

**ATTACHMENT A THROUGH E**

ATTACHMENT A

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TOWN OF BELMONT AGREEMENT FOR  
OWNER PROJECT MANAGER SERVICES

The following provisions shall constitute an Agreement between the Town of Belmont, Massachusetts, acting by and through its Preliminary Rink Design Committee, hereinafter referred to as "Town" or "Owner", with an address of 455 Concord Avenue, Belmont, MA 02478 and

with an address of \_\_\_\_\_, hereinafter

referred to as "Contractor" or "Engineer", effective as of the \_\_day of \_\_\_\_; In consideration of the mutual covenants contained herein, the parties agree as follows:

1. **ARTICLE 1: SCOPE OF WORK:**

- 1.1. The Contractor shall perform all work and furnish all services necessary to provide the Town with:

*A conceptual/schematic design (30%) for a new or renovated ice rink with expanded locker room facilities for use by athletes competing at the rink and the adjacent Harris Field and Track Facility. This study will include a Project cost estimate to be presented to Town Meeting for Project approval.*

The Contractor shall perform all work in accordance with the requirements and scope of services contained in the Town's request for statements of qualification and the Contractor's proposal, Attachments A and B to this Agreement.

- 1.2. One reproducible copy of all Documents delivered to the Owner shall become the property of the Owner upon payment therefor to the Contractor, and the Owner shall have the right to use, copy and reproduce the Documents in connection with the subject matter of the study, provided, however, that the Owner shall not have ownership of the Contractor's certification or stamp. The Contractor shall not be responsible for changes made in the Documents by anyone other than the Contractor, or for the Owner's use of the Documents without the participation of the Contractor.

2. **ARTICLE 2: TIME OF PERFORMANCE:**

- 2.1. The Contractor shall complete all work and services required hereunder, in accordance with the requirements of the Town, within 60 days after execution of this Agreement.

3. **ARTICLE 3: PROFESSIONAL RESPONSIBILITY:**

- 3.1. The Contractor shall be responsible for the professional and technical accuracy and the coordination of all designs, drawings, specifications, estimates and other work furnished by him or his consultants and subcontractors. The Contractor shall staff his office with sufficient personnel to complete the services required under this contract in a prompt and continuous manner, and shall meet the approval schedule and submittal dates established during the course of this Agreement.
- 3.2. The Contractor shall complete the services required under this Agreement in a prompt and continuous manner, and so as to meet such time limits as are established during the course of the Agreement.

3.3. The Contractor shall furnish appropriate competent professional services for each of the phases of work to the point where detail checking and reviewing by the Town will not be necessary. Any changes, corrections, additions or deletions made by the Town shall be incorporated into the design of the Project unless detailed objections thereto are received from the Contractor and approved by the Town.

3.4. The Contractor shall thoroughly acquaint his employees and consultants with all provisions of the General Laws governing the conduct of public construction projects, including but not limited to M.G.L. c.149, and c.30, and in particular, M.G.L. c.30, §39M, wherein the description of material specifications and proprietary items in construction bid documents is governed. Neither the Town's review, approval or acceptance of, nor payment for any of the services furnished, shall be construed to operate as a waiver of any rights under the Agreement or any cause of action arising out of the performance of the Agreement.

4. **ARTICLE 4: COMPENSATION:**

4.1. The Town shall pay the Contractor for the performance of the work outlined in Article 1 above the contract sum of \$ [REDACTED]. Payment shall be made monthly, against invoices submitted by the Contractor, and shall be in the same proportion to the contract sum as the percentage of services completed to the total scope of services as of the invoice date.

5. **ARTICLE 5: CONTRACT DOCUMENTS:**

5.1. The following documents form the Contract and all are as fully a part of the Contract as if attached to this Agreement or repeated herein:

5.1.a. This Agreement.

5.1.b. Amendments, or other changes mutually agreed upon between the parties.

5.1.c. All attachments to the Agreement.

5.2. In the event of conflicting provisions, those provisions in the following order of precedence shall govern:

5.2.a. Amendments to the Agreement, or other changes mutually agreed upon between the parties

5.2.b. This Agreement

5.2.c. All attachments to the Agreement

6. **ARTICLE 6: CONTRACT TERMINATION:**

6.1. The Town may suspend or terminate this Agreement by providing the Contractor with ten (10) days written notice for the reasons outlined as follows:

6.1.a. Failure of the Contractor, for any reason, to fulfill in a timely and proper manner its obligations under this Agreement.

6.1.b. Violation of any of the provisions of this Agreement by the Contractor.

6.1.c. A determination by the Town that the Contractor has engaged in fraud, waste, mismanagement, misuse of funds, or criminal activity with any funds provided by this Agreement.

6.2. The Town may terminate the Agreement without cause and for convenience upon ten (10) days written notice to the Contractor.

7. **ARTICLE 7: INDEMNIFICATION:**

7.1. Each party shall, indemnify and hold harmless the other party and its officers, agents, and all employees from and against claims to the extent caused by such parties' willful misconduct or negligent errors or omissions during the performance of this Agreement. Contractor shall be solely responsible for all local taxes or contributions imposed or required under the Social Security, Workers' Compensation, and income tax laws. This shall not be construed as a limitation of the Contractor's liability under the Agreement or as otherwise provided by law.

8. **ARTICLE 8: AVAILABILITY OF FUNDS:**

8.1. The compensation provided by this Agreement is subject to the availability and appropriation of funds.

9. **ARTICLE 9: APPLICABLE LAW:**

9.1. The Contractor agrees to comply with all applicable local, state and federal laws, regulations and orders relating to the completion of this Agreement. This Agreement shall be governed by and construed in accordance with the law of the Commonwealth of Massachusetts.

10. **ARTICLE 10: ASSIGNMENT/SUBCONTRACTORS/CONSULTANTS:**

10.1. Neither party shall make any assignment of this Agreement without the prior written approval of the other party. The Contractor hereby represents that it shall retain the following subcontractor consultants for the performance of portions of the scope of services:

10.1.a. \_\_\_\_\_

10.1.b. \_\_\_\_\_

10.1.c. \_\_\_\_\_

10.2. The Contractor shall not use or employ other consultants without the prior approval of the Town.

11. **ARTICLE 11: AMENDMENTS:**

11.1. All amendments or any changes to the provisions specified in this Agreement can only occur when mutually agreed upon by the Town and Contractor. Further, such amendments or changes shall be in writing and signed by officials with authority to bind the Town. No amendment or change to the contract provisions shall be made until after the written execution of the amendment or change to the Agreement by both parties.

**12. ARTICLE 12: INSURANCE:**

12.1. The Contractor shall be responsible to the Town or any third party for any property damage or bodily injury caused by it, any of its subcontractors, employees or agents in the performance of, or as a result of, the work under this Agreement. The Contractor, on behalf of itself and any subcontractors used, hereby certifies that the Contractor and such subcontractors are insured for workers' compensation, and claims on account of property damage, bodily injury, personal and product liability. The Contractor and all subcontractors it uses shall purchase, and maintain in full force and effect insurance policies in the amounts here indicated.

12.1.a. General Liability

Bodily Injury Liability:	\$1,000,000 per occurrence
Property Damage Liability	\$1,000,000 per occurrence
(or combined single limit)	\$1,000,000 per occurrence

12.1.b. Automobile Liability

Bodily Injury Liability:	\$1,000,000 per occurrence
Property Damage Liability	\$1,000,000 per occurrence
(or combined single limit)	\$1,000,000 per occurrence

12.1.c. Workers' Compensation Insurance

Coverage for all employees in accordance with Massachusetts General Laws

12.1.d. Professional Liability Insurance

Minimum Coverage \$1,000,000 per claim.

12.2. Prior to commencement of any work under this Agreement, the Contractor shall provide the Town with Certificates of insurance which include the Town as an additional named insured for the General Liability and Automobile Liability policies and which include a thirty day notice of cancellation to the Town.

**13. ARTICLE 13, CERTIFICATIONS:**

13.1. The Contractor hereby certifies:

13.1.a. if an individual, the individual is a registered engineer or architect;

13.1.b. if a partnership, a majority of all the partners are persons who are registered engineers or architects;

13.1.c. if a corporation, sole proprietorship, joint stock company or other entity, the majority of the directors or a majority of the stock ownership and the chief executive officer are persons who are registered engineers or architects, and the person to have the project in his or her charge is a registered engineer or architect;

13.1.d. if a joint venture, each joint ventures satisfies the requirements of this section. (Statutory reference: M.G.L. c.7, §38AYz)

13.2. The Contractor hereby certifies that it has not given, offered or agreed to give any

person, corporation or other entity any gift, contribution or offer of employment as an

inducement for, or in connection with the award of this Agreement. (Statutory reference: M.G.L. c.7, §38H(e)(i))

13.3.The Contractor hereby certifies that no consultant to or subcontractor for the Contractor has given, offered or agreed to give any gift, contribution or offer of employment to the Contractor, or to any other person, corporation, or entity as an inducement for, or in connection with, the award to the consultant or subcontractor of a contract by the Contractor. (Statutory reference: M.G.L. c.7, §38H(e)(ii))

13.4.The Contractor hereby certifies that no person, corporation or other entity, other than a bona fide full-time employee of the Contractor, has been retained or hired by the Contractor to solicit for or in any way assist the Contractor in obtaining this Agreement upon an agreement or understanding that such person, corporation or other entity be paid a fee or other consideration contingent upon the award of this Agreement to the Contractor. (Statutory reference: M.G.L. c.7 §38H(e)(iii))

13.5.The Contractor shall maintain all books, records, and accounts related to the Project in compliance with the following:

13.5.a. The Contractor shall make, and keep for at least six years after final payment, books, records, and accounts which in reasonable detail accurately and fairly reflect the transactions and dispositions of the Contractor.

13.5.b. Until the expiration of six years after final payment, the Town, the office of the inspector general and the deputy commissioner of capital asset management shall have the right to examine any books, documents, papers or records of the Contractor or of its consultants that directly pertain to, and involve transactions relating to, the Contractor or its consultants.

13.5.c. Records and statements required to be made, kept or filed in compliance with the provisions of this paragraph shall not be public records and shall not be open to public inspection, except as provided in subparagraph 13.5.b. (Statutory reference: M.G.L. c.30, §39R)

13.6.The Contractor and its consultants shall not be compensated for any services involved in preparing changes that are required for additional work that should have been anticipated by the Contractor in the preparation of bid documents, as reasonably determined by the Town. (Statutory reference: M.G.L. c.7, §38H(J))

13.7.Life-cycle cost estimates for the Project shall be obtained at an initial stage and as a regular part of the services to be performed under this Agreement. (Statutory reference: M.G.L. c.149, §44M)

13.8.The Contractor hereby certifies under penalties of perjury that the Contractor has complied with all laws of the Commonwealth of Massachusetts relating to taxes. (Statutory reference: M.G.L. c.62C, §49A)

**14. ARTICLE 14: ADDITIONAL TERMS AND CONDITIONS:**

- 14.1. Standard of Performance. In performing the services under this Agreement, the Contractor will use the degree of care and skill ordinarily exercised under similar circumstances by members of the engineering and surveying profession. Any problems relating to the services provided herein should be brought to the attention of the Contractor as soon as encountered and before any obligation is incurred. If reasonable under the circumstances, the Contractor reserves the right to correct any errors, including, but not limited to, the selection of a subcontractor or subconsultant and the negotiation of fees. The Contractor provides no warranty or guarantee, express or implied, regarding the services provided hereunder.
- 14.2. Hazardous Materials. Unless otherwise provided in this Agreement, the Contractor and its subconsultants shall have no responsibility for the discovery, presence, handling, removal or disposal of or exposure of persons to hazardous materials or toxic substances in any form at the Project site. The Scope of Services and Fee Schedule have been prepared on the basis that no hazardous or toxic substances are present at the Project site. In the event hazardous or toxic substances are discovered on the site, the parties agree to review and renegotiate the terms and conditions of this contract to protect the interests of the parties.
- 14.3. Rely On. In performing its work, the Contractor shall be entitled to rely on the accuracy and completeness of work of third parties, the representations of and material provided by the Town and public records and shall be under no obligation to verify any of the foregoing except when expressly provided in the Scope of Services.
- 14.4. Cost Estimates. Opinions of the probable costs of construction, financing, acquisition of land, rights-of-way and other costs shall be made in accordance with good engineering practice and procedure. The Town acknowledges that the Contractor has no control over construction costs, competitive bidding and market conditions, or costs of financing, acquisition of land or rights-of-way; and the Contractor does not guarantee the accuracy of such opinions of the probable costs as compared to actual costs or contractor's bids.
- 14.5. Access. The Town shall arrange for access to property and obtain the necessary permissions for the Contractor and/or their representatives to perform the contracted services, by mailings and legal notices, as appropriate.
- 14.6. Limitation of Liability. The Contractor's liability for damages of any kind due to breach of contract or warranty, error, omission or professional negligence or any tort shall be the total amount paid to the Contractor under this Agreement or equal to the insurance limit indicated in Article 12, whichever is greater. This limitation shall be deemed to be a part of the negotiated terms of the Agreement. Any increase in the liability limit must be agreed upon by the parties in writing prior to commencement of Services.
- 14.7. Consequential Damages. The Town hereby agrees that to the fullest extent permitted by law the Contractor shall not be liable to the Town for any special, indirect, or consequential damages whatsoever, whether caused by the Contractor's negligence,



errors, omissions, strict liability, breach of contract, breach of warranty, or other cause or causes whatsoever, including but not limited to delay of use of equipment or facility, loss of profit or revenue, or cost of using alternative or replacement equipment or facilities.

14.8. Third Party Beneficiaries. Services performed by the Contractor under this Agreement are intended solely for the benefit of the Town. Nothing contained herein shall confer any rights upon or create any duties on the part of the Contractor, or cause the Contractor to be held to a fiduciary capacity, toward any person or persons not a party to this Agreement including, but not limited to any contractor, subcontractor, supplier, or the agents, officers, employees, of any of them. Neither party shall have the right to assign any rights under this Agreement without the prior written permission of the other party.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed on the day and year first above written.

\_\_\_\_\_

TOWN OF BELMONT

by

by its Town Administrator:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_  
Printed Name and Title

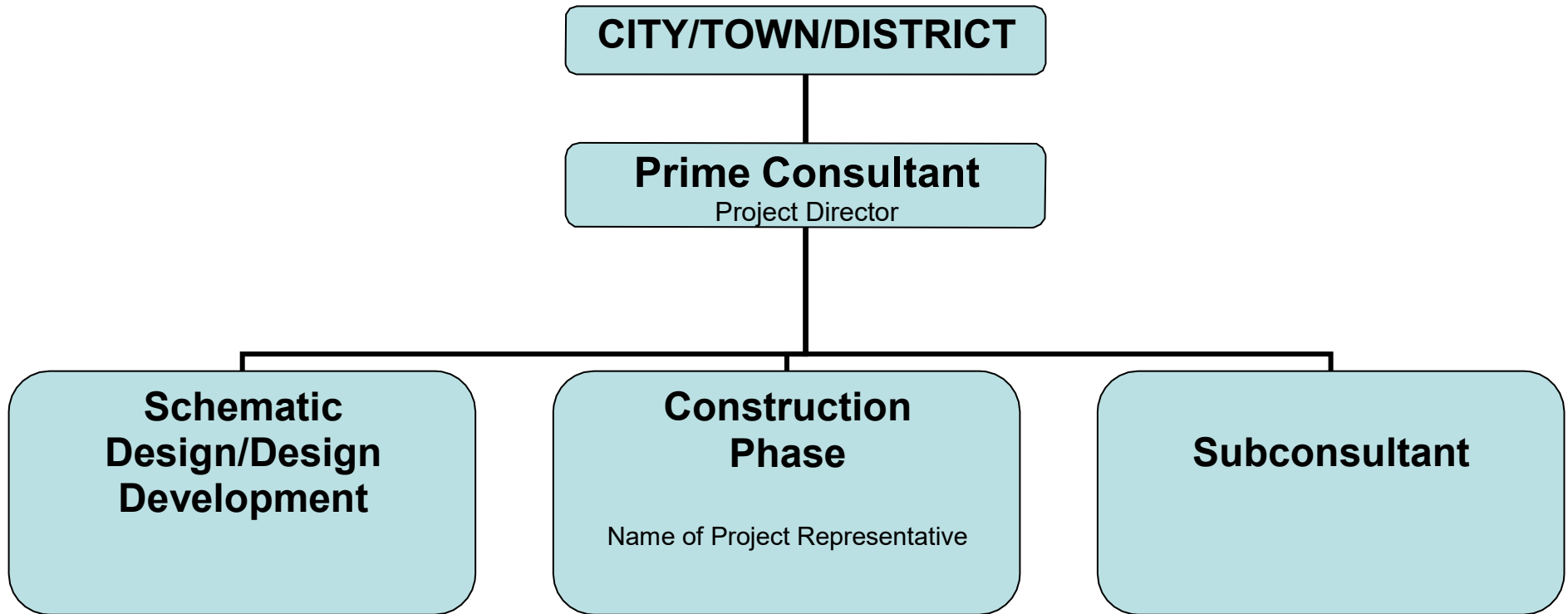
\_\_\_\_\_

# ATTACHMENT B

Owner's Project Manager Application Form – September 2010			
1. Project Name/Location for Which Firm is Filing:			
1a. MSBA Project Number:			
2a. Respondent, Firm (Or Joint-Venture) - Name And Address Of Primary Office To Perform The Work:		2b. Name And Address Of Other Participating Offices Of The Prime Applicant, If Different From Item 3a Above:	
2c. Date Present And Predecessor Firms Were Established:		2d. Name And Address Of Parent Company, If Any:	
2e. Federal ID #:		2f. Name of Proposed Project Director:	
3. Personnel From Prime Firm Included In Question #2 Above By Discipline (List Each Person Only Once, By Primary Function -- Average Number Employed Throughout The Preceding 6 Month Period. Indicate Both <u>The Total Number In Each Discipline</u> ):			
Admin. Personnel	_____	Cost Estimators	_____
Architects	_____	Electrical Engrs.	_____
Acoustical Engrs.	_____	Environmental Engrs.	_____
Civil Engrs.	_____	Licensed Site Profs.	_____
Code Specialists	_____	Mechanical Engrs.	_____
Construction Inspectors	_____		_____
		Total	_____
4. Has this Joint-Venture previously worked together? <input type="checkbox"/> Yes <input type="checkbox"/> No			

5.

List **ONLY** Those Prime and Sub-Consultant Personnel identified as Key personnel in the Response to Request for Services. This Information Should Be Presented Below In The Form Of An Organizational Chart modified to fit the firm's proposed management approach. Include Name of Firm And Name Of The Person:



6. Brief Resume for Key Personnel <b>ONLY</b> as indicated in the Request for Services. Resumes Should Be Consistent With The Persons Listed On The Organizational Chart In Question # 5. Additional Sheets Should Be Provided Only As Required For The Number Of Key Personnel And They Must Be In The Format Provided. By Including A Firm As A Subconsultant, The Prime Applicant Certifies That The Listed Firm Has Agreed To Work On This Project, Should The Team Be Selected.	
a. Name And Title Within Firm:	a. Name And Title Within Firm:
b. Project Assignment:	b. Project Assignment:
c. Name And Address Of Office In Which Individual Identified In 6a Resides:	c. Name And Address Of Office In Which Individual Identified In 6a Resides:
d. Years Experience: With This Firm: _____ With Other Firms: _____	d. Years Experience: With This Firm: _____ With Other Firms: _____
e. Education: Degree(s) /Year/Specialization	e. Education: Degree(s) /Year/Specialization
f. Date of MCCPO Certification:	f. Date of MCCPO Certification:
g. Applicable Registrations and Certifications :	g. Applicable Registrations and Certifications:
h. Current Work Assignments And Availability For This Project:	h. Current Work Assignments And Availability For This Project
i. Other Experience And Qualification Relevant To The Proposed Project: (Identify Firm By Which Employed, If Not Current Firm):	i. Other Experience And Qualification Relevant To The Proposed Project: (Identify Firm By Which Employed , If Not Current Firm):

7a	Past Performance: List all Completed Projects, in excess of \$1.5 million, for which the Prime Applicant has performed, or has entered into a contract to perform Owner's Project Management Services for all Public Agencies within the Commonwealth within the past 10 years.									
a.	Project Name And Location Project Director	b. Brief Description Of Project And Services (Include Reference To Areas Of Similar Experience)	c. Project Dollar Value	d. Completion Date (Actual Or Estimate)	e. On Time (Yes Or No)	f. Original Construction Contract Value	g. Change Orders	h. Number of Accidents and Safety Violations	i. Dollar Value of any Safety fines	j. Number And Outcome Of Legal Actions
(1)										
(2)										
(3)										
(4)										
(5)										

7b. Past Performance: Provide the following information for those completed Projects listed above in 7a for which the Prime Applicant has performed, or has entered into a contract to perform (cont) Owner's Project Management Services for all Public Agencies within the Commonwealth within the past 10 years.						
a. Project Name And Location Project Director	b. Original Project Budget	c. Final Project Budget	d. If different, provide reason(s) for variance	e. Original Project Completion	e. Actual Project Completion On Time (Yes or No)	f. If different, provide reason(s) for variance.
(1)						
(2)						
(3)						
(4)						
(5)						

8. <b>Capacity:</b> Identify all current/ongoing Work by Prime Applicant, Joint-Venture Members or Subconsultants. Identify project participants and highlight any work involving the project participants identified in the response.								
Project Name And Location Project Director	b. Brief Description Of Project And Services (Include Reference To Areas Of Similar Experience)	c. Original Project Budget	d. Current Project Budget	d. Project Completion Date	e. Current forecast completion date On Time (Yes Or No)	f. Original Construction Contract Value	g. Number and dollar value of Change Orders	h. Number and dollar value of claims
1.								
2.								
3.								
4.								
5.								
6.								
7.								
8.								

9. References: Provide the following information for completed and current Projects listed above in 7 and 8 for which the Prime Applicant has performed, or has entered into a contract to perform Owner's Project Management Services for all Public Agencies within the Commonwealth within the past 10 years.						
a.	Project Name And Location Project Director	Client's Name, Address and Phone Number. Include Name of Contact Person	Project Name And Location Project Director	Client's Name, Address and Phone Number. Include Name of Contact Person	Project Name And Location Project Director	Client's Name, Address and Phone Number. Include Name of Contact Person
1)			5)		9)	
2)			6)		10)	
3)			7)		11)	
4)			8)		12)	



9. Use This Space To Provide Any Additional Information Or Description Of Resources Supporting The Qualifications Of Your Firm And That Of Your Subconsultants. If Needed, Up To Three, Double-Sided 8 1/2" X 11" Supplementary Sheets Will Be Accepted. **APPLICANTS ARE REQUIRED TO RESPOND SPECIFICALLY IN THIS SECTION TO THE AREAS OF EXPERIENCE REQUESTED.**

10. I hereby certify that the undersigned is an Authorized Signatory of Firm and is a Principal or Officer of Firm. The information contained in this application is true, accurate and sworn to by the undersigned under the pains and penalties of perjury.

Submitted By (Signature) \_\_\_\_\_ Printed Name And Title \_\_\_\_\_ Date \_\_\_\_\_



Attachment C  
Tax Compliance Certification

Pursuant to M.G.L. c.62C, S.49A, I certify under the penalties of perjury that, to the best of my knowledge and belief, I am in compliance with all the laws of the Commonwealth relating to taxes, reporting of employees and contractors, and withholding and remitting child support.

NAME OF PROPOSER(S): \_\_\_\_\_

\*SIGNATURE(S): \_\_\_\_\_

\_\_\_\_\_

PRINTED NAME(S) AND TITLE(S): \_\_\_\_\_

\_\_\_\_\_

NAME OF BUSINESS: \_\_\_\_\_

ADDRESS: \_\_\_\_\_

\_\_\_\_\_

\*\*SOCIAL SECURITY NUMBER(S) OR FEDERAL ID NUMBER: \_\_\_\_\_

\*Approval of a contract or other agreement will not be granted unless this certification clause is signed by the applicant.

\*\*Your social security or tax payer identification number will be furnished to the Massachusetts Department of Revenue to determine whether you have met tax filing or tax payment obligations. Providers who fail to correct their non-filing or delinquency will not have a contract or other agreement issued, renewed or extended. This request is made under the authority of M.G.L. c. 62C, §49A.

Attachment D  
NON-COLLUSION AFFIDAVIT OF BIDDER

The undersigned certifies under the 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, club, or other organization, entity, or group of individuals.

\_\_\_\_\_  
Printed/Typed name of individual submitting bid or proposal/RFS.

\_\_\_\_\_  
Signature of individual submitting bid or proposal/RFS

\_\_\_\_\_  
(Name of Business)

Attachment E  
Certificate of Vote  
(to be filed if contractor is a corporation)

I, \_\_\_\_\_, hereby certify that I am the duly (Clerk/Secretary) qualified and acting \_\_\_\_\_ of \_\_\_\_\_ and I further certify that at a meeting of the Directors of said Corporation duly called and held on 20 — , at which meeting all Directors were present and voting, the following vote was unanimously passed:

VOTED: To authorize and empower (names and titles):

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Any one acting singly, to execute Forms of Bid, contracts and bonds on behalf of the Corporation.

I, further certify that the above vote is still in effect on this the \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_\_ and has not been changed or modified in any respect.

Name \_\_\_\_\_  
Signature \_\_\_\_\_  
Title \_\_\_\_\_

The certification contained here above shall be executed by the CONTRACTOR or copy of current "certification of authority to sign for the Corporation" shall be attached.)

Specific items of this Contract may be eliminated, or reduced in quantity to keep within the limits of available funding, at the Owner's option.