

CITY OF SOMERVILLE
ORDINANCE NO. 2012-____
IN THE BOARD OF ALDERMEN: _____

Be it ordained by the Board of Aldermen, in session assembled, that Article I, Section 15 of the Code of Ordinances of the City of Somerville, is hereby amended by insertion of the following:

Sec. 15-11. - Interest in City Business.

No city official, elected or appointed, or employee shall hold or acquire a financial or beneficial interest, direct or indirect, personally or through a member of his or her immediate family, in any contract, work, grant or business of the city's purchase of any property, real or personal, whenever the expense, price or consideration of the contract, work, grant, business or sale is paid with funds belonging to or administered by the City, or is authorized by ordinance. Compensation for property taken pursuant to the City's eminent domain power shall not constitute a financial interest within the meaning of this section. This section shall be interpreted consistent with Massachusetts General Laws and regulations of the State Ethics Commission.

Sec. 15-12 - Conflicts of Interest; Appearance of Impropriety.

City officials and employees shall not make or participate in the making of any decision with respect to any matter in which he or she, or in which an immediate family member, has an economic interest distinguishable from that of the interest of the general public, pursuant to applicable Massachusetts General Laws and regulations of the State Ethics Commission.

Sec. 15-13 - Grant and Trust Funds: Administration; Oversight and Reporting Requirements.

(a) **Conflict of Interest Prohibited.** No employee, officer or agent of the grantee shall participate in any particular matter, including but not limited to, the selection, or in the award or administration of a contract, grant or subgrant, or employment agreement administered by way of funds received by the City if a conflict of interest, real or apparent, would arise. Such a conflict would arise when:

- 1) an employee, officer or agent, or
- 2) any member of his or her immediate family, or
- 3) a business organization in which he is serving as officer, director, trustee, partner or employee, or
- 4) any person or organization with whom he is negotiating or has any arrangement concerning prospective employment,

has a financial or other interest in the person or entity selected for an award, or a contract, grant, subgrant or employment agreement of the grantee or the funds for which originate from or are awarded through the city.

The intent of this section is that all grantees, and their employees, officers or agents are hereby subject to this ethics ordinance and the conflict of interest law and its prohibitions, and exceptions thereto, as set out in the conflict of interest law, Massachusetts General Laws Chapter 268A, and State Ethics Commission regulations. The city's ethics commission may by regulation provide additional requirements relative to real, apparent, or potential conflicts of interest.

(b) **Written Disclosure Required.** Applicants for grant and/or trust funds administered by the City must fully disclose, as part of its application, any conflict of interest or potential conflict of interest arising from or relating to the proposed grant or trust disbursement, whether real or apparent. In addition, every grantee shall disclose: (1) the identity and association of all officers, employees, contractors, subgrantees or other persons providing any type of service in relation to the proposed grant activity, the nature of the service provided, the value of said service, and the extent to which City funds support said service; and (2) whether the grantee or any of the persons or entities identified in subsection (1) has had any grant, contract, or other agreement with a federal, state and/or local agency terminated within the last three years.

This disclosure requirement shall be a continuing obligation for all grantees of city funds during the term of any grant, and grantees are required to make a written disclosure to the city immediately as to any circumstances which constitute a potential or actual conflict of interest.

(c) **Conflict of Interest Policy.** Every grantee shall file with the City agency or department disbursing funds to the grantee a copy of that grantee's policy addressing conflicts of interest that may arise involving the grantee's management, employees and the members of its board of directors or other governing body. The policy shall address situations in which any of these individuals may directly or indirectly benefit, except as the grantee's employees or members of its board or other governing body, from the grantee's disbursing of City funds, and shall include actions to be taken by the grantee or the individual, or both, to avoid conflicts of interest and the appearance of impropriety. To the extent permitted by law, such standards of conduct will provide for penalties, sanctions, or other disciplinary actions for violations of such standards by the grantee's officers, employees, or agents, or by contractors or their agents. The policy shall be filed with the city as part of the agreement to disburse the grant funds.

(d) **Suspension and Recovery of Funds to Grant Recipients for Noncompliance.** The City, after consultation with the administering City agency or department, may suspend disbursement of grant or trust funds to grantees or subgrantees, to prevent further use of grant or trust funds already disbursed, and to recover grant or trust funds already disbursed for noncompliance with this section or any rules adopted pursuant thereto.

(e) **Audit Oversight.** The City Auditor has audit oversight, with respect to grant and/or trust funds received by the grantee or subgrantee, of every grantee or subgrantee that receives, uses, or expends city grant and/or trust funds. A grantee or subgrantee must, upon request, furnish to the City Auditor for audit all books, records, and other information necessary for the City Auditor to account fully for the use and expenditure of grant or trust funds received by the grantee or subgrantee. The grantee or subgrantee must furnish any additional financial or budgetary information requested by the City Auditor, including audit work papers in the possession of any auditor of a grantee or subgrantee directly related to the use and expenditure of grant and/or trust

funds no later than twenty-one days after the date of request. In addition, the following audit requirements shall apply:

(1) Audit Requirement for Grants of \$25,000 or more: A grant recipient must submit, to the City Auditor, annual financial statements inclusive of the grant, audited by a certified public accountant licensed in Massachusetts within 120 days of the grantee's fiscal year-end. The audit report must be accompanied by a management letter, if one is prepared by the auditor, and a copy of the organization's final budget for the period.

(2) Audit Requirement for Grants of less than \$25,000: An audit is recommended but not required by the City. If a grant recipient does receive an audit, however, the audit and any management letter shall be submitted to the City within 120 days following the end of the grantee fiscal year. If the grant recipient does not receive an audit, the city shall have the right to request an accounting of grant funds if in the opinion of the City Auditor, or other financial officer, it is reasonable to request same.

(f) **Accounting Procedures.** A grant or subgrant recipient must maintain accounting systems that follow generally accepted accounting principles. Accounting systems shall at a minimum comply with the following requirements: (1) maintain accurate, current and complete records in a form that is satisfactory to the City, including but not limited to, records of all types of expenses and income or other funds relating to the grant; (2) have adequate internal controls to assure protection of all assets; and (3) designed and able to show in detail the organization's assets, liabilities, equities, actual and budgeted revenues, and expenditures.

(g) **Consistent with Applicable Laws.** This section shall be interpreted consistent with any federal, state or local laws and regulations and grant conditions and terms.

Sec. 15-14 - Conflict with Other Laws.

In the event of any conflict or inconsistency of this ordinance with any state law or regulation, the provision of broadest or most strict coverage shall control. No provision of this ordinance shall be construed so as to be inconsistent with state law.

Be it further ordained by the Board of Aldermen, Section 15-1 of the Code of Ordinances is hereby amended by inserting the following definitions:

Application means a proposal or similar document written to apply for any grant and/or trust fund program.

City agency or *department* shall have the same meaning as *municipal body*.

City official or *employee* means any person performing services for the city or holding an office, position, employment or membership in a city agency, whether by election, appointment, contract of hire or engagement, whether serving with or without compensation, on a full, regular, part-time, intermittent, or consultant basis.

Grant and/or *Grant Funds* means City funds disbursed as part of a federal or state pass-through or direct grant program by a City agency or department.

Trust and *Trust Funds* means City funds disbursed from a municipally established trust fund.

Grantee means a non-City entity that receives grant and/or trust funds from a City agency or department.

Subgrantee means a non-City entity that receives City grant and/or trust funds from a grantee or from another subgrantee.

Approved:

President
Board of Aldermen