

LETTER OF AGREEMENT

AND TOWN OF FALMOUTH COMMUNITY PRESERVATION COMMITTEE

In accordance with Town Meeting action on Warrant Article __ at the _____ Town Meeting, the grant of \$_____ (_____ Dollars and No Cents) as recommended by the Community Preservation Committee (“CPC”) will become available to pay approved expenses to _____ Project (“Project”) as submitted by _____ (“Applicant”) and as stipulated under the general and special conditions stated below and in the Attachments to this Agreement.

GENERAL CONDITIONS

Scope of Work

The CPC voted on _____, to recommend funding of this Project based on the final application (“Application”) submitted to the CPC, including all additional Project information submitted by the Applicant and Project modifications made by mutual agreement between the CPC and the Applicant. (ATTACHMENT A)

The Project, as defined in ATTACHMENT A, may only be modified by mutual agreement between the CPC and the Applicant. Project modifications and changes to the Scope of Work require prior written CPC authorization in the form of an amendment to this Letter of Agreement (LOA). The termination of this LOA coincides with the Project schedule included in the Application. If the Project exceeds the aforementioned Project schedule, this LOA can be extended by mutual agreement between the CPC and the Applicant.

Applicant’s Responsibilities

A designated representative of the Applicant as identified in this LOA (“Project Representative”) must sign all documents executed for this Project. This representative must have the authority to enter into contracts on behalf of the Applicant. (ATTACHMENT B)

The Applicant shall complete the Project and meet the Project conditions and standards stipulated in this LOA.

The Applicant hereby attests to the validity of all appraisals, estimates and other information submitted to the CPC for this Project.

The Applicant must prepare and submit written quarterly reports on CPC provided forms, which outline Project progress and any problems encountered. The Applicant must submit these reports to the CPC and may be requested to attend CPC meeting(s) to discuss Project progress.

The Applicant must comply with the Project Implementation Procedures in order to receive payment. (ATTACHMENT C)

Recognition

The Applicant must acknowledge Community Preservation funds as a funding source for the Project to promote community awareness of the use of Community Preservation funds. This acknowledgement must appear in relevant print materials (press releases, brochures, advertisements, etc.) and be referenced in presentations, interviews, and other commentary regarding the project. As a courtesy, the Community Preservation Office staff must receive prior notification of ceremonies acknowledging the commencement, progress, or completion of a Community Preservation Act funded project.

Project Signage

During Project construction, the Applicant must erect a temporary sign on the construction site acknowledging that Community Preservation funds are being used on the project.

If required by the CPC, permanent signage must be erected on the Project site that acknowledges the use of Community Preservation funds on the Project. The Applicant will consult with CPC staff to gain approval of proposed signage wording prior to installing the permanent Project sign. If the Project is located in an historic district, additional requirements may apply.

Validation

The Applicant hereby certifies, under penalties of perjury, to the best of his or her knowledge that:

The Applicant has filed all Commonwealth of Massachusetts tax returns and paid all applicable State and Town taxes under law. The applicant's representative hereby attests to this by signing the Certificate of Compliance with State Tax Laws and Unemployment Compensation Contribution Requirements. (Attachment D)

Under the provisions of Chapter 701 of the Acts of 1983, the Applicant's application is in all respects a good faith document, fair and made without collusion or fraud with any other person. The Applicant's representative hereby attests to this by signing the Non-Collusion Statement. (ATTACHMENT E)

The Applicant has not engaged in any unlawful discrimination based upon race, color, religious creed, national origin, sex, sexual orientation or veteran status and has complied with Town of Falmouth affirmative action policies and practices with respect to the application. The Project as it progresses and at completion will be compliant with these requirements of law and Town policies and practices.

The Project will comply with all federal and Massachusetts conditions of accessibility laws, rules, regulations or Special Conditions included herein and will include a detailed description of such compliance in its final report.

Proof of legal existence and good standing, if applicant is a corporation, and proof of nonprofit status, if applicable, must be attached to this LOA as ATTACHMENT F unless otherwise included in the Application.

CPC Rights

The CPC reserves the right to inspect relevant records of the Applicant to ensure that approved Project activities are completed and that Community Preservation funds have been spent on the Project as approved.

The CPC further reserves the right to withhold payments for Project activities until the Applicant has met all conditions herein stipulated.

Time Frame

The Applicant must prepare a schedule for drawdown of funds, which must include project milestones, estimated payment amounts and request dates. This schedule must be submitted to the CPC for approval before the first payment is requested. Any amendments to the approved schedule must be submitted in writing to the CPC for approval.

SPECIAL CONDITIONS

This agreement is executed in duplicate, and each is considered an original.

Applicant Signature Date Chairman, Falmouth CPC Date

Applicant Printed Name

Julian Suso, Town Manager Date

Approved as to Form:

Frank K. Duffy, Jr., Town Counsel Date

Approved as to Funding Availability:

Vicky Rose, Town Accountant Date

LIST OF ATTACHMENTS

Attachment A - Project Application including Project Budget

Attachment B - Certificate(s) Of Authority

Attachment C - Project Implementation Procedures

Attachment D - Compliance with State Laws & Unemployment Compensation

Attachment E - Non-Collusion Statement

Attachment F - Proof of Legal Existence & Good Standing

SAMPLE

ATTACHMENT A

PROJECT DEFINITION INCLUDING PROJECT BUDGET

The Applicant shall complete the Project as delineated in the following documents. These documents are not attached but are herein incorporated by reference into this LOA.

1. **Application for Community Preservation Funding Submitted By**
_____ **Entitled “** _____ **”;** **Dated** _____
2. **Additional Project Information Submitted:** _____
3. **Approved Project Budget:** \$ _____

SAMPLE

ATTACHMENT B

**CERTIFICATE(S) OF AUTHORITY
CORPORATE RESOLUTION/CERTIFICATION OF AUTHORITY**

If a corporation, complete below or attach to each signed copy of contract a notarized copy of vote of corporation authorizing signatory to sign this contract. If attesting clerk is same as individual executing contract, have signature notarized below.

At a duly authorized meeting of the Board of Directors the Board of Directors of the _____ held on _____,
[Name of Corporation] [Date of Meeting]

at which all Directors were present or waived notice, it was voted, _____
[Name of Officer]
_____ of this company be and hereby is authorized to
[Title of Officer]

execute contracts and bonds in the name and behalf of said company, and affix its Corporate Seal thereto, and such execution of any contract or obligation in this company's name on its behalf by such _____ under seal of the company, shall be valid and binding upon this company.
[Title of Officer]

A TRUE COPY,
ATTEST

Clerk
Place of Business: _____
Date of this Agreement: _____

I hereby certify that I am the Clerk of the _____ and that _____ is the duly elected _____ of said company, and that the above vote has not been amended or rescinded and remains in full force and effect as of the date of this contract.

Clerk (Corporate Seal)

ATTACHMENT B - DOES NOT APPLY TO MUNICIPAL DEPARTMENTS

AFFIDAVIT OF COMPLIANCE

MASSACHUSETTS BUSINESS CORPORATION

NON-PROFIT CORPORATION

FOREIGN (Non-Massachusetts) CORPORATION

LIMITED LIABILITY COMPANY

I, _____, President /Manager/Clerk [circle one] of _____ whose principal office is located at _____ do hereby certify that the above named Corporation has filed with the State Secretary all certificates and annual reports required by M.G.L. c. 156B, § 109 (Business Corporation), M.G.L. c. 181, § 4 (Foreign Corporation), by M.G.L. c. 180, § 26A (Non-Profit Corporation), or M.G.L. c. 156C (limited Liability Company).

SIGNED UNDER THE PENALTIES OF PERJURY this ____ day of _____, 20__.

Signature of Responsible Officer _____.

ATTACHMENT B - DOES NOT APPLY TO MUNICIPAL DEPARTMENTS

ATTACHMENT C

PROJECT IMPLEMENTATION PROCEDURES

Falmouth Community Preservation Act: Project Implementation Procedures

All Projects must be implemented in accordance with the terms and conditions specified in the Project Letter of Agreement (LOA) issued by the Community Preservation Committee (CPC) and executed by the Applicant.

Role of the CPC

The CPC is responsible for contract oversight on behalf of the CPC for all funded projects. Additionally, each project is assigned a CPC Liaison who coordinates with the CPC staff on matters related to Project implementation. The range of duties performed by CPC Liaisons may include: invoice review/approval, written Project update requests, attendance at site visits (except as limited by law on construction projects), and general communication with Project Representative and CPC staff/consultant. All Project monitoring procedures shall be conducted in coordination with CPC staff/consultant.

Procurement Documents

All procurement documents (i.e., Request for Quotes, Request for Proposals, and Invitation for Bids) must be submitted to the Community Preservation staff for review before obtaining Project quotes and/or bids. For Projects in which handicap accessibility is either required by law or regulation or included as a Special Condition herein, the Project design professional shall provide a written certification that procurement documents comply with the aforementioned accessibility law, regulation, and/or Special Condition(s). This provision may be modified to include certification from an alternate source acceptable to the CPC in the absence of a Project design professional.

Project Contract Documents

All signed contract documents (including original contract plus subsequent amendments or change orders associated with CPA funded work) shall be submitted to the CPC staff for inclusion in the Project file. For Projects involving the acquisition of real property, all relevant deeds and reference information must be submitted to the CPC Staff for inclusion in the Project file.

Processing Project Invoices

Project invoices shall be reviewed and authorized for payment by the Project Representative before submission to the CPC staff for payment. For construction projects, signed certifications documenting the work completed and stored to date shall be submitted along with all invoices. The Community Preservation staff will review and verify all information submitted before invoices are processed for payment. The CPC staff will coordinate the payment of invoices with the CPC Liaison, Town Accounting Department, and the Town Manager.

Invoices must be accompanied with proof of payment, which includes:

- Copy of paid invoices, AND
- Copy of cancelled checks or in lieu thereof with a signed letter from the vendor on official letterhead certifying that the invoice has been paid. The invoice number, name of payor, check number, and dollar amount shall be included in the text of the letter.

The CPC's policy is to release CPA funds to the Applicant as a reimbursement for Project expenses once the above referenced documentation is received and approved.

The CPC will consider exemptions from this policy at the request of the Applicant; if such an exemption is granted, payment will be made directly to vendors. Payment will be made within thirty (30) to sixty (60) days upon receipt of Request for Payment.

Project Reporting

Applicants will be required to submit Quarterly Reports on Project status as stipulated in this Letter of Agreement. The Applicant must submit these reports in writing in accordance with a schedule determined by the CPC and may be requested to attend CPC meetings to discuss Project progress. Site visits will be conducted by the CPC and/or CPC staff.

Project Close-Out and Completion

Upon Project completion, the CPC will request a written statement and supporting Close-Out documentation from the Project Representative as described below in "Close-Out Process" certifying that the Project and the purpose of the appropriation were completed.

Applicant's Project Closeout Responsibilities

1. Four (4) to Six (6) Weeks Prior to Anticipated Project Completion
 - a. Seek approval from Community Preservation Staff for specific language for the permanent Project sign before ordering permanent sign
 - b. Develop documentation to certify compliance with Special Conditions outlined in this Letter of Agreement
2. Two (2) Weeks Prior to Anticipated Project Completion
 - a. Oversee/monitor permanent sign installation
 - b. Assemble Project Completion Documentation:
 - Photo(s) of completed Project
 - Photo(s) of permanent sign installed on Project site which acknowledges use of Community Preservation Funds
 - Prepare written project completion report/statement certifying that the funding/appropriation purpose is completed
 - Assemble documentation that all Special Conditions have been met (i.e. Preservation Restriction, Affordable Housing Restriction, Deeds Restriction, accessibility compliance, etc.)
3. Contact the Community Preservation staff to schedule a final site visit inspection and submit Project Completion Documentation
4. One (1) Week Prior To Anticipated Project Completion
Submit Request for Final Payment. Final Payment Request will be processed upon satisfactory completion of site visit and receipt of all required Project Completion documentation.
5. If any funds remain upon Project Completion, the CPC shall notify the Town Finance Director that the appropriation purpose has been completed and that funds remain. As stated in the Department of Revenue's Informational Guideline Release No. 00-209, "the unspent and unencumbered balance of an appropriation for a particular acquisition or initiative should be closed to the Community Preservation Fund financing source from which the appropriation was funded".

ATTACHMENT D

**CERTIFICATE OF COMPLIANCE WITH STATE TAX LAWS AND
UNEMPLOYMENT COMPENSATION CONTRIBUTION REQUIREMENTS**

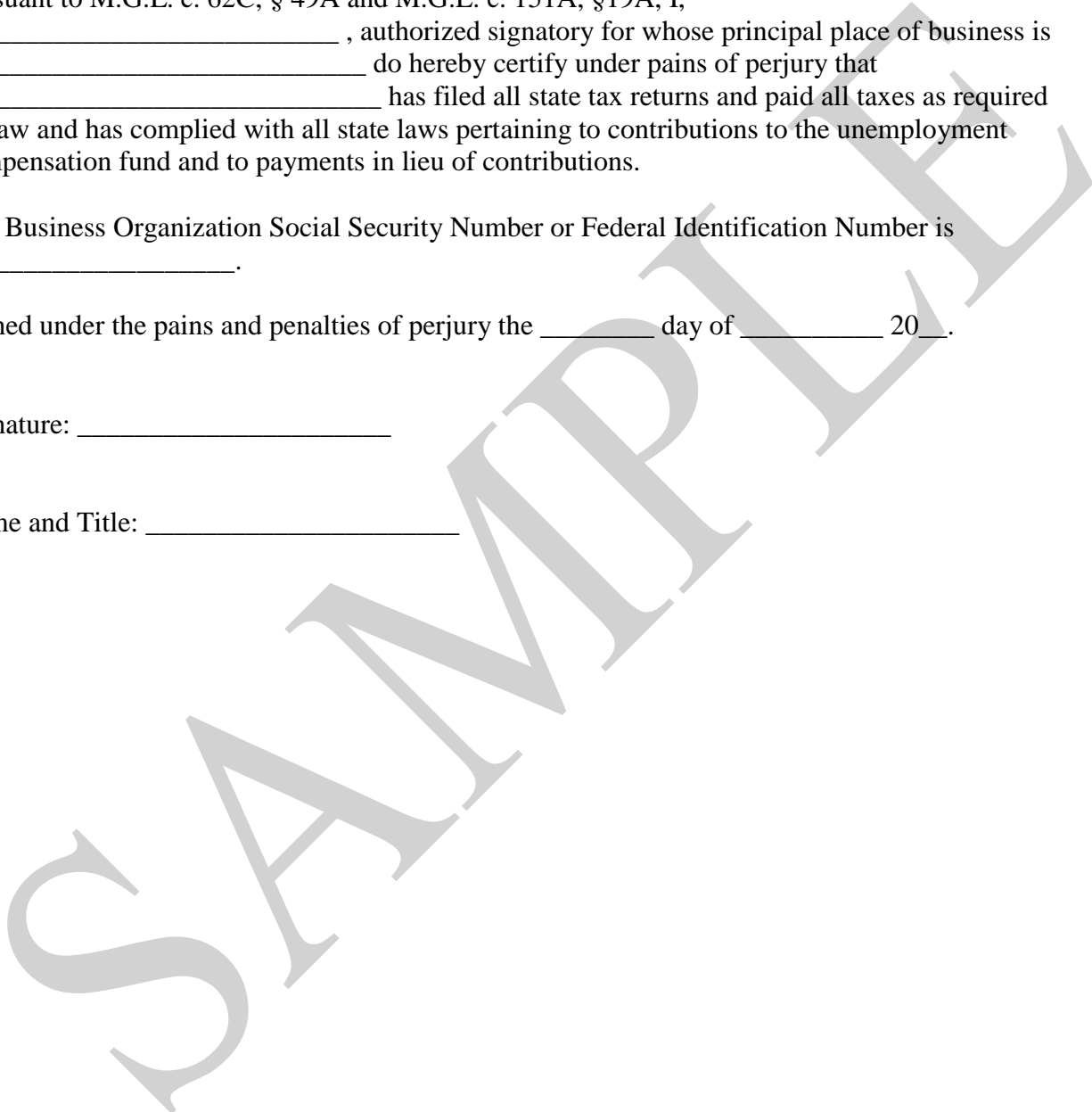
Pursuant to M.G.L. c. 62C, § 49A and M.G.L. c. 151A, §19A, I,
_____, authorized signatory for whose principal place of business is
at _____ do hereby certify under pains of perjury that
_____ has filed all state tax returns and paid all taxes as required
by law and has complied with all state laws pertaining to contributions to the unemployment
compensation fund and to payments in lieu of contributions.

The Business Organization Social Security Number or Federal Identification Number is
_____.

Signed under the pains and penalties of perjury the _____ day of _____ 20__.

Signature: _____

Name and Title: _____



ATTACHMENT D - DOES NOT APPLY TO MUNICIPAL DEPARTMENTS

ATTACHMENT E

NON-COLLUSION STATEMENT

The undersigned hereby certifies, under the pains and penalties of perjury, that the agreement has been made and submitted in good faith 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: _____

Title: _____

Date: _____

SAMPLE

ATTACHMENT E - DOES NOT APPLY TO MUNICIPAL DEPARTMENTS

ATTACHMENT F

Proof of Legal Existence and Good Standing if Applicant is a Corporation, and Proof of Non-Profit Status

SAMPLE

ATTACHMENT F - DOES NOT APPLY TO MUNICIPAL DEPARTMENTS