Company, and affix its Corporate seal thereto, and such execution of any contract

of obligation in this Company's name on its behalf by such person _____ under seal of the Company, shall be valid and binding upon this Company.

A TRUE COPY,
ATTEST:

PLACE OF BUSINESS:

DATE OF THIS CONTRACT:

I hereby certify that I am Clerk of _____ and that

_____ is duly elected _____

of said Company, and that the above vote has not been amended or rescinded and remains in full force and effect as of the date of this contract.

(Clerk's Signature)

(CORPORATE SEAL)

ATTACHMENT D

City of Chelsea
Conflict of Interest Law
Compliance Statement and Requirements for Vendors

On July 1, 2009, the Legislature enacted Chapter 28 of the Acts of 2009 which made changes to Mass. General Laws c. 268A and c. 268B, the Massachusetts' Conflict of Interest Law. On November 9, 2009, the Chelsea City Council designated the Chelsea City Solicitor as the Municipal Liaison to the State Ethics Commission and responsible for the facilitation of Chelsea's obligation to comply with the changes in the law.

The City has a requirement for compliance, which is to make sure that all municipal elected officials, board and commission members, and employees **including vendors** are provided copies of the Summaries of the Ethics Laws.

Enclosed is a packet that should be copied and provide to each one of your employees who are assigned to work in Chelsea; including yourself. At the end of the summary is an acknowledgement of receipt of the summary. The acknowledgments must be submitted along with any purchase order or contract with the City of Chelsea. All documents pursuant to this new law will be kept on file in the City Clerk's Office

The Procurement Officer will contact you directly, if there is a determination that you or your staff should undergo the Conflict of Interest Online Training Program.

If you have any questions, feel free to contact the Chelsea City Solicitor at 617-466-4150 as soon as possible.

Summary of the Conflict of Interest Law for Municipal Employees

This summary of the conflict of interest law, General Laws chapter 268A, is intended to help municipal employees understand how that law applies to them. This summary is not a substitute for legal advice, nor does it mention every aspect of the law that may apply in a particular situation. Municipal employees can obtain free confidential advice about the conflict of interest law from the Commission's Legal Division at our website, phone number, and address above. Municipal counsel may also provide advice.

The conflict of interest law seeks to prevent conflicts between private interests and public duties, foster integrity in public service, and promote the public's trust and confidence in that service by placing restrictions on what municipal employees may do on the job, after hours, and after leaving public service, as described below. The sections referenced below are sections of G.L. c. 268A.

When the Commission determines that the conflict of interest law has been violated, it can impose a civil penalty of up to \$10,000 (\$25,000 for bribery cases) for each violation. In addition, the Commission can order the violator to repay any economic advantage he gained by the violation, and to make restitution to injured third parties. Violations of the conflict of interest law can also be prosecuted criminally.

I. Are you a municipal employee for conflict of interest law purposes?

You do not have to be a full-time, paid municipal employee to be considered a municipal employee for conflict of interest purposes. Anyone performing services for a city or town or holding a municipal position, whether paid or unpaid, including full- and part-time municipal employees, elected officials, volunteers, and consultants, is a municipal employee under the conflict of interest law. An employee of a private firm can also be a municipal employee, if the private firm has a contract with the city or town and the employee is a "key employee" under the contract, meaning the town has specifically contracted for her services. The law also covers private parties who engage in impermissible dealings with municipal employees, such as offering bribes or illegal gifts.

II. On-the-job restrictions.

(a) Bribes. Asking for and taking bribes is prohibited. (See Section 2)

A bribe is anything of value corruptly received by a municipal employee in exchange for the employee being influenced in his official actions. Giving, offering, receiving, or asking for a bribe is illegal.

Bribes are more serious than illegal gifts because they involve corrupt intent. In other words, the municipal employee intends to sell his office by agreeing to do or not do some official act, and the giver intends to influence him to do so. Bribes of any value are illegal.

(b) Gifts and gratuities. Asking for or accepting a gift because of your official position, or because of something you can do or have done in your official position, is prohibited. (See Sections 3, 23(b)(2), and 26)

Municipal employees may not accept gifts and gratuities valued at \$50 or more given to influence their official actions or because of their official position. Accepting a gift intended to reward past official action or to bring about future official action is illegal, as is giving such gifts. Accepting a gift given to you because of the municipal position you hold is also illegal. Meals, entertainment event tickets, golf, gift baskets, and payment of travel expenses can all be illegal gifts if given in connection with official action or position, as can anything worth \$50 or more. A number of smaller gifts together worth \$50 or more may also violate these sections.

Example of violation : A town administrator accepts reduced rental payments from developers.

Example of violation : A developer offers a ski trip to a school district employee who oversees the developer's work for the school district.

Regulatory exemptions . There are situations in which a municipal employee's receipt of a gift does not present a genuine risk of a conflict of interest, and may in fact advance the public interest. The Commission has created exemptions permitting giving and receiving gifts in these situations. One commonly used exemption permits municipal employees to accept payment of travel-related expenses when doing so advances a public purpose. Another commonly used exemption permits municipal employees to accept payment of costs involved in attendance at educational and training programs. Other exemptions are listed on the Commission's website.

Example where there is no violation : A fire truck manufacturer offers to pay the travel expenses of a fire chief to a trade show where the chief can examine various kinds of fire-fighting equipment that the town may purchase. The chief fills out a disclosure form and obtains prior approval from his appointing authority.

Example where there is no violation : A town treasurer attends a two-day annual school featuring multiple substantive seminars on issues relevant to treasurers. The annual school is paid for in part by banks that do business with town treasurers. The treasurer is only required to make a disclosure if one of the sponsoring banks has official business before her in the six months before or after the annual school.

(c) Misuse of position. Using your official position to get something you are not entitled to, or to get someone else something they are not entitled to, is prohibited. Causing someone else to do these things is also prohibited. (See Sections 23(b)(2) and 26)

A municipal employee may not use her official position to get something worth \$50 or more that would not be properly available to other similarly situated individuals. Similarly, a municipal employee may not use her official position to get something worth \$50 or more for someone else that would not be properly available to other similarly situated individuals. Causing someone else to do these things is also prohibited.

Example of violation : A full-time town employee writes a novel on work time, using her office computer, and directing her secretary to proofread the draft.

Example of violation : A city councilor directs subordinates to drive the councilor's wife to and from the grocery store.

Example of violation : A mayor avoids a speeding ticket by asking the police officer who stops him, "Do you know who I am?" and showing his municipal I.D.

(d) Self-dealing and nepotism. Participating as a municipal employee in a matter in which you, your immediate family, your business organization, or your future employer has a financial interest is prohibited. (See Section 19)

A municipal employee may not participate in any particular matter in which he or a member of his immediate family (parents, children, siblings, spouse, and spouse's parents, children, and siblings) has a financial interest. He also may not participate in any particular matter in which a prospective employer, or a business organization of which he is a director, officer, trustee, or employee has a financial interest. Participation includes discussing as well as voting on a matter, and delegating a matter to someone else.

A financial interest may create a conflict of interest whether it is large or small, and positive or negative. In other words, it does not matter if a lot of money is involved or only a little. It also does not matter if you are putting money into your pocket or taking it out. If you, your immediate family, your business, or your employer have or has a financial interest in a matter, you may not participate. The financial interest must be direct and immediate or reasonably foreseeable to create a conflict. Financial interests which are remote, speculative or not sufficiently identifiable do not create conflicts.

Example of violation : A school committee member's wife is a teacher in the town's public schools. The school committee member votes on the budget line item for teachers' salaries.

Example of violation : A member of a town affordable housing committee is also the director of a non-profit housing development corporation. The non-profit makes an application to the committee, and the member/director participates in the discussion.

Example : A planning board member lives next door to property where a developer plans to construct a new building. Because the planning board member owns abutting property, he is presumed to have a financial interest in the matter. He cannot participate unless he provides the State Ethics Commission with an opinion from a qualified independent appraiser that the new construction will not affect his financial interest.

In many cases, where not otherwise required to participate, a municipal employee may comply with the law by simply not participating in the particular matter in which she has a financial interest. She need not give a reason for not participating.

There are several exemptions to this section of the law. An appointed municipal employee may file a written disclosure about the financial interest with his appointing authority, and seek permission to participate notwithstanding the conflict. The appointing authority may grant written permission if she determines that the financial interest in question is not so substantial that it is likely to affect the integrity of his services to the municipality. Participating without disclosing the financial interest is a violation. Elected employees cannot use the disclosure procedure because they have no appointing authority.

Example where there is no violation : An appointed member of the town zoning advisory committee, which will review and recommend changes to the town's by-laws with regard to a commercial district, is a partner at a company that owns commercial property in the district. Prior to participating in any committee discussions, the member files a disclosure with the zoning board of appeals that appointed him to his position, and that board gives him a written determination authorizing his participation, despite his company's financial interest. There is no violation.

There is also an exemption for both appointed and elected employees where the employee's task is to address a matter of general policy and the employee's financial interest is shared with a substantial portion (generally 10% or more) of the town's population, such as, for instance, a financial interest in real estate tax rates or municipal utility rates.

(e) False claims. Presenting a false claim to your employer for a payment or benefit is prohibited, and causing someone else to do so is also prohibited. (See Sections 23(b)(4) and 26)

A municipal employee may not present a false or fraudulent claim to his employer for any payment or benefit worth \$50 or more, or cause another person to do so.

Example of violation : A public works director directs his secretary to fill out time sheets to show him as present at work on days when he was skiing.

(f) Appearance of conflict. Acting in a manner that would make a reasonable person think you can be improperly influenced is prohibited. (See Section 23(b)(3))

A municipal employee may not act in a manner that would cause a reasonable person to think that she would show favor toward someone or that she can be improperly influenced. Section 23(b)(3) requires a municipal employee to consider whether her relationships and affiliations could prevent her from acting fairly and objectively when she performs her duties for a city or town. If she cannot be fair and objective because of a relationship or affiliation, she should not perform her duties. However, a municipal employee, whether elected or appointed, can avoid violating this provision by making a public disclosure of the facts. An appointed employee must make the disclosure in writing to his appointing official.

Example where there is no violation : A developer who is the cousin of the chair of the conservation commission has filed an application with the commission. A reasonable person could conclude that the chair might favor her cousin. The chair files a written disclosure with her appointing authority explaining her relationship with her cousin prior to the meeting at which the application will be considered. There is no violation of Sec. 23(b)(3).

(g) Confidential information. Improperly disclosing or personally using confidential information obtained through your job is prohibited. (See Section 23(c))

Municipal employees may not improperly disclose confidential information, or make personal use of non-public information they acquired in the course of their official duties to further their personal interests.

III. After-hours restrictions.

(a) Taking a second paid job that conflicts with the duties of your municipal job is prohibited. (See Section 23(b)(1))

A municipal employee may not accept other paid employment if the responsibilities of the second job are incompatible with his or her municipal job.

Example : A police officer may not work as a paid private security guard in the town where he serves because the demands of his private employment would conflict with his duties as a police officer.

(b) Divided loyalties. Receiving pay from anyone other than the city or town to work on a matter involving the city or town is prohibited. Acting as agent or attorney for anyone other

than the city or town in a matter involving the city or town is also prohibited whether or not you are paid. (See Sec. 17)

Because cities and towns are entitled to the undivided loyalty of their employees, a municipal employee may not be paid by other people and organizations in relation to a matter if the city or town has an interest in the matter. In addition, a municipal employee may not act on behalf of other people and organizations or act as an attorney for other people and organizations in which the town has an interest. Acting as agent includes contacting the municipality in person, by phone, or in writing; acting as a liaison; providing documents to the city or town; and serving as spokesman.

A municipal employee may always represent his own personal interests, even before his own municipal agency or board, on the same terms and conditions that other similarly situated members of the public would be allowed to do so. A municipal employee may also apply for building and related permits on behalf of someone else and be paid for doing so, unless he works for the permitting agency, or an agency which regulates the permitting agency.

Example of violation : A full-time health agent submits a septic system plan that she has prepared for a private client to the town's board of health.

Example of violation : A planning board member represents a private client before the board of selectmen on a request that town meeting consider rezoning the client's property.

While many municipal employees earn their livelihood in municipal jobs, some municipal employees volunteer their time to provide services to the town or receive small stipends. Others, such as a private attorney who provides legal services to a town as needed, may serve in a position in which they may have other personal or private employment during normal working hours. In recognition of the need not to unduly restrict the ability of town volunteers and part-time employees to earn a living, the law is less restrictive for "special" municipal employees than for other municipal employees.

The status of "special" municipal employee has to be assigned to a municipal position by vote of the board of selectmen, city council, or similar body. A position is eligible to be designated as "special" if it is unpaid, or if it is part-time and the employee is allowed to have another job during normal working hours, or if the employee was not paid for working more than 800 hours during the preceding 365 days. It is the position that is designated as "special" and not the person or persons holding the position. Selectmen in towns of 10,000 or fewer are automatically "special"; selectman in larger towns cannot be "specials."

If a municipal position has been designated as "special," an employee holding that position may be paid by others, act on behalf of others, and act as attorney for others with respect to matters before municipal boards other than his own, provided that he has not officially participated in the

matter, and the matter is not now, and has not within the past year been, under his official responsibility.

Example : A school committee member who has been designated as a special municipal employee appears before the board of health on behalf of a client of his private law practice, on a matter that he has not participated in or had responsibility for as a school committee member. There is no conflict. However, he may not appear before the school committee, or the school department, on behalf of a client because he has official responsibility for any matter that comes before the school committee. This is still the case even if he has recused himself from participating in the matter in his official capacity.

Example : A member who sits as an alternate on the conservation commission is a special municipal employee. Under town by-laws, he only has official responsibility for matters assigned to him. He may represent a resident who wants to file an application with the conservation commission as long as the matter is not assigned to him and he will not participate in it.

(c) Inside track. Being paid by your city or town, directly or indirectly, under some second arrangement in addition to your job is prohibited, unless an exemption applies. (See Section 20)

A municipal employee generally may not have a financial interest in a municipal contract, including a second municipal job. A municipal employee is also generally prohibited from having an indirect financial interest in a contract that the city or town has with someone else. This provision is intended to prevent municipal employees from having an "inside track" to further financial opportunities.

Example of violation : Legal counsel to the town housing authority becomes the acting executive director of the authority, and is paid in both positions.

Example of violation : A selectman buys a surplus truck from the town DPW.

Example of violation : A full-time secretary for the board of health wants to have a second paid job working part-time for the town library. She will violate Section 20 unless she can meet the requirements of an exemption.

Example of violation : A city councilor wants to work for a non-profit that receives funding under a contract with her city. Unless she can satisfy the requirements of an exemption under Section 20, she cannot take the job.

There are numerous exemptions. A municipal employee may hold multiple unpaid or elected positions. Some exemptions apply only to special municipal employees. Specific exemptions may cover serving as an unpaid volunteer in a second town position, housing-related benefits, public safety positions, certain elected positions, small towns, and other specific situations. Please call the Ethics Commission's Legal Division for advice about a specific situation.

IV. After you leave municipal employment. (See Section 18)

(a) Forever ban. After you leave your municipal job, you may never work for anyone other than the municipality on a matter that you worked on as a municipal employee.

If you participated in a matter as a municipal employee, you cannot ever be paid to work on that same matter for anyone other than the municipality, nor may you act for someone else, whether paid or not. The purpose of this restriction is to bar former employees from selling to private interests their familiarity with the facts of particular matters that are of continuing concern to their former municipal employer. The restriction does not prohibit former municipal employees from using the expertise acquired in government service in their subsequent private activities.

Example of violation : A former school department employee works for a contractor under a contract that she helped to draft and oversee for the school department.

(b) One year cooling-off period. For one year after you leave your municipal job you may not participate in any matter over which you had official responsibility during your last two years of public service.

Former municipal employees are barred for one year after they leave municipal employment from personally appearing before any agency of the municipality in connection with matters that were under their authority in their prior municipal positions during the two years before they left.

Example : An assistant town manager negotiates a three-year contract with a company. The town manager who supervised the assistant, and had official responsibility for the contract but did not participate in negotiating it, leaves her job to work for the company to which the contract was awarded. The former manager may not call or write the town in connection with the company's work on the contract for one year after leaving the town.

A former municipal employee who participated as such in general legislation on expanded gaming and related matters may not become an officer or employee of, or acquire a financial interest in, an applicant for a gaming license, or a gaming licensee, for one year after his public employment ceases.

(c) Partners. Your partners will be subject to restrictions while you serve as a municipal employee and after your municipal service ends.

Partners of municipal employees and former municipal employees are also subject to restrictions under the conflict of interest law. If a municipal employee participated in a matter, or if he has official responsibility for a matter, then his partner may not act on behalf of anyone other than the municipality or provide services as an attorney to anyone but the city or town in relation to the matter.

Example : While serving on a city's historic district commission, an architect reviewed an application to get landmark status for a building. His partners at his architecture firm may not prepare and sign plans for the owner of the building or otherwise act on the owner's behalf in relation to the application for landmark status. In addition, because the architect has official responsibility as a commissioner for every matter that comes before the commission, his partners may not communicate with the commission or otherwise act on behalf of any client on any matter that comes before the commission during the time that the architect serves on the commission.

Example : A former town counsel joins a law firm as a partner. Because she litigated a lawsuit for the town, her new partners cannot represent any private clients in the lawsuit for one year after her job with the town ended.

* * * * *

This summary is not intended to be legal advice and, because it is a summary, it does not mention every provision of the conflict law that may apply in a particular situation. Our website, <http://www.mass.gov/ethics> contains further information about how the law applies in many situations. You can also contact the Commission's Legal Division via our website, by telephone, or by letter. Our contact information is at the top of this document.

Version 5: Revised December 23, 2011

City of Chelsea
Conflict of Interest Law

Compliance Statement and Requirements for Vendors

ACKNOWLEDGMENT OF RECEIPT

I, _____,
(first and last name)

an employee at _____,
(name of vendor)

hereby acknowledge that I received a copy of the summary of the conflict of interest law for municipal employees, revised December 23, 2011, on

_____.
(date)

The City has a requirement for compliance, which is to make sure that all **vendors** are provided copies of the Summary of the Conflict of Interest Law for Municipal Employees (including Vendors).

VENDORS should copy the Summary of the Conflict of Interest Law and provide it to each one of the employees who are assigned to work in Chelsea.

Each employee shall complete the "Acknowledgment of Receipt" and the Vendor shall return the acknowledgments-only (not the Summary) to the Chelsea the Chelsea Procurement Office.

The "Acknowledgment of Receipt" must be submitted along with any purchase order or contract with the City of Chelsea

EXHIBIT A
ADDITIONAL CDBG TERMS AND CONDITIONS

COMPLIANCE WITH FEDERAL, STATE AND LOCAL LAWS AND REGULATIONS, AND DHCD REGULATIONS, PROCEDURES, AND GUIDELINES: All activities authorized by this Contract shall be subject to and performed in accordance with the provisions of this Contract, Title I of the Housing and Community Development Act of 1974 as amended (42 U.S.C. 5301 et seq., hereinafter "the Act"), HUD regulations in 24 CFR Part 570 Subpart I, 24 CFR Part 85 (as may be determined applicable by the Massachusetts CDBG Program), and any regulations, directives or guidelines as may be established by the Department for the Massachusetts CDBG Program. Where appropriate, the Contractor shall cause any subgrantees to comply with these requirements.

All activities authorized by this Contract shall be conducted in accordance with all applicable laws, rules, regulations, ordinances, orders and requirements of the Commonwealth and the federal government including, but not limited to, the following:

1. **Title VI of the Civil Rights Act of 1964** (42 U.S.C. 2000d et seq.), and HUD regulations at **24 CFR Part 1**, which prohibit discrimination based on race, color, or national origin under any program or activity receiving federal financial assistance.
2. **Title VIII of the Civil Rights Act of 1968** (42 U.S.C. 3601 et seq.,) as amended by the Fair Housing Amendments of 1988 (known as the Fair Housing Act), which prohibits discrimination based on race, color, religion, sex, handicap, familial status, or national origin in the sale, rental, financing, or brokering of housing; and **Federal Executive Order 11063**, as amended by **Executive Order 12259**, and as implemented by regulations at **24 CFR Part 1**, which prohibits such discrimination in the sale or rental of property which has received federal financial assistance.
3. **The Age Discrimination Act of 1975** (42 U.S.C. 6101 et seq.), which prohibits discrimination on the basis of age, and **Section 504 of the Rehabilitation Act of 1973** (29 U.S.C. 794), which prohibits discrimination based on handicap.
4. The **Davis-Bacon Act** (40 U.S.C. 276a - 276a-7), as supplemented by Department of Labor regulations at **29 CFR Part 5**, which provides that laborers and mechanics employed by the Contractor or subgrantees on construction projects (consisting of 8 or more units in the case of residential property) assisted under the Act shall be paid wages determined by the Secretary of Labor, provided that Davis Bacon shall not apply to "volunteers"; and the **Contract Work Hours and Safety Standards Act** (40 U.S.C. 327 et seq.), as supplemented by Department of Labor Regulations at **29 CFR Part 5**, which contains labor standards for work on contracts financed by federal grants; and the Department of Labor "**anti-kickback**" regulations at **29 CFR Part 3**. The Contractor shall include these requirements in agreements with subgrantees.
5. The **National Environmental Policy Act of 1969** (42 U.S.C. 4321 et seq.), and such other provisions of law which further the purposes of the National Environmental Policy Act as are specified in **24 CFR Part 58** (entitled "Environmental Review Procedures for Entities Assuming HUD Environmental Responsibilities.")
6. The **Housing and Urban Development Act of 1968, Section 3** (12 U.S.C. 1701u), which requires that training and employment opportunities be made available to lower-income persons living in the community where a project assisted under the Act is located, and that contracting opportunities be made available to businesses located in or owned by persons living in such community. The Contractor shall include this requirement in agreements with subgrantees. The text of this clause is included in the Massachusetts CDBG Program Operations Manual.

7. **The Residential Lead-Based Paint Hazard Reduction Act of 1992** (42 U.S.C.4851 et seq.) as implemented by regulations at **24 C.F.R. Part 35**, which establishes requirements to protect children from lead-based paint hazards in housing that is receiving federal financial assistance or is being sold by the government. **24 C.F.R. Part 35** became effective on September 15, 2000.
8. Regulations at **24 CFR Part 44**, “Non-Federal Audit Requirements for State and Local Government.”
9. **The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970** (42 U.S.C. 4601 et seq.) and regulations at **49 CFR Part 24**, and **Section 104 (d) of the Act** and regulations at **24 CFR 570.606 and 24 CFR Part 42 cited in 24 CFR 570.488**), which govern the acquisition of real property for activities assisted under the Act and which require the Contractor to adopt policies and plans designed to minimize displacement of residents and businesses, and to provide relocation benefits and assistance.
10. Department of Labor Regulations at **41 CFR Part 60-1**, implementing **Executive Order 11246**, which require the Contractor to adopt equal employment practices and cooperate with the Secretary of Labor in assuring compliance by subgrantees. The Contractor shall include this requirement in agreements with subgrantees. In addition, for all subcontracts which are nonexempt as defined in 41 CFR 60-1.5 (generally, subcontracts in excess of \$10,000), the Contractor shall include in the agreement the "equal opportunity clause" set forth in 41 CFR 60-1.4(b) for construction contracts, and in 41 CFR 60-1.4(a) for all other contracts.
11. **The Architectural Barriers Act of 1968 (42 U.S.C. 4151 et seq.)**, which requires certain federally assisted buildings to be constructed so as to be accessible to physically handicapped persons, and **The Americans with Disabilities Act of 1990** (42 U.S.C. 12101 et seq.), which prohibits discrimination against disabled individuals in private and public employment, public accommodations, public transportation, government services, and telecommunications. The Contractor shall include this requirement in agreements with subgrantees.
12. **Section 102 of the Department of Housing and Urban Development Reform Act of 1989 (42 U.S.C. 3545) as supplemented by HUD regulations at 24 CFR Part 4** which requires applicants to a state, or to a unit of local government, for assistance from HUD to make a number of disclosures.
13. **Massachusetts CDBG Program Operations Manual**. In implementing all activities authorized by this Contract, the Contractor shall use the provisions of the Massachusetts CDBG Program Operations Manual as a guidance document.
14. **Political Activity Prohibited Under the Hatch Act**. None of the services to be provided by the Contractor shall be used for any partisan political activity or to further the election or defeat of any candidate for public office. The Contractor shall adhere to the provisions of the Hatch Act (5 U.S.C. 1501 et. seq.) which limits political activity by employees whose principle employment is in connection with an activity which is financed in whole or in part by federal funds.
15. Regulations at **41 CFR Part 60-250**, entitled “Affirmative Action Obligations of Contractors and Subcontractors for Disabled Veterans and Veterans of the Vietnam Era.”
16. **Conflict of Interest**. The Contractor shall adhere to the requirements of M.G.L. Chapter 268A and the HUD Conflict of Interest regulations at 24 CFR Part 570.489(h).
17. **Flood Disaster Protection**. The owner of land subject to acquisition or improvement under this contract, and its successors or assigns, are hereby obligated to obtain and maintain, during ownership of the land which is the subject of the contract, such flood insurance as is required with respect to financial assistance for acquisition or construction purposes under section 102 (a) of the Flood Disaster Protection Act of 1973. This obligation is binding notwithstanding the fact that

construction on the land which is subject of this contract is not itself funded out of assistance provided under the Housing and Community Development Act of 1974, as amended.

18. **Environmental Requirements.** The Contractor shall comply, where applicable, with: federal Executive Order 11988, Floodplain Management, May 24, 1977 (42 FR 26951 et. seq.) particularly section 2 (a); the Coastal Zone Management Act of 1972 (16 U.S.C 1451 et. seq.), as amended, particularly section 307 (c) and (d) (16U.S.C. 1456 (c) and (d)); the Safe Water Drinking Act of 1974 (42 U.S.C. 201, 300(f) et seq., and 21 U.S.C. 349), as amended; the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.) as amended, particularly section 7 (16 U.S.C. 1536; the Wild and Scenic Rivers Act of 1968 (16 U.S.C. 1271 et seq.) as amended, particularly section 7 (b) and (c) (16 U.S.C. 1278 (b) and (c)); the Clean Air Act (42 U.S.C. 7401 et seq.), as amended, particularly section 176(c) and (d) (42 U.S.C. 7506 (c) and (d)); HUD Environmental Criteria and Standards (44 FR 40860-40866, July 12, 1979); “The American Standard Specification for Making Buildings and Facilities Accessible to and Usable by the Physically Handicapped,” Number A-117.4-R 1971, subject to the exceptions contained in 41 CFR 101-19-604; and any corresponding provisions of State and local laws and regulations. The Contractor shall also comply, where applicable, with the National Environmental Policy Act of 1969, Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act, Flood Disaster Protection Act of 1973, National Flood Insurance Act of 1968, and Protection of Wetlands Laws.
19. **Historical Preservation.** The Contractor shall, in the performance of environmental assessments under the National Policy Act, and the Massachusetts Environmental Policy Act, comply with section 106 of the National Historic Preservation Act of 1966 (16 U.S.C. 470), federal Executive Order 11593, and the Preservation of Archaeological and Historic Data Act of 1966 (17 U.S.C. 469 a-1 et seq.), by (a) consulting with the State Historic Preservation Officer to identify properties listed in or eligible for inclusion in the National Register of Historic Places that are subject to adverse effects (see 36 CFR Part 800.8) by the proposed activity, and (b) complying with all requirements established by HUD to avoid or mitigate adverse effects upon such properties.
20. **Special Conditions Pertaining to Hazards, Safety Standards and Accident Prevention.** Lead-Based Paint Hazards (applicable to contracts for construction or rehabilitation of residential structures). The construction or rehabilitation of residential structure is subject to the HUD-Lead-Based Paint regulations, 24 CFR Part 35. The Contractor and Subcontractors shall comply with the provisions for the elimination of lead-based paint hazards under sup-part B of said regulations.

The Owner will be responsible for the inspections and certifications required under Section 35.14(f) thereof, and requirements of M.G.L. Ch.111, Sec. 190-191, and the regulations for Lead Poisoning.

21. **Labor Standards.** Where applicable, The Contractor shall adhere to the provisions of Section 110 of the Act, and the Massachusetts General Laws Chapter 149 sections 26 and 27D inclusive (as amended by Chapter 484 of the Acts of 1984). In the case of the rehabilitation of commercial property, or rehabilitation of residential property designed for residential use of eight or more families, The Contractor shall adhere to the Federal Labor Standards Provisions (HUD Handbook 1344.1), the requirements of the Contract Work Hours and Safety Standards Act (40 U.S.C. 327 et. seq.) and the Copeland Anti-Kickback Act.

OTHER PROVISIONS

Age Discrimination Act of 1975 (for contracts over (\$2,000)

No person in the United States shall, on the basis of age, be excluded from participation in, be denied the benefits of, or be subjected to discrimination from receiving Federal financial assistance.

The Contractor shall comply with the provisions of the Age Discrimination Act of 1975 (42 U.S.C. 6101 et seq.). The Age Discrimination in Employment Act prohibits arbitrary age discrimination in employment.

Non-Discrimination

The Contractor shall adhere to the requirements set forth in Title VI of the Civil Rights Act of 1964 (Public Law 88-352), and the regulations issued pursuant thereto by HUD (24 CFR Part 1); Title VIII of the Civil Rights Act of 1968 (Public Law 90-284), as amended; Section 109 of the Housing and Community Development Act of 1974, and the HUD regulations issued pursuant thereto (24 CFR 570.601); Federal Executive Order 11063, as amended by Executive Order 12259 and the HUD regulations issued pursuant thereto (24 CFR 107); Executive Order 11246 and the rules, regulations and relevant orders of the U.S. Secretary of Labor, if applicable; The Age Discrimination Act of 1975 (42 U.S.C. 6101 et seq.); Section 402 of the Veterans of the Vietnam Era Act (for projects of \$10,000 or more). Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794); Massachusetts General Laws Chapter 151B, section 1 et seq.; State Executive Order 74 as amended and revised by Executive Orders 116, 143 and 227, and MASS. CDBG regulations, procedures or guidelines; Title II of the Uniform Relocation Assistance and Real Property, Acquisition Policies Act of 1979; and MASS. CDBG guidelines, procedures, or regulations.

The Contractor shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, age, handicap, or national origin. The Contractor shall take affirmative action to ensure that applicants for employment are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, age, handicap, or national origin. Such action shall include, but not be limited to the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Contractor shall post in conspicuous places, available to employees and applicants for employment, notices setting forth the provision of the non-discrimination clause. The Contractor shall state in all solicitations or advertisements for employees placed by or on behalf of the Contractor, that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, age, handicap, or national origin. The Contractor shall incorporate the foregoing requirements of this paragraph in all contracts for work to be performed in accordance with this Contract and will require all of its subcontractors to incorporate such requirements in all subcontracts for program work.

Contract subject to Federal Executive Order 11246, as amended, shall be subject to HUD Equal Employment Opportunity regulation at 24 CFR Part 130 applicable to HUD assisted construction contracts.

The Contractor shall send to each labor union or representative or workers with which they have a collective bargaining agreement or other contract understanding, a notice advertising the said labor union or worker's representatives of the Contractor's commitment under this subsection and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

In the event of noncompliance by the Contractor with the nondiscrimination clauses of this Agreement or with any such rules, regulations, or orders of the Secretary of Labor, the Contract may be cancelled, terminated or suspended in whole or in part, and the Contractor may be declared ineligible for further Government contract or federally assisted construction contract procedures authorized in Executive Order 11246, or by rules, regulations, or orders of the Secretary of Labor, as otherwise provided by law.

The Contractor shall include the provisions set forth herein every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246, so that such provisions will be binding upon each subcontractor or vendor. The Contractor will take such actions with respect to any subcontract or purchase order as HUD or MASS. CDBG may direct as a means of enforcing such provisions, including sanctions for noncompliance: provided, however, that in the event a Contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction, the Contractor may request the United States to enter into such litigation to protect the interest of the United States.

Interest of Contractor and Employees

The Contractor covenants that he presently has no interest and shall not acquire interest, direct or indirect, in the study area or any parcels therein or any other interest which would conflict in any manner or degree with the performance of his services hereunder. The Contractor further covenants that in the performance of this contract, no person having any such interest shall be employed. Further, the Contractor shall adhere to the revisions of the Hatch Act (5 U.S.C. 1501 et seq.) which limits political activities by employees whose principal employment is in connection with an activity which is financed in whole or in part by federal funds.

FOR HOUSING ACTIVITIES

To the extent that these provisions are applicable, the Contractor shall comply with the following:

- 1. Affordable Housing Restriction** – Rehabilitation loans made under this Contract shall be secured by a mortgage on the subject property which includes language restricting rent levels in units occupied by low-and moderate-income tenants for so long as the loan is outstanding in the case of owner-occupied properties and for a minimum of fifteen (15) years in the case of investor-owned properties. For the purposes of this section, “owner-occupied” is defined as a property of no more than four (4) units, one of which is occupied by the owner. All other properties are considered “investor owned”. All Affordable Housing Restrictions must clearly indicate the name and address of the municipality or entity that will be responsible for subordination and discharges.

Rentals of units in any assisted property shall be further regulated in accordance with paragraph 2. below.

- 2. Rent Limits** – Every owner of rental property that is to be rehabilitated with program assistance provided pursuant to this Contract shall be required to sign an agreement to maintain rents at affordable levels for a minimum of fifteen (15) years after the completion of the rehabilitation unless the loan is paid in full by an owner-occupant prior to this time. Such affordable rent agreement shall apply to units occupied by low-and moderate-income persons as well as units that are vacant at the time of the owner’s application to the program. At the time of application, the owner shall certify that no tenant has been or will be displaced or relocated without due cause for the purposes of evading the terms of this agreement. At a minimum, the provision of this agreement shall include:
 - I. Execution of a lease or other written notification which indicates: (i) the term of the rental agreement; and (ii) the maximum allowable rent to be charged for the subject unit. The Contractor shall also ensure that all tenants in affected units receive the above information in writing.
 - II. Rent shall be calculated taking into account the owner’s share of the cost of the rehabilitation as well as the operating expenses, but shall not exceed the lesser of the Section 8 Existing Housing Program Fair Market Rents as established by the U.S. Department of Housing and Urban Development (HUD) for the area pursuant to 24 CFR 888 or the High HOME Rents established by HUD pursuant to 24 CFR 92.252(a)(2). Thereafter, annual rent adjustments may

not exceed the limits allowed by HUD in the annually published schedules of high HOME or Section 8 Existing Housing Program Fair Market Rents. In addition, the Contractor shall ensure that required displacement and relocation assistance is afforded to all eligible persons as required by the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 USC section 4601-4655) and the HUD regulations at 24 CFR 570.606.

III. The owner shall agree to notify the appropriate housing agencies of the availability of any units covered by the terms of this agreement, and shall not refuse to rent to tenants holding Section 8 Existing Housing Certificates, Massachusetts Rental Voucher Program Vouchers, or any other recognized housing voucher certifications except for good cause. If the Contractor is located within the Boston PMSA, the owner shall also agree to notify the City of Boston's Metrolist (Metropolitan Boston Housing Opportunity Clearing Center) which is located at Boston City Hall, Boston, MA 02114-5996, of the availability of any units covered by the terms of this agreement.

The Contractor shall adhere to the DHCD-approved Recapture and Anti-Speculation Plan which includes a description of how it will ensure that the level of low-and moderate-income benefit and terms of affordability specified herein will be maintained. The description shall include the procedures by which it will monitor compliance with its rental agreement policy, including the designation of responsible staff person (s), method of monitoring compliance, and corrective actions to be taken by the Contractor in the event of non-compliance.

In addition, the Contractor will maintain records for each assisted unit regarding the rent levels and tenant's income level at the time of application, at the time of completion of rehabilitation, at the termination of the rental agreement, and at the time a new lease is executed, for the duration of the fifteen (15) year affordability term. The Director of DHCD, if requested to do so in writing by the Contractor, may waive any of the above provisions of this section not required by law if the Contractor has demonstrated to the satisfaction of the Director of the DHCD that compliance with this condition would adversely affect the implementation of the Contractor's approved program.

3. Participant Approval – The determination of an individual's eligibility for program participation shall not be subject to the approval of any local governing body unless required by law. In these instances, the appropriate citation shall be provided to DHCD, accompanied by a plan to protect the privacy of individuals and guarantee objectivity in the process. Any such plan shall be subject to DHCD approval.