

SOLICITATION FOR:

RFQ # 20-31

Design Services for Union Square Plaza and Streetscape



CITY OF SOMERVILLE, MASSACHUSETTS

RELEASE DATE: 10/30/2019

QUESTIONS DUE: 11/15/2019 by 12PM EST

DUE DATE AND TIME: 12/4/2019 by 2PM EST

Anticipated Contract Award	1/27/2020
Est. Contract Commencement Date	2/1/2020
Est. Contract Completion Date	1/31/2023

DELIVER TO:

City of Somerville

Purchasing Department

Attn: Angela M. Allen

Purchasing Director

amallen@somervillema.gov

93 Highland Avenue

Somerville, MA 02143

CITY OF SOMERVILLE, MASSACHUSETTS
Enclosed You Will Find a Request for Qualifications For:
RFQ # 20-31 Design Services for Union Square Plaza and Streetscape

SECTION 1.0
GENERAL INFORMATION ON APPLICATION
PROCESS

1.1 General Instructions

Copies of the solicitation may be obtained from the Purchasing Department on and after 10/30/2019 per the below-noted City Hall hours of operation.

City Hall Hours of Operation:	
Monday – Wednesday	8:30 a.m. and 4:30 p.m.
Thursday	8:30 a.m. to 7:30 p.m.
Friday	8:30 a.m. to 12:30 p.m.

All Responses Must be Sealed and Delivered To:
Purchasing Department City of Somerville 93 Highland Avenue Somerville, MA 02143
<i>It is the sole responsibility of the Offeror to ensure that the Application arrives on time at the designated place. Late Applications will not be considered and will be rejected and returned.</i>
Application Format:
Submit one (1) sealed qualifications package; it must be marked with the solicitation title and number and must be original. The package shall contain one printed original of the qualifications and all required forms and one flash drive with the full submission package in digital form.
In an effort to reduce waste, please do not use 3-ring binders.
Responses must be sealed and marked with the solicitation title and number.
All Applications must include all forms listed in the Proposers' Checklist (and all documents included or referenced in Sections 2.0 - 3.0). If all required documents are not present, the Application may be deemed non-responsive and may result in disqualification of the Application unless the City determines that such failure(s) constitute(s) a minor informality, as defined and referenced in MGL chapters 30B and 149.
A complete Application must also include a cover letter signed by an official authorized to bind the Offeror contractually and contain a statement that the Application is firm for ninety (90) days. An unsigned letter, or one signed by an individual not authorized to bind the Offeror, may be disqualified.
The Offeror's authorized official(s) must sign all required Application forms.

All information in the Offeror’s response should be clear and concise. The successful response will be incorporated into a contract as an exhibit; therefore, Offerors should not make claims to which they are not prepared to commit themselves contractually.

The successful Offeror must be an Equal Opportunity Employer.

1.2 Application Schedule

Key dates for this Request for Qualifications:	
RFQ Issued	10/30/2019
Deadline for Submitting Questions to RFQ	11/15/2019 by 12PM EST
Applications Due	12/4/2019 by 2PM EST
Anticipated Contract Award	1/27/2020
Est. Contract Commencement Date	2/1/2020
Est. Contract Completion Date	1/31/2023

Responses must be delivered by 12/4/2019 by 2PM EST to:	City of Somerville Purchasing Department 93 Highland Avenue Somerville, MA 02143 Attn: Purchasing Director
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1.3 Submission Instructions

Please submit *one sealed envelope*, with the following contents and marked in the following manner:

Contents of Sealed Application Package	Marked As
Envelope to be labeled: Qualifications and Technical Application: Shall Include (1) original and one (1) electronic copy. [Electronic copies are to be submitted on thumb drives and are to be saved in Adobe Acrobat format. (“Read only” files are acceptable.)]	To Be Marked: Application RFQ # 20-31 Design Services for Union Square Plaza and Streetscape New Public Safety Facility
Please send the complete sealed package to the attention of :	Purchasing Director Purchasing Department Somerville City Hall 93 Highland Avenue Somerville, MA 02143

Application Format

Responses must be submitted in accordance with the requirements set forth in this solicitation. Results of the Application review process will be utilized to establish a preliminary ranking of the proposers. The City may interview the top ranked candidates as part of the evaluation process. All information in the technical Application should be organized and presented as directed below. Your application should contain all forms outlined in the Proposers Checklist (Section 3.0). Responses shall be prepared on standard 8.5 x 11 inch paper (charts may be landscaped but must be on 8.5 x 11 inch paper) and shall be in a legible font size (12). All pages of each response shall be appropriately numbered (and with consecutive page numbering across tabs).

Elaborate format and binding are neither necessary nor desirable. Each Application shall clearly identify the Offeror's name, solicitation number, formal solicitation title and, if applicable, copy number, (e.g., "Original", "Copy"). All submissions will allow for easy removal and replacement of pages.

Applications shall be organized as follows:

1. Cover Letter
2. Summary of Qualifications & Experience
 - a. Design Team Qualifications and Capabilities
 - b. Experience with Similar Projects
 - c. Work Samples
3. Project Approach for Union Square Plaza and Streetscape

1. Cover Letter

Submit a cover letter that includes the official name of the firm submitting the Application, mailing address, e-mail address, telephone number, fax number, and contact name. The letter must be signed by an official authorized to bind the Applicant and all sub-applicants contractually and contain a statement that the Application is firm for ninety (90) days. An unsigned letter, or one signed by an individual not authorized to bind the Applicant, may be disqualified. The signature shall be of an individual authorized to negotiate and execute the Contract for Design & Engineering Services, in the form that is attached to the RFQ, on behalf of the Applicant. The name, title, address, e-mail and telephone number of the contact person who can respond to requests for additional information.

- a) A specific statement regarding compliance with the minimum requirements identified in the "Selection Criteria" below. Include identification of registration, number of years of experience and where obtained (as supported by the resumes that are to be attached).
- b) An acknowledgement that the Applicant has read the Request for Qualifications. Respondent shall note any exceptions to the RFQ in its cover letter.

- c) An acknowledgement that the Applicant has read the Standard Contract. Applicant shall note any exceptions to the Standard Contract in its cover letter.
- d) A description of the Applicant's organization and its history.

2. Summary of Qualifications & Experience

The Offeror shall include qualifications and experience of the lead applicant and any sub-consultants. The Offeror shall identify the year the firm was established, the total number of employees currently employed, and the number of employees focused on this engagement. This section should also describe work that is similar in scope and complexity that the Offeror has undertaken in the past. A discussion of the challenges faced and solutions developed are highly recommended. The Offeror may include any additional literature and product brochures.

Applicants are highly encouraged to organize this section as follows:

a) Design Team Qualifications and Capabilities

Identify the members of the team (including sub-consultants) for each of the qualifications listed in the RFQ. State the firm's name and any proposed individual's names. Include a summary of each team member's experience, role on the team for this project, and approximate percentage of time allocated to this project. Include a resume or CV for each proposed team member as well as professional licensure. Include the offering firm's and all sub-consultants' organizational capacity and strengths. This section should also include a matrix showing which proposed individuals meet which team capabilities.

Refer also to Section 2.0, Team Qualifications and Capabilities for further details about the scope of work and the specific capabilities and experience sought for this project.

b) Experience with Similar Projects

List at least three (3) urban landscape plaza projects and three (3) relevant multimodal streetscapes with a brief description of the challenges, strategies, and measures incorporated on each job and include client references for each of the above projects. These projects should be similar to the project described in the RFQ. All relevant reference projects are not required to solely come from the firm acting as the lead applicant. Please include the following information for each reference:

- a. Lead Firm Name, if applicable
- b. Contact Person
- c. Address, Phone Number, and Email Address for Contact Person
- d. Years of Service
- e. Description of Service

c) Work Samples

Qualification submissions should include a portfolio of work samples from the list of deliverables

in the RFQ. Work samples should be clearly labeled so that it is clear which individual team member was responsible for which deliverable. Samples of work must be for similar services to those which the applicant is proposing to complete, preferably for a public sector client. Instead of hard-copies of sample work, the City will accept work samples on a flash drive or similar portable data device. All other components of a Qualification Submission must be in hard copy form as the *original* submission, plus a complete copy of the Submission on a portable drive as noted at the beginning of Section 1.3 above.

3. Project Approach for Union Square Plaza and Streetscape

Discuss how the team envisions the challenges and opportunities presented by the types of issues listed in the RFQ and how the team might meet them to ensure a successful outcome. The City highly encourages respondents to use this opportunity to elaborate on their design thinking and expertise with respect to their own experience managing similar projects, and to highlight those aspects of their qualifications that contribute to making the most advantageous design team.

1.4 Questions

Questions are due: 11/15/2019 by 12PM EST

Questions concerning this solicitation must be delivered in writing to:

Purchasing Director
Somerville City Hall
Purchasing Department
93 Highland Avenue
Somerville, MA 02143

Or emailed to:

amallen@somervillema.gov

Or faxed to:

617-625-1344

Answers will be sent via an addendum to all Offerors who have registered with the City of Somerville Purchasing Department as interested applicants. Applicants are encouraged to contact the Purchasing Department to register as an RFQ document holder to automatically be alerted as to addenda as they are issued. It is the responsibility of the Offeror to also monitor the bids and opportunities portal on the City's website for any updates, addenda, etc. regarding that specific solicitation. The web address is:

<http://www.somervillema.gov/departments/finance/purchasing/bids>.

If any prospective applicant contacts City personnel outside of the Purchasing Department regarding this RFQ and project, that applicant will be disqualified immediately.

1.5 General Terms

Estimated Quantities

The City of Somerville has provided estimated quantities, which will be ordered/purchased over the course of the contract period. These estimates are estimates only and not guaranteed.

Application Signature

A response must be signed as follows: 1) if the Offeror is an individual, by her/him personally; 2) if the Offeror is a partnership, by the name of the partnership, followed by the signature of each general partner; and 3) if the Offeror is a corporation, by the authorized officer, whose signature must be attested to by the clerk/secretary of the corporation (& with corporate seal).

Time for Application Acceptance and City Contract Requirements

The contract will be awarded within 90 days after the Application opening. The time for award may be extended for up to 45 additional days by mutual agreement between the City of Somerville and the Offeror that is most advantageous and responsible. The Offeror’s submission will remain in effect for a period of 90 days from the response deadline or until it is formally withdrawn, a contract is executed, or this solicitation is canceled, whichever occurs first. The Offeror will be required to sign the City of Somerville’s Owner’s Project Management Services Contract, included herein as Appendix B.

Holidays are as follows:

New Year’s Day	Martin Luther King Day	Presidents’ Day	Patriots’ Day
Memorial Day	Bunker Hill Day	Independence Day	Labor Day
Indigenous Peoples’ Day	Veterans’ Day	Thanksgiving Day	Thanksgiving Friday
Christmas Eve (half day)	Christmas Day		

Please visit <http://www.somervillema.gov/> for the City’s most recent calendar. *Under State Law, all holidays falling on Sunday must be observed on Monday.

If the awarded Offeror for their convenience desires to perform work during other than normal working hours or on other than normal work days, or if the Offeror is required to perform work at such times, the Offeror shall reimburse the City for any additional expense occasioned the City, thereby, such as, but not limited to, overtime pay for City employees, utilities service, etc. Unless otherwise specified in these provisions, services will be performed during normal work hours. When required services occur on holidays, work will be performed on either the previous or following work day, unless specified otherwise.

Unforeseen Office Closure

If, at the time of the scheduled deadline for this RFQ, the Purchasing Department is closed due to uncontrolled events such as fire, snow, ice, wind, or building evacuation, the Application due date will be postponed until 2:00 p.m. on the next normal business day. Applications will be accepted until that date and time. In the event of inclement weather, the Offeror is responsible for listening to the media to determine if the City has been closed due to weather.

Changes & Addenda

If any changes are made to this solicitation, an addendum will be issued. All proposers on record as having picked up the solicitation will be alerted via email as to the posting of all addenda. The City will also post addenda on its website

(<http://www.somervillema.gov/departments/finance/purchasing/bids>). No changes may be made to the solicitation documents by the Offerors without written authorization and/or an addendum from the Purchasing Department.

Modification or Withdrawal of Applications, Mistakes, and Minor Informalities

An Offeror may correct, modify, or withdraw an Application by written notice received by the City of Somerville prior to the time and date set for the Application deadline. Application modifications must be submitted in a sealed envelope clearly labeled "Modification No. __" to the address listed in Section 1. Each modification must be numbered in sequence and must reference the original solicitation. After the Application deadline, an Offeror may not change any provision of the Application in a manner prejudicial to the interests of the City or fair competition. Minor informalities will be waived or the proposer will be allowed to correct them. If a mistake on the intended Application is clearly evident on the face of the submitted document, the mistake will be corrected to reflect the intended correct Application, and the proposer will be notified in writing; the proposer may not withdraw the Application. A proposer may withdraw an Application if a mistake is clearly evident on the face of the Application document, but the intended correct Application is not similarly evident.

Right to Cancel/Reject Applications

The City of Somerville may cancel this solicitation, or reject in whole or in part any and all Applications, if the City determines that cancellation or rejection serves the best interests of the City.

Unbalanced Applications

The City reserves the right to reject unbalanced, front-loaded, and conditional Applications.

Brand Name "or Equal"

Any references to any brand name or proprietary product in the specifications shall require the acceptance of an equal or better brand. The City has the right to make the final determination as to whether an alternate brand is equal to the brand specified.

Electronic Funds Transfer (EFT)

For EFT payment, the following shall be included with invoices to the point of contact:

- Contract/Order number; Contractor's name & address as stated in the contract;
- The signature (manual or electronic, as appropriate) title, and telephone number of the Offeror's representative authorized to provide sensitive information;
- Name of financial institution; Financial institution nine (9) digit routing transit number;

- Offeror's account number; Type of account, i.e., checking or saving.

1.6 Evaluation Methodology

Comparative Evaluation Criteria

The Comparative Evaluation Criteria set forth in Section 2 of this RFQ shall be used to evaluate responsible and responsive applicants.

All Applications will be reviewed by an evaluation committee composed of employees of the City. Final selection will be based upon the evaluators' analysis of the information and materials required under the RFQ and provided by the proposing vendors in their submissions. The City reserves the right to involve an outside consultant in the selection process. Applications that meet the minimum quality requirements will be reviewed for responses to the comparative evaluation criteria. The evaluation committee will assign a rating of Highly Advantageous, Advantageous, Not Advantageous, or Unacceptable to the comparative evaluation criteria.

The City will only award a contract to a responsive and responsible Proposer. Before awarding the contract(s), the City may request additional information from the Proposer to ensure that the Proposer has the resources necessary to perform the required services. The City reserves the right to reject any and all Applications if it determines that the criteria set forth have not been met.

Selection Process

Qualified Applications will be reviewed and rated by the Evaluation Committee ("the Committee") on the basis of the comparative evaluation criteria and minimum quality requirements included in Section 2.0.

The City may request additional information from the Offerors to ensure that the Offeror has the necessary resources to perform the required services. The Committee may choose to select a set of finalists to be interviewed ("the short list"). The short-listed applicants will be notified, either by e-mail or telephone, of the date, time, and place for their interviews and any other pertinent information related thereto. The Mayor may, at the Mayor's sole discretion, interview the applicants on the short list. The Committee will rank all candidates and make a recommendation to the Mayor to enter into a contract with the most highly advantageous Offeror.

The City will award the contract to the most responsive and responsible Offeror whose entire Application is deemed to be the most highly advantageous. The City reserves the right to reject any and all Applications if it determines that the criteria set forth have not been met.

This Request for Services, any addenda issued by the Owner, and the selected Respondent's response, will become part of the executed contract. The key personnel that the Respondent identifies in its response must be contractually committed for the Project. No substitution or replacement of key personnel or change in the Sub-consultants identified in the response shall take place without the prior written approval of the Owner.

Selection Schedule

The Selection Committee reserves the right to re-advertise if there are fewer than four Respondents that meet the minimum requirements. After submission of qualifications, a Selection Committee will review all applications to determine which ones meet the minimum requirements. The Selection Committee will rate every Respondent that meets the minimum qualifications using the weighted evaluation criteria in this RFQ. The weighted evaluation criteria will be assigned by all committee members with a brief written explanation for their assigned score. After individual evaluations, the Procurement Officer will collect all committee members' evaluation sheets for each Respondent and will compile a master list ranking the Respondents from most advantageous (the highest cumulative score) to least advantageous (the lowest cumulative score).

Following the ranking of Respondents, the committee will short-list and conduct interviews with selected applicants. The Purchasing Director will notify all applicants of the names of the applicants selected for the short list. The short-listed applicants will be notified, either by e-mail or telephone, of the date, time and place for their interviews and any other pertinent information related thereto.

Each short-listed Respondent will be required to make a presentation of their qualifications to the Selection Committee. Each interview will consist of a question and answer period and time allotted for Respondents to present past experience with projects of similar scope and size. All three (or more) finalists will be asked the same questions and given the same opportunities to present. The interview process will also have a ranking system and committee members will be required to rank each of the finalists. Based on the interview process, Respondents will be ranked and references will be checked for the highest ranking Respondent.

Fee Negotiations

The Owner will commence fee negotiations with the first-ranked selection. If the Owner is unable to negotiate a contract with the first-ranked selection, the Owner will then commence negotiations with its second-ranked selection and so on, until a contract is successfully negotiated and approved by the Owner.

The Owner will negotiate the fee for services dependent upon an evaluation of the level of effort required, job complexity, specialized knowledge required, estimated construction cost, comparison with past project fees, and other considerations. As construction cost is but one of several factors, a final construction figure in excess of the initial construction estimate will not, in and of itself, constitute a justification for an increased Owner's Project Manager fee.

If the Owner is unable to negotiate a satisfactory fee with any of the finalists, the Mayor shall recommend that the Committee select additional finalists from the original pool of applicants or re-advertise the RFQ.

Once successful negotiations have concluded (for a not-to-exceed fee), the City will prepare the contract and submit it to the successful applicant for signature. Upon receipt of the executed contract and all other required documents from the designer, Purchasing will have the contract

signed by the appropriate City officials. This award will result in the issuance of a purchase order to be delivered with a fully executed contract to the designer. Unless otherwise stated, the issuance of the purchase order and fully executed contract is tantamount to a Notice to Proceed, at which time the successful applicant will be expected to begin work under the contract.

RFQ # 20-31
SECTION 2.0
RULE FOR AWARD /
SPECIFICATIONS/SCOPE OF SERVICES

Rule for Award

The City may award a contract to a responsive and responsible Applicant deemed to be the most highly qualified based on the evaluation procedures and fee negotiations described herein. The City reserves the right to reject any and all responses if it determines that it is in the best interest of the City to do so. The contract will be awarded within ninety (90) days after the Application deadline. The time for award may be extended for up to 45 additional days by mutual agreement between the City and the most highly advantageous and responsible offeror.

Background / Scope of Work

The City of Somerville is seeking statements of qualifications and a proposed project approach for landscape architecture, transportation planning and engineering services for the Union Square Plaza and streetscapes. The design approach will prioritize the pedestrian and support the human-scaled plaza activities that make the square a vital urban center. The design shall aspire to recognize Union Square Plaza as a destination, support current and future civic events, increase Somerville's open space, as well as integrate the Somerville Avenue Utility and Streetscape Improvements (SAUSI), the new Green Line MBTA station, and the D Parcels of the Revitalization Plan. The final design will build upon past plaza and transportation design studies, interdisciplinary City review, meetings, and an extensive participatory public process that will define the spatial configuration of an expanded plaza, layout of the major intersections, and guide the phasing of future construction.

Project Site

Somerville's Union Square is the social, cultural and spatial heart of the neighborhood. It is the city's oldest commercial district as well as the historically significant location of a Union soldier recruiting station during the Civil War. It sits just below the site of the raising of the first American flag, the Grand Union Flag, on Prospect Hill during the American War for Independence. With a network of travel corridors leading to it, the plaza is the hub of Union Square, and the site of many festivals, events, and public activities. It is a square that has experienced waves of growth and decline and is positioned for a new phase of transformation.

The design team shall work within the following project limits; the existing Union Square Plaza; the streetscapes of Somerville Avenue from Prospect Street to the western limit of Bow Street; Washington Street at Prospect Street to Hawkins Street; the slip lane of Bow Street up to Warren Avenue; Bow Street from Warren Avenue to Somerville Avenue; Stone Avenue; Sanborn Courtyard; Hawkins Street; Webster Avenue and Prospect Street from the square to their southern intersecting point.

The present configuration of Union Square Plaza took shape in the 1960's when Washington Street was rerouted, and vehicles were removed from the central space. The reclaimed space allowed for gatherings and events of all types. As a transformative neighborhood, Union Square Plaza and its adjacent streetscapes continue to evolve.



Figure 1: Limit of Work

Project Vision

The design shall propose a forward-thinking approach that will guide the City of Somerville to deliver a distinguished civic plaza space that will tackle the following questions and goals as well as bring forward new ideas:

- What is the right balance between travel lanes and plaza?
- How can the plaza design anchor a neighborhood while simultaneously embrace the future design of the D1, D5, D6 and D7 Parcels?
- The plaza shall accommodate a variety of gathering in both sun and shade, permanent and temporary, static and active.
- The design shall protect all people and make them feel safe at all times of the day throughout the year.
- Clearly articulate a design position for embracing, modifying, enhancing, or eliminating site features and seasonal programming of the plaza as it exists today, such as existing trees, existing parking, existing Arts Council installations, outdoor dining, markets and festivals.
- Utility design shall further the City's goals of rehabilitating existing subsurface infrastructure, completing sewer separation, and better managing stormwater through the innovative use of Green Stormwater Infrastructure.
- The design shall celebrate and respect Union Square monuments and neighborhood history
- The design approach shall establish a construction narrative to identify the order of construction phasing to deliver a new plaza space. The complete narrative should consider traditional construction planning as well as implementing temporary tactical urbanism methods to keep our public spaces active during the full transformation.

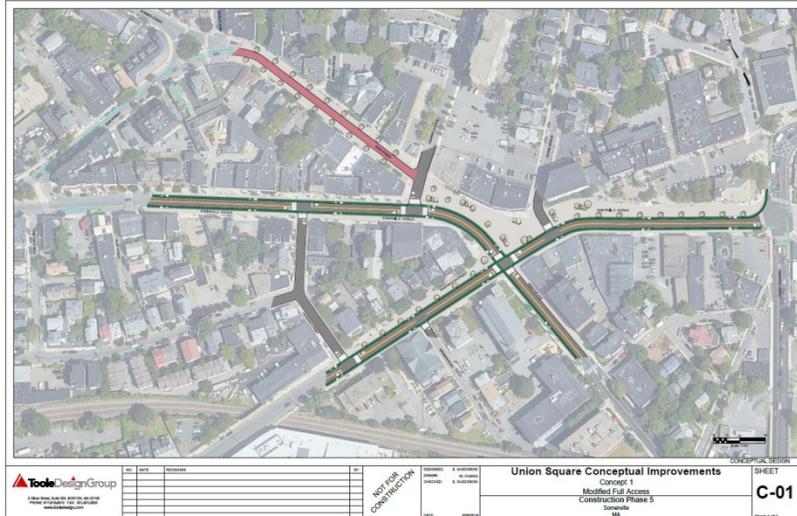


Figure 2: Toole Design Group Technical Memorandum



Figure 3: Diagram of Proposed Plaza Expansion Limits

Public / Community Process

City staff, led by the OSPCD project manager, will work with the design team in the development of public meetings and public process. The Phase 1 public process will involve a minimum of two (2) formal public meetings to kick-off the project and present the final conceptual design, as well as an unknown number of working group and open house style meetings with city staff and key Union Square stakeholders. The Phase 2 public process will involve a minimum of two (2) formal public meetings to present the final technical design prior to construction.

Project Time Period

- Phase 1 -- 25% Design inclusive of advanced landscape architecture design of plaza within 12 months

- Phase 2 -- 100% Design within 24 months

The City intends to award the initial contract under the overall Union Square Plaza and Streetscape Project for the Design of Phase 1. The design of Phase 2 or subsequent sub-projects may proceed under amendments to the initial contract if the City is satisfied with the team's performance. However, the proposal should demonstrate the team's capacity and qualifications for final design and construction administration.

Qualifications and Team Capabilities

Respondents shall provide evidence of their experience in the following areas as part of this request:

- Extensive public engagement, including community outreach, meeting design and facilitation, collaborative design communication, etc.
- Project management.
- Landscape architecture and urban design including expertise in large civic plazas and urban sustainability.
- Transportation planning, including multimodal connectivity and experience with NACTO's *Urban Street Design Guide* and *Urban Bikeway Design Guide*, and MassDOT *Separated Bike Lane Planning & Design Guide*.
- Human centered planning, inclusive design and accessibility.
- Utility systems and civil engineering including Green Stormwater Infrastructure.
- Experience across all phases from planning and concept design through contract documents and construction bidding.

Please note that construction services will not be included in this initial phase but may be added to the awarded contract following the successful delivery of the initial phase. Therefore, qualification packages must demonstrate the capacity to deliver a constructed project from all disciplines including landscape architecture, transportation engineering, civil engineering, construction management and administration. The qualification package shall demonstrate that they have delivered three (3) or more urban plaza and three (3) or more streetscape projects within the last ten (10) years.

Phase 1 Project Tasks and Deliverables

- Synthesize and deliver a document with project history, site analysis, and design goals.
 - Existing document review
 - Summarize available information on:
 - Existing open spaces and landscape
 - Traffic / transportation studies and goals
 - Pedestrian environment improvement
 - Long term objectives
 - Existing conditions assessment including utilities
 - Connection and coordination with ongoing Union Square Neighborhood projects and their analysis / approvals of the following:

- *Traffic analysis*
 - *EIR impacts*
 - *Phasing opportunities*
 - *Utility objectives*
- Site visit(s)
 - General ‘on the ground’ existing conditions confirmation
 - Event and Festival use observation and understanding
- Public Process
 - Community Meetings
 - Minimum (2) formal community meetings -- one kick-off and one final concept design
 - Unknown number of working group and open house style meetings with city staff and key Union Square stakeholders
 - Public comment, in cooperation with OSPCD, shall be incorporated when developing concept design(s)
 - Meeting minutes, meeting notes, attendance sheets, presentations used
 - Development of diagrams, figures, drawings and other content for presentation and project website
 - Preparation of digital presentation and other materials to support community engagement meetings
 - Support for the creation and distribution of flyers, notifications, posters and other items to encourage attendance and involvement. Meetings shall be advertised by OSPCD and shall include, but not limited to, residents, businesses, institutions, community groups, abutters and Ward Councilors
 - Prepare, administer and analyze surveys and feedback forums
- City Review Process
 - City Project Team Committee Meetings
 - Minimum (1) meeting with City Committee per month
 - Prepare and present design progress, results of investigation, and analysis
 - Obtain direction on all matters requiring decisions by the City.
 - Unknown number of check-ins, or quick calls to discuss specific topics
 - Ability to hold web meetings with COS
 - City comments and feedback shall be incorporated when developing concept design(s)
 - Prepare meeting minutes, meeting notes for each meeting and working session
 - Present public meeting materials for approval prior to any public meetings
 - Electronic file sharing system with ability to share large files with COS
- Plaza Redesign
 - Team to provide minimum of (3) conceptual plaza designs
 - Plaza program and landscape architectural components shall be developed as part of the Community Process. At a minimum the plaza shall support

existing programs such as the farmer's market, festivals such as Fluff Fest, as well as embrace the Public Realm, Mobility and other related sections of Somerville's proposed Zoning Overhaul.

- Preliminary cost and schedule associated with each concept design
- Team to submit (3) concepts to the City with pro's/con's associated with each options Team to recommend one option based on City objectives
- Final Option concept design and construction schedule with estimated construction costs
- Roadway and Intersection Investigation
 - Two-way Somerville Avenue from Bow to Bow Street and interface with Hawkins Street
 - Somerville Avenue and Webster Street Intersection
 - Somerville Avenue and Warren Avenue Intersection
 - Intersection redevelopment construction costs
- Roadway Redesign
 - Vehicle lane layout and dimensions that are truly pedestrian friendly and prioritize plaza space
 - Curb placement
 - Bicycle facility layout including Blue Bike stations
 - Sidewalk dimensions including furnishing, planting, infiltration, etc. zones
 - Street trees – evaluate existing as well as propose new street trees
 - Pedestrian crossings
 - Traffic signals and conceptual timings
 - Pavement markings and signage
 - Roadway redesign construction costs
- Ongoing adjacent project coordination
 - Public space and urban forestry
 - Utilities & infrastructure
 - Multimodal connections
 - Construction access
- Final Master Planning Document
 - Full synthesis and documentation of process from initial research through (3) plaza concept designs and team's recommendation for (1) plaza option, including documentation of the community process
 - 25% roadway design of team's recommended option
 - 25% civil engineering design of subsurface infrastructure upgrades
 - Phasing plan
 - Overall document shall be the starting point for Phase 2
 - Precedent studies
 - Illustrated plans and sections of preferred/recommended option
 - Traffic engineering analysis

- Cost estimate for streetscapes and plaza construction
- Survey
 - COS will provide information from the Somerville Avenue Utility and Streetscape Improvements (SAUSI) project as well as information related to the D Parcels
 - It is anticipated that additional survey information may be needed after the team assembles a working base map from COS provided information
- Schedule
 - Prepare a design schedule including all City and Public meetings, sequencing of work activities, major milestones, and deliverable dates for the duration of Phase 1

Phase 2 Project Tasks and Deliverables

- Review and synthesize Phase 1 Documents and progress for adjacent City projects
- Bid Documents
 - Prepare plans and specifications for the following disciplines to show existing and proposed improvements in Phase 1
 - General
 - Geotechnical and OHM
 - Civil – Utilities and Drainage
 - Landscape
 - Transportation / Roadway
 - Structural
 - Traffic Management
 - MEP
 - The documents will be of sufficient detail to indicate to the contractor the quantity and quality of the proposed work, and be in general conformance with the recommendations of Phase 1. Plans shall be prepared at 1" = 20'-0" scale.
 - Prepare a minimum Class 3 cost estimate in accordance with AACE International guidelines. Cost estimates shall include a recommended construction phase schedule.
- Identify all permits required for award of the project to a construction contractor and draft and submit all associated permit applications to the agencies on behalf of the City. All agency permit fees will be paid by the City.
- Potential infrastructure upgrades will include addition of storm drains, water main upgrades, and/or sewer main rehabilitation in areas not upgraded during the SAUSI project or the Union Square Utility and Roadway Early Action project.
- Two full-size hard-copies and one electronic copy of the following deliverables shall be provided to the City. Each progress deliverable shall be followed by a written response to City review comments.
 - 60% Plans, Specifications and Cost Estimate
 - 90% Plans, Specifications and Cost Estimate

- 100% Plans, Specifications and Cost Estimate
- Stamped Bid Documents and Cost Estimate
- Public Process
 - Community Meetings
 - Minimum (2) formal community meetings -- one kick-off and one final concept design
 - Unknown number of working group and open house style meetings with city staff and key Union Square stakeholders
 - Public comment, in cooperation with OSPCD and IAM, shall be incorporated when developing concept design(s)
 - Meeting minutes, meeting notes, attendance sheets, presentations used
 - Development of diagrams, figures, drawings and other content for presentation and project website
 - Preparation of digital presentation and other materials to support community engagement meetings
 - Support for the creation and distribution of flyers, notifications, posters and other items to encourage attendance and involvement. Meetings shall be advertised by City Staff and shall include, but not limited to, residents, businesses, institutions, community groups, abutters and Ward Councilors
- City Review Process
 - City Project Team Committee Meetings
 - Minimum (1) meeting with City Committee per month
 - Prepare and present design progress, results of investigation, and analysis
 - Obtain direction on all matters requiring decisions by the City.
 - Unknown number of check-ins, or quick calls to discuss specific topics
 - Ability to hold web meetings with COS
 - City comments and feedback shall be incorporated when developing concept design(s)
 - Prepare meeting minutes, meeting notes for each meeting and working session
 - Present public meeting materials for approval prior to any public meetings
 - Electronic file sharing system with ability to share large files with COS
- Bid Support Phase
 - Coordinate with the City's Purchasing Department to finalize the City's contract documents
 - Provide one electronic copy of final bid documents and assist the City in obtaining bids for construction in connection with the project. The City will be responsible for mailing and tracking distribution of bid documents to prospective bidders
 - The City will develop the Advertisement for Bids and will pay advertising fees directly
 - Prepare for an attend the pre-bid and bid-opening meeting

- Prepare agenda and minutes for each meeting
- Address bidder questions during the bidding period and prepare up to two (2) addenda prior to the bid opening date for issuance by the City
- Consult with and advise City as to the acceptability of the prime contractor, subcontractors and other persons and organizations proposed by the contractor for those portions of the work as to which such acceptability is required by the bidding documents
- Perform an evaluations of the responding bidders' unit pricing, qualifications and references and prepare a letter to the City with a recommendation for Contract Award
- Review prospective bidder RFIs and recommend a response to the City
- Schedule
 - Prepare a design schedule including all City and Public meetings, sequencing of work activities, major milestones, and deliverable dates for the duration of Phase 2

Excluded from Tasks and Deliverables

- Construction administration

Based on performance, the City of Somerville may opt to continue to partner with the successful Offeror through construction administration. The qualifications package must demonstrate the capacity to perform all aspects of construction phase engineering, landscape architecture, management and administration. The qualification package shall demonstrate that they have provided Resident Project Representative Services for three (3) or more large, complex urban plaza and streetscape projects in densely congested urban areas within the last ten (10) years.

Available Documents

- Somerville Open Space Creation Task Force Memo 2019 -- https://2xbcm3dmbsg12akbzq9ef2k-wpengine.netdna-ssl.com/wp-content/uploads/2019/08/Open-Space-Creation-Task-Force-Strategy-Memo_FINAL.pdf
- SomerVision 2040 -- <https://www.somervision2040.com/>
- SomerVision: Somerville's Comprehensive Plan 2010-2030 -- <https://www.somervillema.gov/somervision>
- Somerville Open Space and Recreation Plan -- https://s3.amazonaws.com/ifa.somervillema.gov/documents/OSRP_Final-BOOK.pdf
- Union Square Neighborhood Plan -- <https://www.somervillebydesign.com/neighborhoods/union-square/>
- Union Square Revitalization Plan -- http://www.somervillema.gov/sites/default/files/UnionSquareRevitalizationPlanFINAL_0.pdf
- Union Square Planning -- <https://www.somervillema.gov/departments/union-square-planning>

- Somerville Avenue Utility and Streetscape Improvement Project (SAUSI) -- <https://www.somervillema.gov/unionsquareinfrastructure>
- Union Square Overlay District (USOD) Zoning -- <https://www.somervillema.gov/sites/default/files/2017-07%20Zoning-Union%20Sq%20FINAL%206.9.17.pdf>
- Union Square District Improvement Financing -- <https://www.somervillema.gov/usqdif>
- Union Square Utility and Roadway Early Action Project <http://ifa.somervillema.gov.s3.amazonaws.com/documents/union-square-early-action-project-plans.pdf>
- Master Land Disposition Agreement -- <https://s3.amazonaws.com/ifa.somervillema.gov/documents/2017-0502%20Executed%20MLDA.pdf>
- Public Space Public Life Report -- <https://www.somervillebydesign.com/planning/public-space-planning/public-space-public-life/>
- Complete Streets Ordinance (City of Somerville Ordinance Article VII) -- <https://www.somervillebydesign.com/planning/transportation/complete-streets/> ; <http://assessment.walkfriendly.org/fileupload/Complete%20Streets%20Full.pdf>
- Vision Zero Presentation by Mayor Curtatone -- <https://www.somervillema.gov/visionzero>
- Traffic Calming Guide -- <https://www.somervillema.gov/sites/default/files/traffic-calming-guide.pdf>
- Somerville's Municipal Vulnerability Preparedness Program (MVP)
- Documents prepared by the Union Square Neighborhood Council -- <http://www.unionsquareneighborhoodcouncil.org/>
- Various documents prepared by the Master Developer, US2 <http://discoverusq.com>
- Nelson / Nygard Transportation Scope for Union Square Development Project -- https://s3.amazonaws.com/ifa.somervillema.gov/documents/US2-UnionSquare_CDSP_Appendix-4.pdf
- Toole Design Group Technical Memorandum – Mobility, Safety and Access Assessment; Revised Union Square Status Report – Somerville, Massachusetts – *for this document and related documents that are not available on the City's website, please follow [this link](#). Contact the bid manager listed on the first page of this RFQ if you have trouble accessing the documents.*

Comparative Evaluation Criteria

The Comparative Evaluation Criteria set forth in this section of the RFQ shall be used to evaluate responsible and responsive applicants. The Comparative Evaluation Criteria are: All Applications will be reviewed by an evaluation committee composed of employees of the City. Final selection will be based upon the evaluators' analysis of the information and materials required under the RFQ and provided by the proposing vendors in their submissions. The City reserves the right to involve an outside consultant in the selection

process. Applications that meet the minimum quality requirements will be reviewed for responses to the comparative evaluation criteria. The evaluation committee will assign a rating of Highly Advantageous, Advantageous, Not Advantageous, or Unacceptable to the comparative evaluation criteria.

The City will only award a contract to a responsive and responsible applicant. Before awarding the contract(s), the City may request additional information from the applicant to ensure that the applicant has the resources necessary to perform the required services. The City reserves the right to reject any and all Applications if it determines that the criteria set forth have not been met.

Factor 1: Technical and Management Approach	
Highly Advantageous	The proposer's approach for this project demonstrates a comprehensive understanding of the scope of work and a thorough attention to detail. The Plan is both cost effective and relevant to Somerville's specific needs.
Advantageous	The proposer's approach for this project demonstrates a moderate understanding of the scope of work and modest attention to detail. The Plan is not optimally cost effective and lacks certain aspects of relevance to Somerville's specific needs.
Not Advantageous	The proposer's approach for this project lacks a comprehensive understanding of the scope of work and a thorough attention to detail, and is not cost effective nor relevant to Somerville's needs for this project.

Factor 2: Key Personnel	
Highly Advantageous	<u>All</u> of the personnel identified by the proposer are proven to possess a <u>very high level</u> of relevant engineering design and construction administration experience and performance. Resumes are included in the Application for all proposed personnel. All proposed personnel are currently performing functions similar to those proposed clearly show an adequate level of relevant experience to successfully perform the scope
Advantageous	<u>All</u> of the personnel identified by the proposer are proven to possess a <u>high level</u> of relevant engineering design and construction administration experience and performance. Resumes are included in the Application for most of the proposed personnel. Some of these proposed personnel show an adequate level of relevant experience to successfully perform the scope outlined herein.
Not Advantageous	<u>Most</u> but not all of the personnel identified by the proposer are proven to possess an <u>adequate level</u> of relevant engineering design and construction administration experience. Resumes are not included not any of the proposed staff.

Factor 3: Past Performance and Experience	
Highly Advantageous	The Application demonstrates the proposer’s efficient and effective design and management of five or more major plaza and streetscape projects of similar size and scope in the last ten years in settings similar to Somerville.
Advantageous	The Application demonstrates the proposer’s efficient and effective design and management of less than five major plaza and streetscape projects of similar size and scope in the last ten years in settings similar to Somerville.
Not Advantageous	The Application demonstrates the proposer’s efficient and effective design and management of less than three major plaza and streetscape projects of similar size and scope in the last ten years in settings similar to Somerville.

Period of Performance

The period of performance for this contract begins on or about 2/1/2020 and ends on or about 1/31/2023. If applicable, optional renewal years may be exercised by the sole discretion of the City (see cover page for anticipated contract term).

Place of Performance

All services, delivery, and other required support shall be conducted in Somerville and other locations designated by the Department point of contact. Meetings between the Vendor and City personnel shall be held at the City of Somerville, Massachusetts, unless otherwise specified.

Vendor Conduct

The Vendor’s employees shall comply with all City regulations, policies, and procedures. The Vendor shall ensure that their employees present professional work attire at all times. The authorized contracting body of the City may, at his/her sole discretion, direct the Vendor to remove any Vendor employee from City facilities for misconduct or safety reasons. Such rule does not relieve the Vendor of their responsibility to provide sufficient

and timely service. The City will provide the Vendor with immediate written notice for the removal of the employee. Vendors must be knowledgeable of the conflict of interest law found on the Commonwealth's website <http://www.mass.gov/ethics/laws-and-regulations-/conflict-of-interest-information/conflict-of-interest-law.html>. Vendors may be required to take the Conflict of Interest exam.

Vendor Personnel

The Vendor shall clearly state the name of the proposed project manager. All proposed staff must demonstrate the ability to carry out the specified requirements.

Confidentiality

The Vendor agrees that it will ensure that its employees and others performing services under this contract will not use or disclose any non-public information unless authorized by the City. That includes confidential reports, information, discussions, procedures, and any other data that are collected, generated or resulting from the performance of this scope of work. All documents, photocopies, computer data, and any other information of any kind collected or received by the Vendor in connection with the contract work shall be provided to the City upon request at the termination of the contract (i.e., the date on which final payment is made on the contract or at such other time as may be requested by the City or as otherwise agreed by City and the Vendor). The Vendor may not discuss the contract work in progress with any outside party, including responding to media and press inquiries, without the prior written permission of the City. In addition, the Vendor may not issue news releases or similar items regarding contract award, any subsequent contract modifications, or any other contract-related matter without the prior written approval of the City. Requests to make such disclosures should be addressed in writing to the Vendor's point of contact.

Deliverables

Vendor shall provide for all day-to-day supervision, inspection, and monitoring of all work performed to ensure compliance with the contract requirements. The contractor is responsible for remedying all defects and or omissions to the supplies or services provided to ensure that said deliverables meet the requirements as detailed in the contract specifications.

SECTION 3.0

Design Services for Union Square Plaza and Streetscape

PROPOSERS' CHECKLIST

Please ensure all documents listed on this checklist are included with your Application. Failure to do so may subject the proposer to disqualification.

Required with Application

- Acknowledgement of Addenda (if applicable)
- Application with the following headings:
 1. Cover Letter
 2. Summary of Qualifications & Experience
 - a. Design Team Qualifications and Capabilities
 - b. Experience with Similar Projects
 - c. Work Samples
 3. Project Approach for Union Square Plaza and Streetscape
- Somerville Living Wage Form
- Certificate of Non-Collusion and Tax Compliance
- Certificate of Signature Authority
- References – refer to Section 1.3, 2 (b) for details on format
- W9
- Supplier Diversity Certification Form
- Truth in Negotiations Certificate

Required with Contract, *Post Award*

- Certificate of Good Standing (will be required of awarded Vendor; please furnish with Application if available)
- Insurance Specifications (will be required of awarded Vendor; furnish sample certificate with bid, if possible)
- Statement of Management



SOMERVILLE LIVING WAGE ORDINANCE CERTIFICATION FORM
CITY OF SOMERVILLE CODE OF ORDINANCES SECTION 2-397 et seq.*

Instructions: This form shall be included in all Invitations for Bids and Requests for Proposals which involve the furnishing of labor, time or effort (with no end product other than reports) by vendors contracting or subcontracting with the City of Somerville, where the contract price meets or exceeds the following dollar threshold: **\$10,000**. If the undersigned is selected, this form will be attached to the contract or subcontract and the certifications made herein shall be incorporated as part of such contract or subcontract. **Complete this form and sign and date where indicated below on page 2.**

Purpose: The purpose of this form is to ensure that such vendors pay a “Living Wage” (defined below) to all covered employees (i.e., all employees except individuals in a city, state or federally funded youth program). In the case of bids, the City will award the contract to the lowest responsive and responsible bidder paying a Living Wage. In the case of RFP’s, the City will select the most advantageous proposal from a responsive and responsible offeror paying a Living Wage. In neither case, however, shall the City be under any obligation to select a bid or proposal that exceeds the funds available for the contract.

Definition of “Living Wage”: For this contract or subcontract, as of **7/1/2019** “Living Wage” shall be deemed to be an hourly wage of no less than **\$15.00** per hour. From time to time, the Living Wage may be upwardly adjusted and amendments, if any, to the contract or subcontract may require the payment of a higher hourly rate if a higher rate is then in effect.

CERTIFICATIONS

1. The undersigned shall pay no less than the Living Wage to all covered employees who directly expend their time on the contract or subcontract with the City of Somerville.
2. The undersigned shall post a notice, (copy enclosed), to be furnished by the contracting City Department, informing covered employees of the protections and obligations provided for in the Somerville Living Wage Ordinance, and that for assistance and information, including copies of the Ordinance, employees should contact the contracting City Department. Such notice shall be posted in each location where services are performed by covered employees, in a conspicuous place where notices to employees are customarily posted.
3. The undersigned shall maintain payrolls for all covered employees and basic records relating hereto and shall preserve them for a period of three years. The records shall contain the name and address of each employee, the number of hours worked, the gross wages, a copy of the social

* Copies of the Ordinance are available upon request to the Purchasing Department.

Form:____
Contract Number:_____

security returns, and evidence of payment thereof and such other data as may be required by the contracting City Department from time to time.

4. The undersigned shall submit payroll records to the City upon request and, if the City receives information of possible noncompliance with the provisions the Somerville Living Wage Ordinance, the undersigned shall permit City representatives to observe work being performed at the work site, to interview employees, and to examine the books and records relating to the payrolls being investigated to determine payment of wages.

5. The undersigned shall not fund wage increases required by the Somerville Living Wage Ordinance by reducing the health insurance benefits of any of its employees.

6. The undersigned agrees that the penalties and relief set forth in the Somerville Living Wage Ordinance shall be in addition to the rights and remedies set forth in the contract and/or subcontract.

CERTIFIED BY:

Signature: _____
(Duly Authorized Representative of Vendor)

Title: _____

Name of Vendor: _____

Date: _____

INSTRUCTIONS: PLEASE POST

**NOTICE TO ALL EMPLOYEES
REGARDING PAYMENT OF LIVING WAGE**

Under the Somerville, Massachusetts' Living Wage Ordinance (Ordinance No. 1999-1), any person or entity who has entered into a contract with the City of Somerville is required to pay its employees who are involved in providing services to the City of Somerville no less than a "Living Wage".

The Living Wage as of **7/1/2019** is **\$15.00** per hour. The only employees who are not covered by the Living Wage Ordinance are individuals in a Youth Program. "Youth Program" as defined in the Ordinance, "means any city, state or federally funded program which employs youth, as defined by city, state or federal guidelines, during the summer, or as part of a school to work program, or in any other related seasonal or part-time program."

For assistance and information regarding the protections and obligations provided for in the Living Wage Ordinance and/or a copy of the Living Wage Ordinance, all employees should contact the City of Somerville's Purchasing Department directly.



Non-Collusion Form and Tax Compliance Certification

Instructions: Complete each part of this two-part form and sign and date where indicated below.

A. NON-COLLUSION FORM

I, the undersigned, hereby certify 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.

Signature: _____
(Individual Submitted Bid or Proposal)
Duly Authorized

Name of Business or Entity: _____

Date: _____

B. TAX COMPLIANCE CERTIFICATION

Pursuant to M.G.L. c. 62C, §49A, I certify under the penalties of perjury that, to the best of my knowledge and belief, I am in compliance with all laws of the Commonwealth relating to taxes, reporting of employees and contractors, and withholding and remitting child support, as well as paid all contributions and payments in lieu of contributions pursuant to MGL 151A, §19A(b).

Signature: _____
(Duly Authorized Representative of Vendor)

Name of Business or Entity: _____

Social Security Number or Federal Tax ID#: _____

Date: _____



**Certificate of Authority
(Corporations Only)**

Instructions: Complete this form and sign and date where indicated below.

1. I hereby certify that I, the undersigned, am the duly elected Clerk/Secretary of

(Insert Full Name of Corporation)

2. I hereby certify that the following individual _____
(Insert the Name of Officer who Signed the Contract and Bonds)

is the duly elected _____ of said Corporation.
(Insert the Title of the Officer in Line 2)

3. I hereby certify that on _____
(Insert Date: Must be on or before Date Officer Signed Contract/Bonds)

at a duly authorized meeting of the Board of Directors of said corporation, at which a quorum was present, it was voted that

(Insert Name of Officer from Line 2) (Insert Title of Officer from Line 2)

of this corporation be and hereby is authorized to make, enter into, execute, and deliver contracts and bonds in the name and on behalf of said corporation, and affix its Corporate Seal thereto, and such execution of any contract of obligation in this corporation's name and on its behalf, with or without the Corporate Seal, shall be valid and binding upon this corporation; and that the above vote has not been amended or rescinded and remains in full force and effect as of the date set forth below.

4. **ATTEST:**

Signature: _____
(Clerk or Secretary)

AFFIX CORPORATE SEAL HERE

Printed Name: _____

Printed Title: _____

Date: _____

(Date Must Be on or after Date Officer Signed Contract/Bonds)



**Certificate of Authority
(Limited Liability Companies Only)**

Instructions: Complete this form and sign and date where indicated below.

1. I, the undersigned, being a member or manager of

(Complete Name of Limited Liability Company)

a limited liability company (LLC) hereby certify as to the contents of this form for the purpose of contracting with the City of Somerville.

2. The LLC is organized under the laws of the state of: _____.

3. The LLC is managed by **(check one)** a Manager or by its Members.

4. I hereby certify that each of the following individual(s) is:

- a member/manager of the LLC;
- duly authorized to execute and deliver this contract, agreement, and/or other legally binding documents relating to any contract and/or agreement on behalf of the LLC;
- duly authorized to do and perform all acts and things necessary or appropriate to carry out the terms of this contract or agreement on behalf of the LLC; and
- that no resolution, vote, or other document or action is necessary to establish such authority.

<u>Name</u>	<u>Title</u>

5. **Signature:**_____

Printed Name: _____

Printed Title:_____

Date: _____

By signing the filled-out form, you:

1. Certify that the TIN you are giving is correct (or you are waiting for a number to be issued),
2. Certify that you are not subject to backup withholding, or
3. Claim exemption from backup withholding if you are a U.S. exempt payee. If applicable, you are also certifying that as a U.S. person, your allocable share of any partnership income from a U.S. trade or business is not subject to the withholding tax on foreign partners' share of effectively connected income, and
4. Certify that FATCA code(s) entered on this form (if any) indicating that you are exempt from the FATCA reporting, is correct. See *What is FATCA reporting*, later, for further information.

Note: If you are a U.S. person and a requester gives you a form other than Form W-9 to request your TIN, you must use the requester's form if it is substantially similar to this Form W-9.

Definition of a U.S. person. For federal tax purposes, you are considered a U.S. person if you are:

- An individual who is a U.S. citizen or U.S. resident alien;
- A partnership, corporation, company, or association created or organized in the United States or under the laws of the United States;
- An estate (other than a foreign estate); or
- A domestic trust (as defined in Regulations section 301.7701-7).

Special rules for partnerships. Partnerships that conduct a trade or business in the United States are generally required to pay a withholding tax under section 1446 on any foreign partners' share of effectively connected taxable income from such business. Further, in certain cases where a Form W-9 has not been received, the rules under section 1446 require a partnership to presume that a partner is a foreign person, and pay the section 1446 withholding tax. Therefore, if you are a U.S. person that is a partner in a partnership conducting a trade or business in the United States, provide Form W-9 to the partnership to establish your U.S. status and avoid section 1446 withholding on your share of partnership income.

In the cases below, the following person must give Form W-9 to the partnership for purposes of establishing its U.S. status and avoiding withholding on its allocable share of net income from the partnership conducting a trade or business in the United States.

- In the case of a disregarded entity with a U.S. owner, the U.S. owner of the disregarded entity and not the entity;
- In the case of a grantor trust with a U.S. grantor or other U.S. owner, generally, the U.S. grantor or other U.S. owner of the grantor trust and not the trust; and
- In the case of a U.S. trust (other than a grantor trust), the U.S. trust (other than a grantor trust) and not the beneficiaries of the trust.

Foreign person. If you are a foreign person or the U.S. branch of a foreign bank that has elected to be treated as a U.S. person, do not use Form W-9. Instead, use the appropriate Form W-8 or Form 8233 (see Pub. 515, *Withholding of Tax on Nonresident Aliens and Foreign Entities*).

Nonresident alien who becomes a resident alien. Generally, only a nonresident alien individual may use the terms of a tax treaty to reduce or eliminate U.S. tax on certain types of income. However, most tax treaties contain a provision known as a "saving clause." Exceptions specified in the saving clause may permit an exemption from tax to continue for certain types of income even after the payee has otherwise become a U.S. resident alien for tax purposes.

If you are a U.S. resident alien who is relying on an exception contained in the saving clause of a tax treaty to claim an exemption from U.S. tax on certain types of income, you must attach a statement to Form W-9 that specifies the following five items.

1. The treaty country. Generally, this must be the same treaty under which you claimed exemption from tax as a nonresident alien.
2. The treaty article addressing the income.
3. The article number (or location) in the tax treaty that contains the saving clause and its exceptions.
4. The type and amount of income that qualifies for the exemption from tax.
5. Sufficient facts to justify the exemption from tax under the terms of the treaty article.

Example. Article 20 of the U.S.-China income tax treaty allows an exemption from tax for scholarship income received by a Chinese student temporarily present in the United States. Under U.S. law, this student will become a resident alien for tax purposes if his or her stay in the United States exceeds 5 calendar years. However, paragraph 2 of the first Protocol to the U.S.-China treaty (dated April 30, 1984) allows the provisions of Article 20 to continue to apply even after the Chinese student becomes a resident alien of the United States. A Chinese student who qualifies for this exception (under paragraph 2 of the first protocol) and is relying on this exception to claim an exemption from tax on his or her scholarship or fellowship income would attach to Form W-9 a statement that includes the information described above to support that exemption.

If you are a nonresident alien or a foreign entity, give the requester the appropriate completed Form W-8 or Form 8233.

Backup Withholding

What is backup withholding? Persons making certain payments to you must under certain conditions withhold and pay to the IRS 24% of such payments. This is called "backup withholding." Payments that may be subject to backup withholding include interest, tax-exempt interest, dividends, broker and barter exchange transactions, rents, royalties, nonemployee pay, payments made in settlement of payment card and third party network transactions, and certain payments from fishing boat operators. Real estate transactions are not subject to backup withholding.

You will not be subject to backup withholding on payments you receive if you give the requester your correct TIN, make the proper certifications, and report all your taxable interest and dividends on your tax return.

Payments you receive will be subject to backup withholding if:

1. You do not furnish your TIN to the requester,
2. You do not certify your TIN when required (see the instructions for Part II for details),
3. The IRS tells the requester that you furnished an incorrect TIN,
4. The IRS tells you that you are subject to backup withholding because you did not report all your interest and dividends on your tax return (for reportable interest and dividends only), or
5. You do not certify to the requester that you are not subject to backup withholding under 4 above (for reportable interest and dividend accounts opened after 1983 only).

Certain payees and payments are exempt from backup withholding. See *Exempt payee code*, later, and the separate Instructions for the Requester of Form W-9 for more information.

Also see *Special rules for partnerships*, earlier.

What is FATCA Reporting?

The Foreign Account Tax Compliance Act (FATCA) requires a participating foreign financial institution to report all United States account holders that are specified United States persons. Certain payees are exempt from FATCA reporting. See *Exemption from FATCA reporting code*, later, and the Instructions for the Requester of Form W-9 for more information.

Updating Your Information

You must provide updated information to any person to whom you claimed to be an exempt payee if you are no longer an exempt payee and anticipate receiving reportable payments in the future from this person. For example, you may need to provide updated information if you are a C corporation that elects to be an S corporation, or if you no longer are tax exempt. In addition, you must furnish a new Form W-9 if the name or TIN changes for the account; for example, if the grantor of a grantor trust dies.

Penalties

Failure to furnish TIN. If you fail to furnish your correct TIN to a requester, you are subject to a penalty of \$50 for each such failure unless your failure is due to reasonable cause and not to willful neglect.

Civil penalty for false information with respect to withholding. If you make a false statement with no reasonable basis that results in no backup withholding, you are subject to a \$500 penalty.

Criminal penalty for falsifying information. Willfully falsifying certifications or affirmations may subject you to criminal penalties including fines and/or imprisonment.

Misuse of TINs. If the requester discloses or uses TINs in violation of federal law, the requester may be subject to civil and criminal penalties.

Specific Instructions

Line 1

You must enter one of the following on this line; **do not** leave this line blank. The name should match the name on your tax return.

If this Form W-9 is for a joint account (other than an account maintained by a foreign financial institution (FFI)), list first, and then circle, the name of the person or entity whose number you entered in Part I of Form W-9. If you are providing Form W-9 to an FFI to document a joint account, each holder of the account that is a U.S. person must provide a Form W-9.

a. **Individual.** Generally, enter the name shown on your tax return. If you have changed your last name without informing the Social Security Administration (SSA) of the name change, enter your first name, the last name as shown on your social security card, and your new last name.

Note: ITIN applicant: Enter your individual name as it was entered on your Form W-7 application, line 1a. This should also be the same as the name you entered on the Form 1040/1040A/1040EZ you filed with your application.

b. **Sole proprietor or single-member LLC.** Enter your individual name as shown on your 1040/1040A/1040EZ on line 1. You may enter your business, trade, or “doing business as” (DBA) name on line 2.

c. **Partnership, LLC that is not a single-member LLC, C corporation, or S corporation.** Enter the entity’s name as shown on the entity’s tax return on line 1 and any business, trade, or DBA name on line 2.

d. **Other entities.** Enter your name as shown on required U.S. federal tax documents on line 1. This name should match the name shown on the charter or other legal document creating the entity. You may enter any business, trade, or DBA name on line 2.

e. **Disregarded entity.** For U.S. federal tax purposes, an entity that is disregarded as an entity separate from its owner is treated as a “disregarded entity.” See Regulations section 301.7701-2(c)(2)(iii). Enter the owner’s name on line 1. The name of the entity entered on line 1 should never be a disregarded entity. The name on line 1 should be the name shown on the income tax return on which the income should be reported. For example, if a foreign LLC that is treated as a disregarded entity for U.S. federal tax purposes has a single owner that is a U.S. person, the U.S. owner’s name is required to be provided on line 1. If the direct owner of the entity is also a disregarded entity, enter the first owner that is not disregarded for federal tax purposes. Enter the disregarded entity’s name on line 2, “Business name/disregarded entity name.” If the owner of the disregarded entity is a foreign person, the owner must complete an appropriate Form W-8 instead of a Form W-9. This is the case even if the foreign person has a U.S. TIN.

Line 2

If you have a business name, trade name, DBA name, or disregarded entity name, you may enter it on line 2.

Line 3

Check the appropriate box on line 3 for the U.S. federal tax classification of the person whose name is entered on line 1. Check only one box on line 3.

IF the entity/person on line 1 is a(n) . . .	THEN check the box for . . .
• Corporation	Corporation
• Individual • Sole proprietorship, or • Single-member limited liability company (LLC) owned by an individual and disregarded for U.S. federal tax purposes.	Individual/sole proprietor or single-member LLC
• LLC treated as a partnership for U.S. federal tax purposes, • LLC that has filed Form 8832 or 2553 to be taxed as a corporation, or • LLC that is disregarded as an entity separate from its owner but the owner is another LLC that is not disregarded for U.S. federal tax purposes.	Limited liability company and enter the appropriate tax classification. (P= Partnership; C= C corporation; or S= S corporation)
• Partnership	Partnership
• Trust/estate	Trust/estate

Line 4, Exemptions

If you are exempt from backup withholding and/or FATCA reporting, enter in the appropriate space on line 4 any code(s) that may apply to you.

Exempt payee code.

- Generally, individuals (including sole proprietors) are not exempt from backup withholding.
- Except as provided below, corporations are exempt from backup withholding for certain payments, including interest and dividends.
- Corporations are not exempt from backup withholding for payments made in settlement of payment card or third party network transactions.
- Corporations are not exempt from backup withholding with respect to attorneys’ fees or gross proceeds paid to attorneys, and corporations that provide medical or health care services are not exempt with respect to payments reportable on Form 1099-MISC.

The following codes identify payees that are exempt from backup withholding. Enter the appropriate code in the space in line 4.

- 1—An organization exempt from tax under section 501(a), any IRA, or a custodial account under section 403(b)(7) if the account satisfies the requirements of section 401(f)(2)
- 2—The United States or any of its agencies or instrumentalities
- 3—A state, the District of Columbia, a U.S. commonwealth or possession, or any of their political subdivisions or instrumentalities
- 4—A foreign government or any of its political subdivisions, agencies, or instrumentalities
- 5—A corporation
- 6—A dealer in securities or commodities required to register in the United States, the District of Columbia, or a U.S. commonwealth or possession
- 7—A futures commission merchant registered with the Commodity Futures Trading Commission
- 8—A real estate investment trust
- 9—An entity registered at all times during the tax year under the Investment Company Act of 1940
- 10—A common trust fund operated by a bank under section 584(a)
- 11—A financial institution
- 12—A middleman known in the investment community as a nominee or custodian
- 13—A trust exempt from tax under section 664 or described in section 4947

The following chart shows types of payments that may be exempt from backup withholding. The chart applies to the exempt payees listed above, 1 through 13.

IF the payment is for . . .	THEN the payment is exempt for . . .
Interest and dividend payments	All exempt payees except for 7
Broker transactions	Exempt payees 1 through 4 and 6 through 11 and all C corporations. S corporations must not enter an exempt payee code because they are exempt only for sales of noncovered securities acquired prior to 2012.
Barter exchange transactions and patronage dividends	Exempt payees 1 through 4
Payments over \$600 required to be reported and direct sales over \$5,000 ¹	Generally, exempt payees 1 through 5 ²
Payments made in settlement of payment card or third party network transactions	Exempt payees 1 through 4

¹ See Form 1099-MISC, Miscellaneous Income, and its instructions.

² However, the following payments made to a corporation and reportable on Form 1099-MISC are not exempt from backup withholding: medical and health care payments, attorneys' fees, gross proceeds paid to an attorney reportable under section 6045(f), and payments for services paid by a federal executive agency.

Exemption from FATCA reporting code. The following codes identify payees that are exempt from reporting under FATCA. These codes apply to persons submitting this form for accounts maintained outside of the United States by certain foreign financial institutions. Therefore, if you are only submitting this form for an account you hold in the United States, you may leave this field blank. Consult with the person requesting this form if you are uncertain if the financial institution is subject to these requirements. A requester may indicate that a code is not required by providing you with a Form W-9 with "Not Applicable" (or any similar indication) written or printed on the line for a FATCA exemption code.

A—An organization exempt from tax under section 501(a) or any individual retirement plan as defined in section 7701(a)(37)

B—The United States or any of its agencies or instrumentalities

C—A state, the District of Columbia, a U.S. commonwealth or possession, or any of their political subdivisions or instrumentalities

D—A corporation the stock of which is regularly traded on one or more established securities markets, as described in Regulations section 1.1472-1(c)(1)(i)

E—A corporation that is a member of the same expanded affiliated group as a corporation described in Regulations section 1.1472-1(c)(1)(i)

F—A dealer in securities, commodities, or derivative financial instruments (including notional principal contracts, futures, forwards, and options) that is registered as such under the laws of the United States or any state

G—A real estate investment trust

H—A regulated investment company as defined in section 851 or an entity registered at all times during the tax year under the Investment Company Act of 1940

I—A common trust fund as defined in section 584(a)

J—A bank as defined in section 581

K—A broker

L—A trust exempt from tax under section 664 or described in section 4947(a)(1)

M—A tax exempt trust under a section 403(b) plan or section 457(g) plan

Note: You may wish to consult with the financial institution requesting this form to determine whether the FATCA code and/or exempt payee code should be completed.

Line 5

Enter your address (number, street, and apartment or suite number). This is where the requester of this Form W-9 will mail your information returns. If this address differs from the one the requester already has on file, write NEW at the top. If a new address is provided, there is still a chance the old address will be used until the payor changes your address in their records.

Line 6

Enter your city, state, and ZIP code.

Part I. Taxpayer Identification Number (TIN)

Enter your TIN in the appropriate box. If you are a resident alien and you do not have and are not eligible to get an SSN, your TIN is your IRS individual taxpayer identification number (ITIN). Enter it in the social security number box. If you do not have an ITIN, see *How to get a TIN* below.

If you are a sole proprietor and you have an EIN, you may enter either your SSN or EIN.

If you are a single-member LLC that is disregarded as an entity separate from its owner, enter the owner's SSN (or EIN, if the owner has one). Do not enter the disregarded entity's EIN. If the LLC is classified as a corporation or partnership, enter the entity's EIN.

Note: See *What Name and Number To Give the Requester*, later, for further clarification of name and TIN combinations.

How to get a TIN. If you do not have a TIN, apply for one immediately. To apply for an SSN, get Form SS-5, Application for a Social Security Card, from your local SSA office or get this form online at www.SSA.gov. You may also get this form by calling 1-800-772-1213. Use Form W-7, Application for IRS Individual Taxpayer Identification Number, to apply for an ITIN, or Form SS-4, Application for Employer Identification Number, to apply for an EIN. You can apply for an EIN online by accessing the IRS website at www.irs.gov/Businesses and clicking on Employer Identification Number (EIN) under Starting a Business. Go to www.irs.gov/Forms to view, download, or print Form W-7 and/or Form SS-4. Or, you can go to www.irs.gov/OrderForms to place an order and have Form W-7 and/or SS-4 mailed to you within 10 business days.

If you are asked to complete Form W-9 but do not have a TIN, apply for a TIN and write "Applied For" in the space for the TIN, sign and date the form, and give it to the requester. For interest and dividend payments, and certain payments made with respect to readily tradable instruments, generally you will have 60 days to get a TIN and give it to the requester before you are subject to backup withholding on payments. The 60-day rule does not apply to other types of payments. You will be subject to backup withholding on all such payments until you provide your TIN to the requester.

Note: Entering "Applied For" means that you have already applied for a TIN or that you intend to apply for one soon.

Caution: A disregarded U.S. entity that has a foreign owner must use the appropriate Form W-8.

Part II. Certification

To establish to the withholding agent that you are a U.S. person, or resident alien, sign Form W-9. You may be requested to sign by the withholding agent even if item 1, 4, or 5 below indicates otherwise.

For a joint account, only the person whose TIN is shown in Part I should sign (when required). In the case of a disregarded entity, the person identified on line 1 must sign. Exempt payees, see *Exempt payee code*, earlier.

Signature requirements. Complete the certification as indicated in items 1 through 5 below.

1. Interest, dividend, and barter exchange accounts opened before 1984 and broker accounts considered active during 1983.

You must give your correct TIN, but you do not have to sign the certification.

2. Interest, dividend, broker, and barter exchange accounts opened after 1983 and broker accounts considered inactive during 1983.

You must sign the certification or backup withholding will apply. If you are subject to backup withholding and you are merely providing your correct TIN to the requester, you must cross out item 2 in the certification before signing the form.

3. Real estate transactions. You must sign the certification. You may cross out item 2 of the certification.

4. Other payments. You must give your correct TIN, but you do not have to sign the certification unless you have been notified that you have previously given an incorrect TIN. "Other payments" include payments made in the course of the requester's trade or business for rents, royalties, goods (other than bills for merchandise), medical and health care services (including payments to corporations), payments to a nonemployee for services, payments made in settlement of payment card and third party network transactions, payments to certain fishing boat crew members and fishermen, and gross proceeds paid to attorneys (including payments to corporations).

5. Mortgage interest paid by you, acquisition or abandonment of secured property, cancellation of debt, qualified tuition program payments (under section 529), ABLE accounts (under section 529A), IRA, Coverdell ESA, Archer MSA or HSA contributions or distributions, and pension distributions. You must give your correct TIN, but you do not have to sign the certification.

What Name and Number To Give the Requester

For this type of account:	Give name and SSN of:
1. Individual	The individual
2. Two or more individuals (joint account) other than an account maintained by an FFI	The actual owner of the account or, if combined funds, the first individual on the account ¹
3. Two or more U.S. persons (joint account maintained by an FFI)	Each holder of the account
4. Custodial account of a minor (Uniform Gift to Minors Act)	The minor ²
5. a. The usual revocable savings trust (grantor is also trustee)	The grantor-trustee ¹
b. So-called trust account that is not a legal or valid trust under state law	The actual owner ¹
6. Sole proprietorship or disregarded entity owned by an individual	The owner ³
7. Grantor trust filing under Optional Form 1099 Filing Method 1 (see Regulations section 1.671-4(b)(2)(i)(A))	The grantor*
For this type of account:	Give name and EIN of:
8. Disregarded entity not owned by an individual	The owner
9. A valid trust, estate, or pension trust	Legal entity ⁴
10. Corporation or LLC electing corporate status on Form 8832 or Form 2553	The corporation
11. Association, club, religious, charitable, educational, or other tax-exempt organization	The organization
12. Partnership or multi-member LLC	The partnership
13. A broker or registered nominee	The broker or nominee

For this type of account:	Give name and EIN of:
14. Account with the Department of Agriculture in the name of a public entity (such as a state or local government, school district, or prison) that receives agricultural program payments	The public entity
15. Grantor trust filing under the Form 1041 Filing Method or the Optional Form 1099 Filing Method 2 (see Regulations section 1.671-4(b)(2)(i)(B))	The trust

¹ List first and circle the name of the person whose number you furnish. If only one person on a joint account has an SSN, that person's number must be furnished.

² Circle the minor's name and furnish the minor's SSN.

³ You must show your individual name and you may also enter your business or DBA name on the "Business name/disregarded entity" name line. You may use either your SSN or EIN (if you have one), but the IRS encourages you to use your SSN.

⁴ List first and circle the name of the trust, estate, or pension trust. (Do not furnish the TIN of the personal representative or trustee unless the legal entity itself is not designated in the account title.) Also see *Special rules for partnerships*, earlier.

*Note: The grantor also must provide a Form W-9 to trustee of trust.

Note: If no name is circled when more than one name is listed, the number will be considered to be that of the first name listed.

Secure Your Tax Records From Identity Theft

Identity theft occurs when someone uses your personal information such as your name, SSN, or other identifying information, without your permission, to commit fraud or other crimes. An identity thief may use your SSN to get a job or may file a tax return using your SSN to receive a refund.

To reduce your risk:

- Protect your SSN,
- Ensure your employer is protecting your SSN, and
- Be careful when choosing a tax preparer.

If your tax records are affected by identity theft and you receive a notice from the IRS, respond right away to the name and phone number printed on the IRS notice or letter.

If your tax records are not currently affected by identity theft but you think you are at risk due to a lost or stolen purse or wallet, questionable credit card activity or credit report, contact the IRS Identity Theft Hotline at 1-800-908-4490 or submit Form 14039.

For more information, see Pub. 5027, Identity Theft Information for Taxpayers.

Victims of identity theft who are experiencing economic harm or a systemic problem, or are seeking help in resolving tax problems that have not been resolved through normal channels, may be eligible for Taxpayer Advocate Service (TAS) assistance. You can reach TAS by calling the TAS toll-free case intake line at 1-877-777-4778 or TTY/TDD 1-800-829-4059.

Protect yourself from suspicious emails or phishing schemes.

Phishing is the creation and use of email and websites designed to mimic legitimate business emails and websites. The most common act is sending an email to a user falsely claiming to be an established legitimate enterprise in an attempt to scam the user into surrendering private information that will be used for identity theft.

The IRS does not initiate contacts with taxpayers via emails. Also, the IRS does not request personal detailed information through email or ask taxpayers for the PIN numbers, passwords, or similar secret access information for their credit card, bank, or other financial accounts.

If you receive an unsolicited email claiming to be from the IRS, forward this message to phishing@irs.gov. You may also report misuse of the IRS name, logo, or other IRS property to the Treasury Inspector General for Tax Administration (TIGTA) at 1-800-366-4484. You can forward suspicious emails to the Federal Trade Commission at spam@uce.gov or report them at www.ftc.gov/complaint. You can contact the FTC at www.ftc.gov/idtheft or 877-IDTHEFT (877-438-4338). If you have been the victim of identity theft, see www.IdentityTheft.gov and Pub. 5027.

Visit www.irs.gov/IdentityTheft to learn more about identity theft and how to reduce your risk.

Privacy Act Notice

Section 6109 of the Internal Revenue Code requires you to provide your correct TIN to persons (including federal agencies) who are required to file information returns with the IRS to report interest, dividends, or certain other income paid to you; mortgage interest you paid; the acquisition or abandonment of secured property; the cancellation of debt; or contributions you made to an IRA, Archer MSA, or HSA. The person collecting this form uses the information on the form to file information returns with the IRS, reporting the above information. Routine uses of this information include giving it to the Department of Justice for civil and criminal litigation and to cities, states, the District of Columbia, and U.S. commonwealths and possessions for use in administering their laws. The information also may be disclosed to other countries under a treaty, to federal and state agencies to enforce civil and criminal laws, or to federal law enforcement and intelligence agencies to combat terrorism. You must provide your TIN whether or not you are required to file a tax return. Under section 3406, payers must generally withhold a percentage of taxable interest, dividend, and certain other payments to a payee who does not give a TIN to the payer. Certain penalties may also apply for providing false or fraudulent information.



SOMERVILLE SUPPLIER DIVERSITY CERTIFICATION FORM

Background

The City of Somerville is an equal opportunity employer and encourages businesses to apply to work with the City that are representative of the City's diverse community. In an effort to increase the opportunities for disadvantaged and small businesses within Somerville and surrounding communities, the City recognizes Massachusetts' Operational Services Division's Supplier Diversity Office certification program.

Application Process

Applicable parties may learn more about the Commonwealth's supplier diversity certification process and apply here <https://www.mass.gov/supplier-diversity-office>. During the certification process, which takes approximately 30 days, the SDO investigates applicant companies to make sure they meet applicable legal requirements. Under SDO regulations, the applicant firm must prove it is at least 51% owned and dominantly controlled by adult minority, women, Portuguese, or veteran principals who are U.S. citizens or lawful permanent residents. Firms also must be ongoing and independent.

Certifications

Check all those that apply:

- Minority Business Enterprises (MBE)**
- Women Business Enterprises (WBE)**
- Veteran Business Enterprises (VBE)**
- Portuguese Business Enterprises (PBE)**
- Other** _____

The undersigned certifies that the applicant has received certification from the Massachusetts Supplier Diversity Office for the SDO category/categories listed above and has provided the City of Somerville with a copy of the SDO certification letter.

CERTIFIED BY:

Signature: _____

(Duly Authorized Representative of Vendor)

Title: _____

Name of Vendor: _____

Date: _____



SECRETARY OF THE COMMONWEALTH'S

CERTIFICATE OF GOOD STANDING

CERTIFICATE OF GOOD STANDING as provided by the Secretary of the Commonwealth

The **Awarded Vendor** must comply with our request for a **CURRENT "Certificate of Good Standing"** provided by the Secretary of the Commonwealth's Office

NOTE: A Certificate of Good Standing provided by the Department of Revenue will NOT be accepted. The Certificate *must* be provided by the Secretary of the Commonwealth's Office.

If you require information on how to obtain the "Certificate of Good Standing" or Certificate of Registration (Foreign Corporations) from the Commonwealth of Massachusetts, please call the

Secretary of The Commonwealth's Office at (617) 727-2850 (Press #1) located at One (1) Ashburton Place, 17 Floor, Boston, MA 02133 or you may access their web site at:
<http://corp.sec.state.ma.us/CorpWeb/Certificates/CertificateOrderForm.aspx>

If your company is incorporated outside of Massachusetts and therefore is a "foreign corporation", but is registered to do business in Massachusetts, please comply with our request for the Certificate of Registration from the Commonwealth of Massachusetts. If your company is a foreign corporation, but is not registered to do business in Massachusetts, please provide the Certificate of Good Standing from your state of incorporation.

Please note that without the above certificate (s), the City of Somerville cannot execute your contract.

IMPORTANT NOTICE

Requests for Certificates of Good Standing by mail may take a substantial amount of time. A certificate may be obtained immediately in person at the Secretary's Office at the address above. Also, at this time, the Secretary of State's Office may not have your current annual report recorded. If this is the case, and you are therefore unable to obtain the Certificate of Good Standing, please forward a copy of your annual report filing fee check with your signed contracts. Please forward your original Certificate of Good Standing to the Purchasing Department upon receipt.

INSURANCE SPECIFICATIONS

INSURANCE REQUIREMENTS FOR AWARDED VENDOR ONLY:

Prior to commencing performance of any work or supplying materials or equipment covered by these specifications, the contractor shall furnish to the Office of the Purchasing Director a Certificate of Insurance evidencing the following:

A. GENERAL LIABILITY - Comprehensive Form

Bodily Injury Liability.....\$ One Million

Property Damage Liability.....\$ One Million

B. PROFESSIONAL LIABILITY.....\$ 1,000,000.00

C. COVERAGE FOR PAYMENT OF WORKER'S COMPENSATION BENEFIT PURSUANT TO CHAPTER 152 OF THE MASSACHUSETTS GENERAL LAWS IN THE AMOUNT AS LISTED BELOW:

WORKER'S COMPENSATION.....\$ Statutory

EMPLOYERS' LIABILITY.....\$ Statutory

D. AUTOMOBILE LIABILITY INSURANCE AS LISTED BELOW:

BODILY INJURY LIABILITY.....\$ STATUTORY

1. A contract will not be executed unless a certificate (s) of insurance evidencing above-described coverage is attached.
2. Failure to have the above-described coverage in effect during the entire period of the contract shall be deemed to be a breach of the contract.
3. All applicable insurance policies shall read:
"CITY OF SOMERVILLE" as a certificate holder and as an additional insured for general liability only along with a description of operation in the space provided on the certificate.

Certificate Should Be Made Out To:

**City Of Somerville
c/o Purchasing Department
93 Highland Avenue
Somerville, Ma. 02143**

Note: If your insurance expires during the life of this contract, you shall be responsible to submit a new certificate(s) covering the period of the contract. No payment will be made on a contract with an expired insurance certificate.



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an **ADDITIONAL INSURED**, the policy(ies) must be endorsed. If **SUBROGATION IS WAIVED**, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER	CONTACT NAME:		
	PHONE (A/C, No. Ext):	FAX (A/C, No):	
INSURED	E-MAIL ADDRESS:		
	INSURER(S) AFFORDING COVERAGE		NAIC #
	INSURER A :		
	INSURER B :		
	INSURER C :		
	INSURER D :		
	INSURER E :		
	INSURER F :		

COVERAGES

CERTIFICATE NUMBER:

REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSR	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
	GENERAL LIABILITY <input type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC						EACH OCCURRENCE \$ DAMAGE TO RENTED PREMISES (Ea occurrence) \$ MED EXP (Any one person) \$ PERSONAL & ADV INJURY \$ GENERAL AGGREGATE \$ PRODUCTS - COMP/OP AGG \$ \$
	AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> HIRED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> NON-OWNED AUTOS						COMBINED SINGLE LIMIT (Ea accident) \$ BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$
	UMBRELLA LIAB <input type="checkbox"/> OCCUR EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE DED <input type="checkbox"/> RETENTION \$						EACH OCCURRENCE \$ AGGREGATE \$ \$
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below						<input type="checkbox"/> WC STATUTORY LIMITS <input type="checkbox"/> OTHER E.L. EACH ACCIDENT \$ E.L. DISEASE - EA EMPLOYEE \$ E.L. DISEASE - POLICY LIMIT \$

ADD "X" HERETO CERTIFY THAT THE CITY OF SOMERVILLE IS AN ADDITIONAL INSURED

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (Attach ACORD 101, Additional Remarks Schedule, if more space is required)

DESCRIPTION OF PROJECT, SOLICITATION NUMBER AND THAT THE CITY OF SOMERVILLE IS A CERTIFICATE HOLDER AND ADDITIONAL INSURED

CERTIFICATE HOLDER**CANCELLATION**

CERTIFICATES SHOULD BE MADE OUT TO:

CITY OF SOMERVILLE
c/o PURCHASING DEPARTMENT
93 HIGHLAND AVE
SOMERVILLE, MA 02143

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

APPENDIX A

City Of Somerville General Terms and Conditions – Design and Engineering Services

The City and the Design Professional Further Agree to the Following:

**ARTICLE 1
DEFINITIONS**

1.1. In General.

1.1.1. Well-known meanings. When words or phrases which have a well-known technical or construction industry or trade meaning are used herein, such words or phrases shall be interpreted in accordance with that meaning, unless otherwise stated.

1.1.2. Capitalization. The words and terms defined in this Article are capitalized in this Agreement. Other capitalized words may refer to a specific document found in the Contract Documents or may be defined in the General Terms and Conditions of the Contract.

1.1.3. Persons. Whenever the word person or persons is used, it includes, unless otherwise stated, entity or entities, respectively, including, but not limited to, corporations, partnerships, and joint venturers.

1.1.4. Singular and Plural. The following terms have the meanings indicated which are applicable to both the singular and the plural thereof.

1.2. Definitions.

1.2.1. Agreement - The Agreement is this written document between the **City** and the **Design Professional** which is titled: Agreement for Designer Services between the City of Somerville and the **Design Professional**, which is the executed portion of the Contract, and which forms a part of the Contract. The Agreement also includes all documents required to be attached thereto, including, but not limited to, certificates of insurance and all modifications of the Agreement.

1.2.2. Change Order - A Change Order is a document which is signed by the Contractor and the **City** which is directed to the Contractor and which authorizes the Contractor to make an addition to, a deletion from, or a revision in the Work, or an adjustment in the sum or in the time of the Contract issued on or after the date of the Contract.

1.2.3. Construction Cost - The Construction Cost is the total cost or estimated cost to the **City** of all elements of the Project designed or specified by the **Design Professional**. The Construction Cost shall include the cost of labor at current prevailing wage rates established by the Commonwealth and furnished by the **City** (or, if applicable, current Davis Bacon wage rates established by the federal government and furnished by the **City**), materials and equipment designed, specified, selected, or specially provided for by the **Design Professional**, plus a reasonable allowance for overhead and profit. In addition, a reasonable allowance for contingencies shall be included for market conditions at the time of bidding and for changes in the Work during construction. Construction Cost does not include the compensation of the **Design Professional** and the **Design Professional's** consultants, the costs of the land, rights-of-way, financing, or other costs which are the responsibility of the **City** as provided herein.

1.2.4. Construction Documents - The Construction Documents consist of Plans and Specifications setting forth in detail the requirements for the construction of the Project.

1.2.5. Contract Documents - The Contract Documents consist of the Agreement between the City and the Contractor; the notice of award of the Contract; the Notice to Proceed; the entire Project Manual; Change Orders; Work Change Directives; the Contractor's Bid and all accompanying documents; and the **Design Professional's** written interpretations and clarifications issued on or after the issuance of the Notice to Proceed.

1.2.6. Contract - The Contract consists of all the Contract Documents.

1.2.7. Contractor - The Contractor is the person who is awarded the construction contract for the Project pursuant to M.G.L. c. 149, §§44A-H, inclusive, or M.G.L. c. 30, §39M, and is identified in the Agreement as such. The term "Contractor" is intended to include the Contractor as well as its authorized representative(s).

1.2.8. General Terms And Conditions Of The Contract - General Terms and Conditions of the Contract refers to the General Terms and Conditions of the Contract between the City and the Contractor.

1.2.9. Product Data - Product Data are illustrations, standard schedules, performance charts, instructions, brochures, diagrams, and other information furnished by the Contractor to illustrate materials or equipment for

some portion of the Work.

1.2.10. Project - The Project is the total construction of which the Work to be provided under the Contract Documents may be the whole or a part of the Project as indicated elsewhere in the Contract Documents and may include construction by the **City** or by separate contractors. The Project is the Work described in the invitation to bid and Specifications, and illustrated by the Plans.

1.2.11. Proposed Change Order - A Proposed Change Order is a Change Order that has not been approved by the **City**.

1.2.12. Reimbursable Expenses - Reimbursable Expenses are in addition to compensation for Basic and Additional Services and include expenses incurred by the **Design Professional** in the interest of the Project, as identified by the following: long distance calls and faxes; fees paid for securing approval of authorities having jurisdiction over the Project; reasonable expense of reproduction necessary for the rendition of services hereunder, which expense shall not include the expense of producing the sets of documents referred to in the Schematic Design Phase, the Design Development Phase, and the Construction Document Phase herein, as these expenses are covered in the **Design Professional's** compensation for Basic Services; expense of postage and such other expenses incurred in connection with the Project when specifically authorized in advance in writing by the **City**. Payment for photocopying letter or legal size documents shall not exceed 10¢ per page. Payment for all other documents shall be at cost. Sales tax is not a reimbursable expense. The **City's** tax-exempt number is E04-600-1414.

1.2.13. Samples - Samples are physical examples of materials, equipment, or workmanship that are representative of some portion of the Work and which establish the standards by which such portion of the Work will be judged.

1.2.14. Shop Drawings - Shop Drawings are all drawings, diagrams, illustrations, schedules, and other information, which are specifically prepared or assembled by or for the Contractor and submitted by the Contractor to illustrate some portion of the Work.

1.2.15. Statement of Probable Construction Costs - The Statement of Probable Construction Costs is a preliminary, detailed estimate of Construction Cost based on current area, volume, or other unit costs. Such estimate shall indicate the cost of each category of work involved in constructing the Project (including, but not limited to, filed sub-trades) and shall establish the period of time for each category from the commencement to the completion of the construction of the Project. The detailed estimate shall include quantities of all materials and unit prices of labor and material, as well as a cost estimate containing individual line items for each item of work.

1.2.16. Substantial Completion - Substantial Completion means that the Work has been completed and opened to public use, except for minor incomplete or unsatisfactory items that do not materially impair the usefulness of the Work. The **Design Professional** shall decide what constitutes "minor," "incomplete," "unsatisfactory," and "materially" and the **Design Professional's** decision shall be final.

1.2.17. Work Change Directive - A Work Change Directive is a written directive to the Contractor issued on or after the date of the contract between the **City** and the Contractor and signed by the **City** and recommended by the **Design Professional** ordering an addition to, a deletion from, or a revision in the Work.

1.2.18. Work - The Work means the construction and services required by the Construction Documents, whether completed or partially completed, and includes all other labor, materials, equipment, and services provided or to be provided by the Contractor to fulfill its obligations. The Work may constitute the whole or a part of the Project.

ARTICLE 2

THE DESIGN PROFESSIONAL'S RESPONSIBILITIES

2.1. STANDARD OF PERFORMANCE. The Design Professional shall perform the services under this Agreement with the skill, care, and diligence in accordance with the high level of professional standards prevailing in the greater Boston area for the type of construction required herein. All of the **Design Professional's** services under this Agreement shall be performed as expeditiously as is consistent with such standards. The **Design Professional** shall be responsible in accordance with those standards for the adequacy, safety, and overall integrity of the Project's design, including, but not limited to, the Design architectural or landscape architectural (or both if applicable), structural, mechanical, and electrical design of the Project.

2.2. SCHEDULE OF PERFORMANCE. The approved schedule for the performance of the **Design Professional's** services is attached hereto as APPENDIX A. Time is of the essence and time periods established by the attached APPENDIX A shall not be exceeded by the **Design Professional** except for delays due to causes outside the **Design Professional's** control (which term shall not include staffing problems, insufficient financial resources, consultant's default, or negligent errors or omissions on the part of either the **Design Professional** or any of its consultants).

2.3. TIMELINESS OF INTERPRETATIONS, CLARIFICATIONS, AND DECISIONS. With regard to all phases of this Agreement, the **Design Professional** shall render interpretations, clarifications, and decisions in a timely manner pertaining to documents submitted by the **City** or the Contractor in order to avoid unreasonable delay in the orderly and sequential progress of the **Design Professional's** services.

2.4. RELATIONSHIP WITH THE CITY. For the purposes of this Agreement, the **Design Professional** shall be a representative of the **City** and shall advise and consult with the **City** until the termination of the Contractor's warranty and correction period.

ARTICLE 3

SCOPE OF THE DESIGN PROFESSIONAL'S BASIC SERVICES

3.1. IN GENERAL.

3.1.1. The **Design Professional's** Basic Services shall consist of:

3.1.1.1. those services identified below within the different phases;

3.1.1.2. any other professional services which are reasonably necessary as determined by the **City** for the design and administration of construction of the Project, including, without limitation, the following:

3.1.1.2.1. for public building projects, all surveys (unless provided by the **City**), geotechnical services, testing services, and related information and reports reasonably required by the Project, geotechnical and civil engineers; landscape architect; independent cost estimator; fire protection, life safety, lighting, interior design, asbestos removal, and movable equipment consultants; and normal structural, mechanical, electrical, and any other engineering services necessary to produce a complete and accurate set of Construction Documents (the cost for any and all professional services is not subject to profit adjustments);

3.1.1.2.2. for park/playground projects, all surveys (unless provided by the **City**), lighting consultants, independent cost estimators (if specified in the RFP) and normal structural, mechanical, electrical, and any other engineering services necessary to produce a complete and accurate set of Construction Documents (the cost for any and all professional services is not subject to profit adjustments);

3.1.1.2.3. for roadway, bridge, and other public works projects other than park/playground projects, all surveys (unless provided by the **City**), geotechnical services, testing services, and related information and reports reasonably required by the Project, geotechnical and civil engineers; independent cost estimators; fire protection, life safety, and lighting consultants; and normal structural, mechanical, electrical, and any other engineering services necessary to produce a complete and accurate set of Construction Documents (the cost for any and all professional services is not subject to profit adjustments).

3.1.1.3. attending and providing testimony at any formal or informal hearings related to the Project, including, but not limited to, bid protest hearings and Board of Aldermen meetings, if deemed necessary by the **City**. If the **Design Professional** is called as a witness in a court of competent jurisdiction in a matter in which the **Design Professional** is a named party, the **Design Professional** will not be additionally compensated. If the **Design Professional** is called by the **City** as a witness in a matter in a court of competent jurisdiction in which the **Design Professional** is not a named party, the **Design Professional** will be compensated according to APPENDIX B attached hereto;

3.1.1.4. preparing for and appearing on the **City's** behalf at all administrative or regulatory hearings, presentations, or conferences with respect to any zoning, building code, urban renewal, or other matters in connection with the Project, including, without limitation, any hearings, presentations, or conferences

with any City, State, or Federal agencies or officials and any neighborhood groups. The **Design Professional's** obligations under this paragraph shall include preparing plans and other materials reasonably required in connection with any such hearings, presentations, and conferences;

3.1.1.5. assisting the **City** in connection with the **City's** responsibility for filing documents required for the approval of governmental authorities having jurisdiction over the Project. The **Design Professional** shall prepare the Plans and Specifications required in order to obtain approval of, and in accordance with, all requirements of all governmental agencies having jurisdiction over the Project. Any Plans and Specifications furnished by the **Design Professional** which are discovered to be defective during any Phase will be promptly corrected by the **Design Professional** at no cost to the **City**, and the **Design Professional** will promptly reimburse the **City** for all damages, if any, resulting from the use of such defective Plans and Specifications. The **City's** approval, acceptance, use of or payment for all or any part of the **Design Professional's** services shall in no way alter the **Design Professional's** obligations or the **City's** rights hereunder; and

3.1.1.6. all design and redesign services required within or between the Design Development Phase and the Construction Documents Phase to keep the Construction Cost of the Project within the fixed limit of Construction Cost.

3.1.2. As part of the Basic Services, the **Design Professional** shall prepare record drawings in accordance with the following:

3.1.2.1. Record Keeping.

As the Construction Phase progresses, the **Design Professional** shall work with the Contractor to maintain four separate sets of in-progress record drawings (blue-line or black-line) at the Site, one set each for mechanical, electrical, irrigation, and structural disciplines, as needed. All deviations from the Construction Documents and the exact locations of the Work as installed and constructed shall be neatly and accurately indicated. Work completed to date shall be colored and highlighted.

3.1.2.2. Permanent Record Drawing Preparation.

The **Design Professional** shall transfer the information contained on the in-progress record drawings to update the original contract drawings. All work shall be performed by experienced and knowledgeable draftspersons using the same standards and quality of drafting as used on the original drawings.

3.1.2.3. Review of Record Drawings at Substantial Completion.

Upon Substantial Completion of the Work or portions thereof, the **Design Professional** of record shall review and approve the above permanent record drawings.

3.1.2.4. Submission to the **City**.

The following shall be submitted to the **City** no later than the date of Substantial Completion:

3.1.2.4.1 A complete set of original Construction Documents on Bond Paper and also on disk in AutoCad format.

3.1.2.4.2 Permanent record drawings as described above on Bond Paper with the seal of the **Design Professional** of record.

3.1.2.4.3 Four sets of in-progress record drawings.

3.2. SCHEMATIC DESIGN PHASE.

3.2.1. Commencement. The Schematic Design Phase begins upon the full execution of this Agreement.

3.2.2. Written Program. The **Design Professional** in consultation with the **City** and any other persons designated by the **City** shall develop a written program for the Project to ascertain the **City's** needs and to establish the requirements of the Project.

3.2.3. Preliminary Evaluation. The **Design Professional** shall provide a preliminary evaluation of the **City's** program, schedule, and construction budget requirements, each in terms of the other.

3.2.4. Alternative Approaches. The **Design Professional** shall review with the **City** alternative approaches to the design and construction of the Project.

3.2.5. Schematic Design Documents. The **Design Professional** shall prepare, for approval by the **City**, Schematic Design Documents consisting of drawings and other documents illustrating the scale and relationship of Project components. Based upon the program approved by the **City**, as well as schedule and construction

budget requirements, the Schematic Design Documents shall comply with all applicable laws, statutes, ordinances, codes, orders, rules, and regulations.

3.2.6. Independent Cost Estimators. As part of the Basic Services and when requested by the **City**, the **Design Professional** shall retain the services of an independent cost estimator whose responsibilities shall include without limitation all cost estimates described in this Agreement, estimates of the cost of Proposed Change Orders and assistance in establishing a Change Order budget, and review and confirmation of the Contractor's cost estimates.

3.2.7. Statement of Probable Construction Costs. The **Design Professional** shall submit to the **City** a Statement of Probable Construction Costs.

3.2.8. Life-Cycle Cost Estimates. If this Agreement includes Design Professional services necessary for the preliminary design of a new building or for the modification or replacement of an energy system in an existing building, life-cycle cost estimates for the Project shall be obtained at an initial stage and as a Basic Service. (*Reference: M.G.L. c. 149, §44M*).

3.2.8 SUSTAINABLE DESIGN CRITERIA. INSERT REQUIREMENTS AS TO SUSTAINABLE DESIGN. If applicable, See RFP.

3.3. DESIGN DEVELOPMENT PHASE.

3.3.1. Commencement. The Design Development Phase begins upon the **City's** written approval of the **Design Professional's** Schematic Design Documents.

3.3.2. Preparation of Design Development Documents. Based on the approved Schematic Design Documents and any adjustments authorized by the **City** in the program, schedule, or construction budget, the **Design Professional** shall prepare, for approval by the **City**, Design Development Documents consisting of drawings and other documents to fix and describe the size and character of the Project as to appropriate architectural, landscape architectural, structural, mechanical, and electrical systems; materials; and such other elements as may be appropriate. The Design Development Documents shall be complete and unambiguous and shall comply with all applicable laws, statutes, ordinances, codes, orders, rules, and regulations.

3.3.3. Adjustment to Statement of Probable Construction Cost. The **Design Professional** shall advise the **City** in writing of any adjustments to the Statement of Probable Construction Cost prior to the commencement of the Construction Document Phase. The approved adjustment of the Statement of Probable Construction Cost or the Statement of Probable Construction Cost, if there is no adjustment, shall constitute a fixed limit of Construction Cost as that term is used herein. Such fixed limit, once established, shall be adjusted only by written agreement of the **City** and the **Design Professional**, or as otherwise provided herein.

3.4. CONSTRUCTION DOCUMENT PHASE.

3.4.1. Commencement. The **Design Professional's** responsibility to provide Basic Services for the Construction Document Phase under this Agreement commences with the **City's** acceptance and approval of the Design Development Documents and ends on the date the Bidding and Award Phase commences.

3.4.2. Preparation of Plans and Specifications. Based on the approved Design Development Documents and any further adjustments in the scope or quality of the Project or in the construction budget authorized by the **City**, the **Design Professional** shall prepare, for approval by the **City**, Plans and Specifications setting forth in detail the requirements for the construction of the Project.

3.4.3. Preparation of Additional Bidding Information. The **Design Professional** shall assist the **City** in preparing the bidding documents when requested by the **City**.

3.4.4. City-Generated Forms and Documents. The **City** shall provide the **Design Professional** with copies of all **City**-generated forms and documents intended to be included in the Project Manual. The **Design Professional** will include these forms and documents in its Project Manual. It is the responsibility of the **Design Professional** to ensure that all such documents are included in the final Project Manual. Any costs incurred as a result of the failure of the **Design Professional** to include any such documents will be borne by the **Design Professional** and not charged to the **City**, where such failure is the fault of the **Design Professional**. The **Design Professional** may propose changes to these **City**-generated forms and documents; however, implementation of such changes are subject to the unilateral approval of the **City**. No changes may be made to such documents without the prior

written consent of the **City**. The **Design Professional** shall prepare and submit to the **City** for approval the entire Project Manual. The **Design Professional** is responsible for ensuring that the Construction Documents comply with all statutory requirements.

3.4.5. Addenda. All addenda shall be issued by the Contracting Department; however, at the Contracting Department's sole discretion, the **Design Professional** may be called upon to prepare a draft of any such addenda. Any corrections to the Construction Documents, which require an addendum, will be made by the **Design Professional** at no charge to the **City**.

3.4.6. Printing of Project Manual. The **Design Professional** must provide the **City** with a final draft of the Project Manual and obtain approval from the **City** prior to printing. The **Design Professional** will be responsible for the printing of the Project Manuals unless the **City** instructs the Design Professional otherwise. The cost of producing such Project Manuals will be passed onto the **City** at cost. Any changes required to be made to the Construction Documents as a result of errors by the **Design Professional** or persons within its control will be promptly corrected at no cost to the **City**. The **Design Professional** shall make its best efforts to print Project Manuals on paper containing a minimum of twenty percent (20%) post consumer content.

3.4.7. Packaging the Project Manual. The **Design Professional** will require the printer of the Project Manual to wrap each set of Plans in a brown wrapper, or, if the Plans are small in number, fold each set of Plans and insert one set into each Project Manual.

3.4.8. Delivery of Project Manual. The **Design Professional** will use its best efforts to ensure that the Contracting Department receives the number of Project Manuals requested by the Contracting Department no later than 3:00 p.m. on the day prior to the first day of advertisement of the Invitation to Bid.

3.4.9. Adjustment to Statement of Probable Construction Cost. The **Design Professional** shall advise the **City** in writing of any adjustments to Statement of Probable Construction Cost indicated by changes in requirements or general market conditions.

3.5. BIDDING AND AWARD PHASE.

3.5.1. Commencement. The Bidding and Award Phase commences on the date the Invitation to Bid is first advertised pursuant to M.G.L. c. 149, §44J, or M.G.L. c. 30, §39M, and ends on the date the Construction Phase begins.

3.5.2. Additional Bidders. The **Design Professional** shall assist the **City** in obtaining bids if, in the opinion of the Contracting Department, an insufficient number of persons requested the Project Manual. The **Design Professional** will notify "eligible" and "responsible" persons (as those terms are defined in the M.G.L. c. 149, §44A and referred to in M.G.L. c. 30, §39M) of the Invitation to Bid.

3.5.3. When Lowest Bid Exceeds Total Construction Cost. If the lowest bona fide bid by a Contractor exceeds the total construction cost of the Project as set forth in the approved Statement of Probable Construction Costs by more than ten percent (10%), then upon the request of the **City**, the **Design Professional** will revise the Plans and Specifications in consultation with the **City** to reduce or modify the quality or quantity, or both, of the Work so that the total construction cost of the Project will not exceed the total construction cost set forth in the Statement of Probable Construction Costs by more than ten percent (10%). All revisions pursuant to this paragraph shall be at the **Design Professional's** sole cost and expense (which cost and expense include, but are not limited to the **Design Professional's** time, the cost of reprinting the Project Manual, and the cost of re-advertisement of the Project).

3.5.4. Pre-Bid Conferences. The **Design Professional** shall attend all pre-bid conferences.

3.5.5. Investigation of Bidders. The **Design Professional** shall investigate, at minimum, the lowest Bidder. The investigation shall include, but is not limited to, reviewing the files maintained by the Division of Capital Asset Management, or any other governmental agency charged with maintaining such documents related to such Bidder, telephoning or writing owners of the Bidder's prior projects, telephoning or writing Design Professionals from such prior projects, visiting the sites of such other projects and checking all other appropriate references. The **Design Professional** shall provide the **City** with a detailed letter of approval or disapproval of such Bidder. The letter must include relevant language from the appropriate state laws regarding the eligibility and responsibility of Bidders (i.e., M.G.L. c.149, §44A(1), M.G.L. c. 30, §39M(c), or, if appropriate, M.G.L. c. 29, §29F). If the **Design Professional** disapproves of the lowest Bidder, then the **Design Professional** must investigate the next lowest Bidder in the same manner described above, and continue to investigate each

successive low Bidder until a Bidder is approved. For every Bidder investigated, the **Design Professional** must provide the **City** with a detailed letter as described above.

3.5.6. Preparation of Contract. To the extent required, the **Design Professional** shall assist the Contracting Department in the preparation of the construction contract.

3.6. CONSTRUCTION PHASE-- ADMINISTRATION OF THE CONSTRUCTION CONTRACT.

3.6.1. Commencement. The Construction Phase commences with the full execution of the contract for construction and terminates on the date of expiration of all of the guarantees and warranties provided by the Contractor to the **City**.

3.6.2. Change in Design Professional's Duties, Etc. Construction Phase duties, responsibilities, and limitations of authority of the **Design Professional** shall not be extended without written agreement of the **City** and the **Design Professional**. Any restrictions or modifications to the **Design Professional's** duties and responsibilities can be imposed by the **City** without the consent of the **Design Professional**.

3.6.3. Pre-construction Conferences. The **Design Professional** shall attend all pre-construction conferences.

3.6.4. Site Visits. The **Design Professional** shall visit the Site at intervals appropriate to the stage of construction, but no less than once a week, or as otherwise agreed by the **City** and the **Design Professional**, to become familiar with the progress and quality of the Work and to determine with care if the Work is proceeding in accordance with the requirements of the Contract Documents. The **Design Professional** shall cause its engineering and other consultants to make similar Site visits, at such times as may be required for observation of portions of the Work designed and/or specified by them. The **Design Professional** shall not be required to make continuous on-site inspections to check the quality or quantity of the Work. The **Design Professional** shall promptly submit to the **City** a detailed written report subsequent to each on-site visit, which shall include any observation of material deviations by the Contractor or subcontractors from the requirements of the Contract Documents.

3.6.5. Job Meetings. There shall be no less than one job meeting per week. The **Design Professional** shall attend all job meetings. The number of meetings per week will depend on the complexity of the Project at a particular stage, the problems encountered on the Project, or the **City's** request that additional meetings be held. The **Design Professional** shall also be required to be present when governmental authorities having jurisdiction over the Project visit the Site to inspect the Work. The **Design Professional** will exercise good care and diligence in discovering and promptly reporting to the **City**, as well as to the Contractor, any defects or deficiencies in the Work.

3.6.6. Construction Means, Methods, Etc. The **Design Professional** shall not have control over or charge of and shall not be responsible for construction means, methods, techniques, sequences, or procedures, or for safety precautions and programs in connection with the Work. However, the **Design Professional** shall promptly report to the **City** any perceived irregularities.

3.6.7. Contractor's Schedule. Except as otherwise provided in this Agreement, the **Design Professional** shall not be responsible for the Contractor's schedules or failure to carry out the Work in accordance with the Contract Documents, except to the extent that such failure is caused by the **Design Professional**. Except as otherwise provided in this Agreement, the **Design Professional** shall not have control over or charge of acts or omissions of the Contractor, its Subcontractors, or their agents or employees, or of any other persons performing portions of the Work. However, nothing in this paragraph shall relieve the **Design Professional** of its obligations to the **City** elsewhere in this Agreement. The **Design Professional** shall review all schedules presented by the Contractor and advise the **City** as to the appropriateness of same.

3.6.8. Communications. The **City** and the Contractor may communicate through the **Design Professional**. Communications by and with the **Design Professional's** consultants shall be through the **Design Professional**, unless the **City** deems it necessary or expedient to speak directly to the consultants.

3.6.9. Applications and Certifications for Payment. Based on the **Design Professional's** observations of the Work and evaluations of the Contractor's applications for payment, the **Design Professional** shall review and certify the appropriate amounts due the Contractor within five (5) business days after receipt of the Contractor's application for payment, and such certifications shall be in the form requested by the **City**. The **Design Professional's** certification for payment shall constitute a representation to the **City** based on the **Design Professional's** observations at the site and on the data comprising the Contractor's application for payment that

the Work has progressed to the point indicated and the quality of Work is in accordance with the Contract Documents. The foregoing representations are subject to minor deviations from the Contract Documents correctable prior to completion and to specific qualifications expressed by the **Design Professional**. The **Design Professional** is required to review and validate the certified payrolls. The **Design Professional** is required to reconcile the applications for payment with the certified payrolls. The issuance of a certificate for payment shall further constitute a representation that the Contractor is entitled to payment in the amount certified. Timely payment of Contractor is required by M.G.L. c. 30, §39K; therefore, the **Design Professional** shall establish office procedures assuring either immediate mail or messenger delivery of the approved applications for payment to the **City**. Notwithstanding the foregoing, the Mayor's Office of Strategic Planning and Community Development (SPCD) shall be responsible for monitoring and certifying construction payrolls for compliance with prevailing wage requirements (a) if the Contract is a federally funded contract subject to federal Davis Bacon and Related Acts; and/or (b) if SPCD is the Contracting Department.

3.6.10. Rejection of Work. The **Design Professional** shall have the responsibility, obligation, and authority to reject Work which (1) does not conform to the Contract Documents; or (2) the **Design Professional** believes to be defective; or (3) the **Design Professional** believes will not produce a completed Project that conforms to the Contract Documents or that will prejudice the integrity of the design concept of the completed Project as a functioning whole as indicated by the Contract Documents. The **Design Professional** shall promptly notify the **City** of such rejection. Whenever the **Design Professional** considers it necessary or advisable for implementation of the intent of the Contract Documents, the **Design Professional** will have the responsibility, obligation, and authority to require additional inspection or testing of the Work in accordance with the provisions of the Contract Documents, whether or not such Work is fabricated, installed, or completed; provided, however, the **Design Professional** must obtain the **City's** prior written approval of any such special inspection or testing. However, neither this authority of the **Design Professional** nor a decision made in good faith either to exercise or not to exercise such authority shall give rise to a duty or responsibility of the **Design Professional** to the Contractor, Subcontractors, Suppliers, other persons performing portions of the Work.

3.6.11. Submittals. The **Design Professional** shall review and approve or take other appropriate action upon the Contractor's submittals such as Proposed Change Orders, Shop Drawings, Product Data, and Samples, for the purpose of: (a) determining compliance with applicable laws, statutes, ordinances, codes, orders, rules, and regulations; and (b) determining whether the Work, when completed, will be in compliance with the requirements of the Contract Documents. The **Design Professional's** action shall be taken with such reasonable promptness as to cause no delay in the Work taking into account the time periods set forth in the latest schedule prepared by the Contractor and approved by the **Design Professional** and, in any event, such action shall be taken within fourteen (14) days after submittal to the **Design Professional**. The **Design Professional** shall indemnify the **City** for any monies paid by the **City** to the Contractor as a result of the **Design Professional's** delay in taking appropriate action, as described above, where such delay is not caused in any part by the **City**. Review of such submittals is not conducted for the purpose of determining the accuracy and completeness of other details such as dimensions and quantities or for substantiating instructions for installation or performance of equipment or systems designated by the Contractor, all of which remain the responsibility of the Contractor to the extent required by the Contract Documents. The **Design Professional's** review shall not constitute approval of safety precautions or, unless otherwise specifically stated by the **Design Professional**, of construction means, methods, techniques, sequences, or procedures. The **Design Professional's** approval of a specific item shall not indicate approval of an assembly of which the item is a component. When professional certification of performance characteristics of materials, systems, or equipment is required by the Contract Documents, the **Design Professional** shall be entitled to rely upon such certification to establish that the materials, systems, or equipment will meet the performance criteria required by the Contract Documents.

3.6.12. Change Orders and Work Change Directives. The **Design Professional** shall prepare Change Orders and Work Change Directives, with supporting documentation and data if deemed necessary by the **Design Professional** for the approval and execution in accordance with the Contract Documents, and may authorize minor changes in the Work not involving an adjustment in the Contract Sum or an extension of the Contract Time (which is the time in which the Work reaches final completion) and which are not inconsistent with the intent of the Contract Documents.

3.6.13. Interpretations, Clarifications, and Decisions of the Design Professional.

3.6.13.1. The **Design Professional** will interpret, clarify, and decide matters concerning performance under and requirements of the Contract Documents on written request of either the **City** or the Contractor. The **Design Professional's** response to such requests will be made with reasonable promptness and within the time set forth herein. Any such written interpretations, clarifications, or decisions shall be binding on the **City** and the Contractor. Interpretations, clarifications, and decisions of the **Design Professional** shall be consistent with the intent of and reasonably inferable from the Contract Documents and shall be in writing or in the form of drawings. The **Design Professional** may, as the **Design Professional** judges desirable, issue additional drawings or instructions indicating in greater detail the construction or design of the various parts of the Work; such drawings or instructions may be effected by a Field Order or other notice to the Contractor, provided such drawings or instructions are reasonably consistent with the previously existing Contract Documents. The **Design Professional** shall not be liable for results of interpretations, clarifications, and decisions so rendered in good faith and in the absence of negligence by the **Design Professional**.

3.6.13.2. Time Limit for Rendering Decisions. The **Design Professional** shall render written interpretations, clarifications, and decisions within a reasonable time, but in no event more than seven (7) days after receipt of same.

3.6.14. Aesthetic Effect. The **Design Professional's** decisions on matters relating to aesthetic effect must be consistent with the **City's**. The **Design Professional** shall advise the **City** in matters relating to aesthetic effect; however, the **City's** decision in these matters shall be final.

3.6.15. Claims.

3.6.15.1. Initial Referral. All Claims, the bases of which arise prior to final payment or the earlier termination of the Contract, shall be referred initially to the **Design Professional** for action as provided herein.

3.6.15.2. Time Period and Action. The **Design Professional** shall review Claims and shall do one of the following within seven (7) days of receipt of the Claim:

3.6.15.2.1. defer any action with respect to all or any part of a Claim for the purpose of requesting and receiving additional information from either party;

3.6.15.2.2. decline to render a decision for any reason which it deems appropriate (including, but not limited to, the fact that the Claim involves allegations of fault on the part of the **Design Professional**); or

3.6.15.2.3. render a decision on all or a part of the Claim.

If the **Design Professional** requests additional information, the **Design Professional** shall take action with respect to the Claim no later than seven (7) days after receipt of the additional information. The **Design Professional** shall notify the parties in writing of its disposition of such Claim. If the **Design Professional** decides that the Work relating to such Claim should proceed regardless of its disposition of such Claim, the **Design Professional** shall issue to the Contractor a written order to proceed.

3.6.15.3. Decisions.

3.6.15.3.1. Decisions by the City or the Design Professional. (*Reference: M.G.L. c. 30, §39P*). In every case in which this Contract requires the **City**, any official, or its **Design Professional** to make a decision on interpretation of the Specifications, approval of equipment, material or any other approval, or progress of the Work, the decision shall be made promptly and, in any event, no later than seven (7) days after the written submission for decision; but if such decision requires extended investigation and study, the **City**, the official, or the **Design Professional** shall, within seven (7) days after the receipt of the submission, give the party making the submission written notice of the reasons why the decision cannot be made within the seven-day period and the date by which the decision will be made.

3.6.15.4. Resolved Claims. If a Claim is resolved, the **Design Professional** shall obtain or prepare the appropriate documentation and provide the **City** and the Contractor with a copy of same.

3.6.16. Determination of Substantial and Final Completion. On behalf of the **City**, the **Design Professional** shall conduct inspections, determine the dates of Substantial Completion and final completion, and shall issue a certificate of Substantial Completion, with the prior written consent of the **City**. Such inspections shall include a reasonable number of Site visits by the **Design Professional** and the **Design Professional's** engineering

consultants. The **Design Professional** shall provide to the **City** a written report of all findings with recommendations for appropriate action. The **Design Professional** will receive and review (and approve or disapprove, as the case may be) written guarantees, operating manuals, spare parts lists, value charts, and related documents required by the Contract Documents to be assembled by the Contractor. When the **Design Professional** is satisfied that all such documents are complete as required by the Contract Documents, the **Design Professional** shall issue a final certificate of payment.

3.6.17. Inspection Prior to End of Guarantee Period. Notwithstanding any other provision in this Agreement, at least thirty (30) days prior to the expiration of the Contractor's guarantee period, the **Design Professional** shall assist the **City** in inspecting the Project at the **City's** request and provide to the **City** a written report of all findings with recommendations for appropriate action. Such inspections shall include a reasonable number of Site visits by the **Design Professional** and the **Design Professional's** engineering consultants.

3.6.18. Certificate of Occupancy. The **Design Professional** shall be responsible for satisfying any and all requirements with respect to services of an Design Professional necessary to obtain a permanent certificate of occupancy under the Commonwealth of Massachusetts State Building Code.

3.6.19. Limitation on the Design Professional's Responsibilities.

3.6.19.1. Neither the **Design Professional's** authority to act under the provisions of the Contract Documents nor any decision made by the **Design Professional** in good faith to exercise or not to exercise such authority shall give rise to any duty or responsibility of the **Design Professional** to the Contractor, any Subcontractor, any Supplier, any surety for any of them, or any other person.

The **Design Professional** will not have control over or charge of and will not be responsible for construction means, methods, techniques, sequences, or procedures, or for safety precautions and programs in connection with the Work, since these are solely the Contractor's responsibility as provided in Article 5 of the General Terms and Conditions. The **Design Professional** will not be responsible for the Contractor's failure to carry out the Work in accordance with the Contract Documents. The **Design Professional** will not have control over or charge of and will not be responsible for acts or omissions of the Contractor, Subcontractors, Suppliers, or of any other persons performing portions of the Work.

ARTICLE 4

DESIGN PROFESSIONAL'S ADDITIONAL SERVICES

4.1. IN GENERAL. The services described hereunder shall be paid for by the **City** in addition to the compensation for Basic Services. Prior to performing any service which the **Design Professional** claims to be an Additional Service, the **Design Professional** shall notify the **City** in writing that the service is an Additional Service, and shall provide with such notice an estimate of the additional compensation which will be payable to the **Design Professional** for performing such service. Such service shall not be performed, nor shall such estimate be exceeded, without the **City's** prior written approval. Failure to so notify the **City** and obtain the **City's** written approval shall constitute a waiver of the **Design Professional's** claim for additional compensation on account of such services. These services shall be provided only if authorized or confirmed in writing by the **City**. Notwithstanding anything to the contrary in this Agreement, the **City** shall not be responsible to pay and the **Design Professional** shall not be entitled to receive compensation for any additional service if such service was required due to the fault of the **Design Professional** or the **Design Professional's** failure to perform in accordance with the terms of this Agreement. Neither the **Design Professional** nor its consultants shall be compensated for any services involved in preparing changes that are required for additional Work that should have been anticipated by the **Design Professional** in the preparation of the Construction Documents, as reasonably determined by the **City**.

4.2. LIST OF ADDITIONAL SERVICES. The following list of Additional Services is intended to be illustrative and not considered all inclusive.

4.2.1. Making major revisions in Plans, Specifications, or other documents when such major revisions are:

4.2.1.1. inconsistent with approvals or instructions previously given by the **City**, including revisions made necessary by adjustments in the **City's** program or project budget;

4.2.1.2. required by the enactment or revision of codes, laws, or regulations subsequent to the preparation of such documents; or

4.2.1.3. due to changes required as a result of the **City's** failure to render decisions in a timely manner and where such failure is in no way caused by the **Design Professional**.

4.2.2. Providing services required because of major changes in the Project instigated by the **City**.

4.2.3. Undertaking material design work requested by the **City** in connection with Change Orders, Construction Change Directives, and the Contractor's value engineering proposals, provided that evaluation and judgments of the proposed changes and value engineering substitutions shall be provided as a Basic Service.

4.2.4. Providing consultation concerning replacement of Work damaged by fire or other cause during construction, and furnishing services required in connection with the replacement of such Work; provided, however, that such services are not required as a result of the negligence of the **Design Professional**.

Design Professional shall provide the City with a Maintenance Manual for the project. The manual shall be used by the Somerville Department of Public Works staff as a scheduling and procedural guideline for maintaining all aspects of the Park, including but not limited to plantings, turf, irrigation systems, water features, surfaces, fencing, and all park amenities.

A basic electronic template for the manual shall be provided to the Design Professional by the City. The manual will be reviewed and approved by the City's project representative before final acceptance.

The final version will be provided to the City as a three ring binder and a CD. The manual shall be clearly organized and labeled, and shall include a recommended schedule for all maintenance work.

4.2.6 Providing any other services not otherwise included in this Agreement.

ARTICLE 5

OTHER CONDITIONS OR SERVICES

5.1. OTHER SERVICES. Any other services which are part of Basic Services are set forth in APPENDIX A.

5.2. HAZARDOUS MATERIALS. Unless otherwise provided in this Agreement, the **Design Professional** and the **Design Professional's** consultants shall have no responsibility for the discovery, presence, handling, removal, or disposal of, or exposure of persons to hazardous materials in any form at the Project Site, including, but not limited to, asbestos, asbestos products, polychlorinated biphenyl, or other toxic substances, provided, however, the **Design Professional** shall report to the **City** the presence and location of any hazardous material observed by the **Design Professional** (or any material suspected to exist) or that an design professional of similar skill and expertise should have observed.

ARTICLE 6

THE CITY'S RESPONSIBILITIES

6.1. REQUIREMENTS FOR THE PROJECT. The **City** shall consult with the **Design Professional** regarding requirements for the Project, including the **City's** contemplated objectives, schedule, constraints, and criteria, including space requirements and relationships, flexibility, expandability, special equipment, systems, and site requirements.

6.2. BUDGET. The **City** shall consult with the **Design Professional** in order to establish and update an overall budget for the Project, including the Construction Cost, the **City's** other costs and reasonable contingencies related to all of these costs.

6.3. AUTHORIZED REPRESENTATIVE The **City** shall designate a representative authorized to act on the **City's** behalf with respect to the Project. The **City** or such authorized representative shall render decisions in a timely manner pertaining to documents submitted by the **Design Professional** in order to avoid unreasonable delay in the orderly and sequential progress of the **Design Professional's** services.

6.4. CONSULTANTS. The **City** shall furnish the services of consultants not listed in the advertisement for the Request for Proposals when the **City** deems such services to be necessary.

6.5. FURNISHING INFORMATION OR SERVICES. Notwithstanding anything to the contrary written herein, the **City** shall only furnish information or services described in herein to the extent that any such information or service is reasonably required by the **Design Professional** to perform its services under this Agreement. The **Design Professional** shall review and confirm the sufficiency of any test and information furnished to the **Design Professional** by or on behalf

of the City pursuant to this section.

6.6. NOTICE OF FAULT OR DEFECT. The City shall give prompt written notice to the **Design Professional**, if the City becomes aware of any fault or defect in the Project or nonconformance with the Contract Documents.

ARTICLE 7

USE OF THE DESIGN PROFESSIONAL'S PLANS, SPECIFICATIONS, AND OTHER DOCUMENTS

7.1. IN GENERAL. The Plans, Specifications, and other documents prepared by the **Design Professional** for this Project are instruments of the **Design Professional's** service for use solely with respect to this Project and, unless otherwise provided, the **Design Professional** shall be deemed the author of these documents and shall retain all common law, statutory, and other reserved rights, including the copyright (Note: if this contract is federally funded, see Appendix A (if applicable) Federal Requirements regarding royalties and copyrights). The City shall be permitted to retain copies, including reproducible copies, of the **Design Professional's** Plans, Specifications, and other documents for information and reference in connection with the City's use and occupancy of the Project. The **Design Professional's** Plans, Specifications, or other documents shall not be used by the City or others on other projects, except by agreement in writing. However, it is expressly understood and agreed that the City shall have the right to utilize the Plans, Specifications, and other documents in the event the City expands the Project, corrects any deficiencies, or makes any renovations or repairs to the Project. In the event of termination or purported termination of this Agreement by either party, the City may use the Plans, Specifications, and other documents in connection with the Project, notwithstanding any dispute between the City and the **Design Professional** as to the reason for validity of the termination, provided only that the **Design Professional** has been paid for its work through the date of the termination, unless the matter of such payment is subject to litigation or other dispute resolution procedure provided for herein.

7.2. OFFICIAL REGULATORY REQUIREMENTS. Submission or distribution of the Plans, Specifications, and other documents to meet official regulatory requirements or for similar purposes in connection with the Project is not to be construed as publication in derogation of the **Design Professional's** reserved rights herein.

ARTICLE 8

BASIS OF COMPENSATION

8.1. IN GENERAL. For Basic Services, compensation shall be as provided in APPENDIX B.

8.2. STIPULATED SUM. Where the compensation is based on a stipulated sum, progress payments for Basic Services in each phase shall be as stated in APPENDIX B.

8.3. MATERIAL CHANGE IN SCOPE OR SERVICES. In the event of a material change in the scope or services of the Project or the **Design Professional's** services, the **Design Professional** shall continue to perform in accordance with the terms of this Agreement during the course of any renegotiation of the **Design Professional's** compensation hereunder. Equitable adjustments shall be made to the total dollar amount of this Agreement in the event of changes in scope or services herein. (*Reference: M.G.L. c. 7, §38G for designer contracts subject to the Designer Selection Statute, but this section applies also to contracts not subject to M.G.L. c. 7, §38G*).

8.4. ADDITIONAL SERVICES OF THE DESIGN PROFESSIONAL. For Additional Services of the **Design Professional**, compensation shall be as stated in APPENDIX B (if applicable).

8.5. ADDITIONAL SERVICES OF THE CONSULTANTS. For additional services of consultants, compensation shall be the actual cost billed to the **Design Professional** for such services stated in APPENDIX B (if applicable).

8.6. REIMBURSABLE EXPENSES. For Reimbursable Expenses, compensation shall be the actual cost billed to the **Design Professional**, not including any tax. The City will provide its tax-exempt number upon request.

ARTICLE 9

PAYMENT TO THE DESIGN PROFESSIONAL

9.1. PAYMENT TO DESIGN PROFESSIONAL. The **City** shall make payments directly to the **Design Professional** within forty-five (45) days after the **City** receives and approves the **Design Professional's** detailed certified monthly statement. The detailed monthly statement must include, at minimum, itemized hours and work performed by the **Design Professional** (including, but not limited to, all employees of the **Design Professional** and its agents), and an itemized list of Reimbursable Expenses. Records of the **Design Professional's** expenses and hours pertaining to this Project shall be kept in accordance with generally accepted accounting principles, which principles shall be consistently applied. Said records shall be available to the **City** or its authorized representative upon reasonable notice for inspection and copying during regular business hours for six (6) years after the date of the final certificate of payment.

9.2. NO ADVANCE PAYMENTS. No payments will be made in advance of services rendered.

9.3. DEDUCTIONS. Deductions may be made from the **Design Professional's** compensation, if the **Design Professional** has not properly performed the services required in accordance with the terms of this Agreement.

ARTICLE 10 INSURANCE REQUIREMENTS

10.1. LIABILITY INSURANCE. The **Design Professional** at its own expense must obtain and maintain a professional liability insurance policy covering negligent errors, omissions, and acts of the **Design Professional** or of any person for whose performance the **Design Professional** is legally liable arising out of the performance of such contracts for design services. The **City** may require a consultant employed by the **Design Professional** subject to this subparagraph to obtain and maintain a similar liability insurance policy. If the **Design Professional** is required by the **City** to obtain all or a portion of such insurance coverage, it shall at its own expense furnish a certificate or certificates of insurance coverage to the **City** prior to the award of the contract. Certificates of insurance are attached hereto as APPENDIX C. Any amendments these insurance requirements are set forth in APPENDIX C.

10.2. INSURANCE RATING. Any insurance carrier utilized to fulfill the insurance requirements of this Contract shall have a minimum A.M. Best rating of A-X.

10.3. MINIMUM COVERAGES. The **Design Professional** and its structural, mechanical, and electrical engineering consultants shall each maintain the following minimum insurance coverages:

10.3.1. Workers' Compensation insurance- co-called "statutory coverage" in compliance with Massachusetts law;

10.3.2. Employer's liability policy covering bodily injury by accident (\$100,000 each occurrence) and bodily injury by disease (\$100,000 each employee, \$500,000 policy limit);

10.3.3. Comprehensive automobile liability insurance including hired, non-owned, and leased vehicles, if any, in the amount of \$1,000,000 covering personal injury, bodily injury, and property damage;

10.3.4. Valuable Papers insurance in the amount of \$100,000 covering damage to plans, drawings, computations, filed notes, or other similar data relating to the Work covered by this Agreement;

10.3.5. Commercial general liability insurance with a primary limit of not less than \$1,000,000 combined single limit and naming the **City** as an additional insured; and

10.3.6. Professional Liability insurance in an amount not less than \$1,000,000 or ten per cent (10%) of the Project's estimated cost of construction, or such larger amounts as the **City** may require, for the applicable period of limitations, including contractual liability coverage with all coverage retroactive to the earlier date of this Agreement or the commencement of the **Design Professional's** services in relation to the Project.

10.4. INSURANCE TERMS. All insurance shall be provided by companies qualified and licensed to do business in the Commonwealth of Massachusetts and acceptable to the **City**, and shall be maintained for a period of six (6) years following the last performance of services under this Agreement. Certificates evidencing such insurance shall be furnished to the **City** upon the execution of this Agreement by the **Design Professional** and upon each renewal period thereafter. The policies shall provide that the policies shall not be cancelled, renewed, or amended without thirty (30) days' prior notice to the **City**. All requests by the **Design Professional** for approval of engineers or other consultants shall be accompanied by certificates setting forth the types and amounts of insurance carried by them. The **Design Professional** shall require each such engineer or other consultant approved by the **City** to maintain the insurance shown in

such certificate in accordance with the provisions of this paragraph.

ARTICLE 11
STATUTORY RECORD-KEEPING AND RECORD-FILING REQUIREMENTS
(M.G.L. C. 30, §39R)

___(If this contract is federally funded, see also Federal Requirements attached hereto as Appendix A (if applicable).)

11.1. The **Design Professional** 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 **Design Professional**.

11.2. Until the expiration of six (6) years after final payment, the office of inspector general, and the deputy commissioner of capital planning and operations shall have the right to examine any books, documents, papers or records of the **Design Professional** or of its subcontractors that directly pertain to and involve transactions relating to, the **Design Professional** or its subcontractors.

If this contract is subject to the Massachusetts Designer Selection Statute, M.G.L., c. 7, §38A-1/2 et seq., and if the Contract Amount exceeds \$100,000, the provisions of M.G.L. c. 30, §39R contained in sections 11.3 –11.7 below shall be applicable.

11.3. The **Design Professional** shall describe any change in the method of maintaining records or recording transactions which materially affect any statements filed with the **City**, including in its description the date of the change and reasons therefore, and shall accompany said description with a letter from the **Design Professional's** independent certified public accountant approving or otherwise commenting on the changes.

11.4. The **Design Professional** has filed a statement of management (“management,” as used in these paragraphs is defined in M.G.L. c. 30, §39R(a)(7) as “the chief executive officers, partners, principals or other person or persons primarily responsible for the financial and operational policies and practices of the contractor” which is the **Design Professional** herein) on internal accounting controls as set forth in M.G.L. c. 30, §39R(c) prior to the execution of this Agreement.

11.5. The **Design Professional** must file with the **City** a statement of management as to whether the system of internal accounting controls of the **Design Professional** and its subsidiaries reasonably assures that:

11.5.1. transactions are executed in accordance with management’s general and specific authorization;

11.5.2. transactions are recorded as necessary: to permit preparation of financial statements in conformity with generally accepted accounting principles, and to maintain accountability for assets;

11.5.3. access to assets is permitted only in accordance with management’s general or specific authorization; and

11.5.4. the record accountability for assets is compared with the existing assets at reasonable intervals and appropriate action was taken with respect to any difference.

11.6. The **Design Professional** has filed with DCAM prior to the execution of this Agreement and will continue to file annually, an audited financial statement for the most recent completed fiscal year as set forth in M.G.L. c. 30, §39R(d). The final statement filed shall include the date of final payment. All statements shall be accompanied by an accountant’s report. Such statements shall be made available to the **City** upon request.

11.7. The **Design Professional** shall file with the **City** a statement prepared and signed by an independent certified public accountant, stating that s/he has examined the statement of management on internal accounting controls, and expressing an opinion as to:

11.7.1. whether the representations of management in response to this paragraph and the previous paragraph are

consistent with the result of management's evaluation of the system of internal accounting controls; and

11.7.2. whether such representations of management are, in addition, reasonable with respect to transactions and assets in amounts which would be material when measured in relation to the **Design Professional's** financial statements.

NOTE: RECORDS AND STATEMENTS REQUIRED TO BE MADE, KEPT OR FILED UNDER THE PROVISIONS OF M.G.L. c. 30, §39R ARE NOT PUBLIC RECORDS AS DEFINED IN M.G.L. c.4, §7 AND SHALL NOT BE OPEN TO PUBLIC INSPECTION, EXCEPT AS PROVIDED HEREIN.

(Reference: M.G.L. c. 30, §39R)

ARTICLE 12

TERMINATION, SUSPENSION, OR ABANDONMENT

12.1. Except for reasons of nonpayment, this Agreement may be terminated by either party upon not less than seven (7) days' written notice should the other party fail to perform in accordance with the terms of this Agreement through no fault of the party initiating the termination and may be terminated without cause by the **City** upon at least seven (7) days' written notice to the **Design Professional**. In the event this Agreement is terminated by the **City** pursuant to this paragraph, the **Design Professional** shall be entitled to receive compensation for Basic and Additional Services properly performed and for all substantiated Reimbursable Expenses incurred to the date of the notice of termination, but in no event shall compensation exceed the amount specified hereafter if the Project does not proceed and in no event shall any payment be due earlier than such payment would otherwise be due hereunder. Moreover, the **City** shall be entitled to retain from the monies alleged to be due to the **Design Professional** an amount that reasonably reflects the cost and expense incurred or to be incurred by the **City** associated with the termination, if the termination is with cause.

12.2. The **City** reserves the right to stop or suspend the work upon seven (7) days' written notice to the **Design Professional**, with no resulting fee adjustment to the **Design Professional**, unless such suspension extends for more than twelve (12) months, in which case the **Design Professional's** compensation shall be equitably adjusted when the project is resumed to provide for expenses incurred in the interruption and resumption of the **Design Professional's** services. The **Design Professional** shall have no cause for termination of this Agreement based on suspension of the Project unless such suspension extends for more than twelve (12) months.

12.3. Persistent failure by the **City** to make payments to the **Design Professional** in accordance with this Agreement or persistent failure of the **City** to pay the **Design Professional** within forty-five (45) days of receipt of a statement for services properly performed shall be considered nonperformance and cause for termination. "Persistent" herein shall mean at least three occasions.

12.4. If the **City** fails to make payment when due for services and expenses properly performed, the **Design Professional** may, upon thirty (30) days' written notice to the **City**, suspend performance of services under this Agreement. Unless the **Design Professional** receives within thirty (30) days of the date of the notice payment in full for such services that have been properly performed, the suspension

12.5. shall take effect without further notice. In the event of a suspension of services, the **Design Professional** shall have no liability to the **City** for delay or damage caused by the **City** because of such suspension of services.

ARTICLE 13

MISCELLANEOUS PROVISIONS

13.1. GOVERNING LAW. This Agreement shall be governed by the laws of the Commonwealth of Massachusetts and, if federally funded, applicable provisions of the Federal Requirements attached hereto as Appendix A (if applicable).

13.2. VENUE. Venue for any court action or proceeding shall be Middlesex County in the Commonwealth of Massachusetts only. The **Contractor**, all Subcontractors, and Suppliers waive any and all jurisdictional and venue defenses.

13.3. PARTNERS, SUCCESSORS, ASSIGNS, ETC. The **City** and the **Design Professional**, respectively, bind themselves, their partners, successors, assigns, and legal representatives to the other party to this Agreement and to the partners, successors, assigns, and legal representative of such other party with respect to all covenants of this Agreement.

13.4. PROHIBITION AGAINST ASSIGNMENT. The **Design Professional** shall not assign, in whole or in part, its rights and obligations under the Contract Documents without prior written consent of the **City**. An assignment without the prior written consent of the **City** shall not relieve the **Design Professional** of its obligations thereunder.

13.5. ENTIRE AGREEMENT. This Agreement represents the entire and integrated agreement between the **City** and the **Design Professional** and supersedes all prior negotiations, representations, or agreements, either written or oral. This Agreement can be amended only by a written instrument signed by both the **City** and the **Design Professional**.

13.6. THIRD-PARTY BENEFICIARIES. Nothing contained in this Agreement shall create a contractual relationship with or a cause of action in favor of a third party against either the **City** or the **Design Professional**.

13.7. NOTICES AND DEMANDS. Notices and demands required by or permitted to be given hereunder shall be hand-delivered or given by registered or certified mail and shall be addressed to the parties at the addresses set forth as follows:

To the City:

Executive Director
Mayor's Office of Strategic Planning & Community Development
City Hall
93 Highland Avenue
Somerville, MA 02143
Tel #: 617-625-6600 x2510
Fax #: 617-625-0722

With a Copy to:

City Solicitor
Law Department, City Hall
93 Highland Avenue
Somerville, MA 02143

Purchasing Director
City Hall
93 Highland Avenue
Somerville, MA 02143

To the Vendor: Vendor Name, Attn: Vendor Contact, Vendor Address, Vendor Fax, all as set forth on the first page of this Agreement.

Such notices and demands may be sent by facsimile transmission if such transmission is followed by hand delivery or registered or certified mail on the same day or the following business day. Notice and demands shall be deemed to have been given when delivered, or when mailed, or when transmitted by facsimile, if followed by hand delivery or registered or certified mail as provided herein.

13.8. WAIVER OF RIGHTS. The **City's** review, approval, acceptance, or payment for services under this Agreement

shall not operate as a waiver of any rights under this Agreement and the **Design Professional** shall be and shall remain liable to the **City** for all damages incurred by the **City** as the result of the **Design Professional's** failure to perform in conformance with the terms and conditions of this Agreement. The rights and remedies of the **City** provided for under this Agreement are in addition to any other rights or remedies provided or allowed by law.

13.9. PERSONAL LIABILITY. No member, officer, director, trustee, representative, consultant, volunteer participant, or employee of the **City** shall be personally liable to the **Design Professional** under any term or provision of this Agreement for the **City's** payment obligation or otherwise, or because of any breach hereof.

13.10. INDEMNIFICATION. For all matters other than those arising out of Design Professional's professional services (such other matters commonly known as "General Liability Claims"), the **Design Professional** shall indemnify and defend the **City** from and against all claims, costs, and to the extent that such claims, costs, and liability are the result of the negligent acts, errors, or omissions of the **Design Professional**, or breaches by the **Design Professional** of its obligations hereunder or (with respect to the **Design Professional's** duty to defend) are claimed to be the result thereof.

For all matters arising out of Design Professional's professional services, Design Professional agrees, to the fullest extent permitted by law, to indemnify and hold harmless the City and all of their agents and employees against claims damages, liabilities and costs, including reasonable attorney's fees, to the extent caused by the negligent performance of Design Professional's, or third parties under the direction or control of Design Professional, in the performance of professional services under this Agreement.

13.11. DESIGN PROFESSIONAL'S PRINCIPALS AND SENIOR PERSONNEL. The **City** is relying on the continued participation in the Project of the principals and senior personnel whose names and time commitments and, where applicable, Massachusetts's professional registration numbers are listed in the attached APPENDIX C. The **Design Professional** shall not remove any such individual from the Project or reduce his or her time commitment to the Project without the **City's** written consent unless such individual dies, becomes disabled, or terminates his or her employment. The replacement of any individual listed in APPENDIX C shall be subject to the **City's** written approval.

13.12 USE OF PROJECT-RELATED DOCUMENTS. The **Design Professional** may, upon prior written consent of the **City**, include representations of the design of the Project, including photographs of the exterior and interior, among the **Design Professional's** promotional and professional materials. The **Design Professional's** materials shall not include the **City's** confidential or proprietary information if the **City** has previously advised the **Design Professional** in writing of the specific information considered by the **City** to be confidential or proprietary. The **City** shall provide professional credit for the **Design Professional** on the construction sign and in the promotional materials for the Project. The **City** considers all information concerning the Project to be confidential and proprietary unless otherwise expressly indicated in writing to the **Design Professional**.

ARTICLE 14 CERTIFICATIONS

14.1. The undersigned **Design Professional** certifies under the penalties of perjury that:

14.1.1. the **Design Professional** has not given, offered or agreed to give any gift, contribution or offer of employment as an inducement for, or in connection with, the award of a contract for design services;

14.1.2. no consultant to, or subcontractor for the **Design Professional** has given, offered or agreed to give any gift, contribution, or offer of employment to the **Design Professional**, 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 **Design Professional**;

14.1.3. no person, corporation, or other entity, other than a bona fide, full-time employee of the **Design Professional** has been retained or hired to solicit for or in any way assist the **Design Professional** in obtaining the contract for design services upon an agreement or understanding that such person, corporation, or other entity be paid a fee or other consideration contingent upon the award of the contract to the designer;

14.1.4. if and as required by M.G.L. c. 30, §39R, the **Design Professional** has internal accounting controls the **Design Professional** shall:

- 14.1.4.1.** file regular statements of management concerning internal auditing controls; and
- 14.1.4.2.** file an annual audited financial statement; and submit a statement from an independent certified public accountant that s/he has examined management's internal auditing controls and expresses an opinion as to their consistency with management's statements and whether such statements are reasonable with respect to transactions and assets that are substantial in relation to the **Design Professional's** financial statements, as provided by M.G.L. c. 7, §38H(e) and
- 14.1.4.3.** the Design Professional has filed a statement of management on internal accounting controls as set forth in M.G.L. c. 30, §39R(c) prior to the execution of this Agreement;
- 14.1.4.4**the Design Professional has filed with DCAM prior to the execution of this Agreement an audited financial statement for the most recent completed fiscal year as set forth in M.G.L. c. 30, §39R(d); and
- 14.1.5.** the **Design Professional** has complied with all the laws of the Commonwealth pertaining to taxes, reporting of employees and contractors, and withholding and remitting child support (M.G.L. c. 62C, §49A). The Vendor certifies that it has provided the City with an accurate tax identification number (TIN). In the event that the City is notified by the IRS for an incorrect TIN provided by the Vendor, the Vendor is responsible for penalties.
- 14.1.6.** the **Design Professional** will, for a seven-year period after the final payment, maintain accurate books, records, and accounts which in reasonable detail accurately and fairly reflect the transactions and dispositions of the **Design Professional**;

ARTICLE 15 TRUTH IN NEGOTIATIONS

15.1 Truth-in-Negotiations Certificate: Truth-in-Negotiations Certificate: If the Owner's Project Manager's fee is negotiated, by signing this Contract, the Owner's Project Manager hereby certifies to the following:

15.1.1 Wage rates and other costs used to support the Owner's Project Manager's compensation are accurate, complete, and current at the time of contracting; and

15 .1.2 The Contract price and any additions to the Contract may be adjusted within one year of completion of the Contract to exclude any significant amounts if the Owner determines that the fee was increased by such amounts due to inaccurate, incomplete or non-current wage rates or other costs.

15.2 The person signing this Contract certifies, as a principal or director of the Owner's Project Manager, that the Owner's Project Manager 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 Contract; no consultant to or Subconsultant for the Owner's Project Manager has given, offered or agreed to give any gift, contribution or offer of employment to the Owner's Project Manager, or to any other person, corporation, or entity as an inducement for, or in connection with, the award to the Owner's Project Manager or Subconsultant of a contract by the Owner's Project Manager; and no person, corporation or other entity, other than a bona fide full-time employee of the Owner's Project Manager, has been retained or hired by the Owner's Project Manager to solicit for or in any way assist the Owner's Project Manager in obtaining this Contract 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 Contract .