

PURCHASING DIVISION
CITY OF WORCESTER
MASSACHUSETTS 01608-1895
ROOM 201 - CITY HALL, 455 MAIN ST.
PHONE (508) 799-1220

SEALED BID INVITATION
(Supplies, Material, Equipment, Services)

AN EQUAL OPPORTUNITY AFFIRMATIVE ACTION EMPLOYER

SEALED BID NO. CR-8288-W5

DATE: September 26, 2024

CITY OF WORCESTER
Christopher J. Gagliastro, MCPPO
Purchasing Agent

BUYER: Christopher J. Gagliastro

NOTICE TO BIDDERS
TERMS AND CONDITIONS

All bids are subject to the terms and conditions and specificity herein set forth except where specifically deleted by the City of Worcester in Section No. 6 below.

COMPLETE ORIGINAL COPY (including ALL pages) OF THIS BID MUST BE SUBMITTED IN A SEALED ENVELOPE:

DATE: OCTOBER 16, 2024

TIME: 10:00 A.M. LOCAL TIME

PLACE: Purchasing Division, Room 201, City Hall, Worcester, Massachusetts

MARK SEALED ENVELOPE **"Sealed Bid No. CR-8288-W5, Grounds Maintenance Services - Union Station / WRA-DPF"**

The name and address of the bidder must appear in the upper left hand corner of the envelope. The City of Worcester is not responsible for bids not properly marked.

GENERAL

1. This Bid Invitation covers: Furnish all labor, materials and equipment necessary for grounds maintenance services at Union Station Transportation Center as per the requirements and specifications of the Worcester Redevelopment Authority for a period of one year from date of contract. The contract may be renewed for a second and third year, at the sole discretion of the Worcester Redevelopment Authority, the option of which will be determined near the end of the current contract period.
2. A certified check or bid bond made payable to the "City Treasurer, City of Worcester" in the Amount of \$ N/A must accompany this bid.
3. All bids received will be publicly opened and read in the Bid Room at City Hall at date and time shown above.
NO BID WILL BE ACCEPTED AFTER TIME AND DATE SPECIFIED
4. A performance bond in the amount of \$ N/A of the total dollar award is required.
5. A payment bond in the amount of \$ N/A of the total dollar award is required.
6. All terms and conditions are applicable to this proposal except the following section numbers which are hereby deleted from this invitation: all apply
7. **Questions pertaining to this bid must be directed to Christopher J. Gagliastro via e-mail at gagliastroc@worcesterma.gov**

- All references to the City of Worcester (City) and/or Owner shall refer to the Worcester Redevelopment Authority (WRA) as the City is administering this bid on behalf of the WRA.

- WRA REIPP attached herein. Applicable section is: Article 1, Section (2)

8. The following meanings are attached to the defined words when used in this bid form.
 - (a) The word “City” means The City of Worcester, Massachusetts.
 - (b) The word “Bidder” means the person, firm or corporation submitting a bid on these specifications or any part thereof.
 - (c) The word “Contractor” means the person, firm or corporation with whom the contract is made by carrying out the provisions of these specifications and the contract.
 - (d) The words “Firm Price” shall mean a guarantee against price increases during the life of the contract.
9. Any prospective bidder requesting a change in or interpretation of existing specifications of terms and conditions must do so within five (5) days (Saturdays, Sundays and Holidays excluded) BEFORE scheduled bid opening date. All requests are to be in writing to the Purchasing Division (or e-mailed at: gagliastroc@worcesterma.gov). *No changes will be considered or any interpretation issued unless the request is in our hands within five (5) days (Saturdays, Sundays and Holidays excluded) BEFORE scheduled bid opening date.*
10. The contractor will be required to indemnify and save harmless the City of Worcester, for all damages to life and property that may occur due to his negligence or that of his employees, subcontractors, etc., during this contract.
11. The Contract Agreement will be in the form customarily employed by the City of Worcester and is on file in the Purchasing Division at City Hall.
12. Bids which are incomplete, not properly endorsed, or signed, or otherwise contrary to these instructions will be rejected as informal by the Purchasing Agent. **Conditional bids will not be accepted.**
13. The Bidder must certify that no official or employee of the City of Worcester, Massachusetts is pecuniarily interested in this proposal or in the contract which the bidder offers to execute or in expected profits to arise therefrom, unless there has been compliance with provisions of G.L. C. 43 Sec. 27, and that this bid is made in good faith without fraud or collusion or connection with any other person submitting a proposal.
14. As the City of Worcester is exempt from the payment of Federal Excise Taxes and Massachusetts Sales Tax, prices quoted herein are not to include these taxes.
15. All prices are to be firm F.O.B. Destination, City of Worcester, Massachusetts, unless otherwise indicated by the City. **Time reserved for award is ninety days.**
16. In case of error in the extension prices quoted herein, the unit price will govern.
17. It is understood and agreed that should any price reductions occur between the opening of this bid and delivery of any order, the benefit of all such reductions will be extended to the City.
18. The City of Worcester reserves the right to reject any and all bids, wholly or in part, and to make awards in a manner deemed in the best interest of the City.
19. Awards will be made to the bidder quoting the lowest net price in accordance with the specifications.
20. The supplier will be bound by all applicable statutory provisions of law of the Federal Government, the Commonwealth of Massachusetts, the City of Worcester, and the Department of Public Safety of the Commonwealth of Massachusetts.
21. Any bid withdrawn after time and date specified, the bidder shall forfeit deposit on bid as liquidated damages.
22. The contractor will not be permitted to either assign or underlet the contract, not assign either legally or equitably any monies hereunder, or its claim thereto without the previous written consent of the City Treasurer and of the Purchasing Agent of the City of Worcester.
23. If this bid shall be accepted by the City, and the bidder shall fail to contract as aforesaid and to give a bond in the amount as specified in Section 4, within ten (10) days, (not including Sunday or a legal Holiday) from the date of the mailing of a notice from the City to him/her, according to the address given herewith, that the contract is ready for signature, the City may by option determine that the bidder has abandoned the contract and thereupon the proposal and

acceptance shall be null and void and the bid security accompanying this proposal shall become the property of the City as liquidated damages.

24. When quoting, the bidder shall submit a signed copy of this bid form, and if bid accepted by the City shall constitute part of the contract of purchase. Do not detach any part of this form 30B (Sealed Bid Goods & Services) when submitting a bid. Bidder must sign and return complete form 30B (Sealed Bid Goods & Services).
25. If in the judgment of the Purchasing Agent any property is needlessly damaged by an act or omission of the contractor or his/her employees, servants or agent, the amount of such damages shall be determined by the Purchasing Agent of the City of Worcester and such amount shall be deducted from any money due the contractor or may be recovered from said contractor in actions at law.
26. It is agreed that deliveries and/or completion are subject to strikes, lockouts, accidents and/or Acts of God.

INSURANCE AND WORKER'S COMPENSATION

27. COMMERCIAL GENERAL LIABILITY INSURANCE: Contractor to supply the City of Worcester with certificates of insurance evidencing general liability coverage of not less than \$ 1,000,000.00 per occurrence / \$ 2,000,000.00 aggregate.
28. AUTOMOBILE LIABILITY INSURANCE: Contractor to supply the City of Worcester with certificates of insurance evidencing automobile liability coverage, bodily injury and property damage combined single limit, of \$ 1,000,000.00 (all owned, hired, and non-owned autos).
29. COMPENSATION INSURANCE: The contractor shall furnish the City of Worcester with certificates showing that all of his/her employees who shall be connected with this work are protected under Massachusetts' statutory worker's compensation insurance policies.
30. The Contractor shall carry public liability insurance with an insurance company satisfactory to the City so as to save the City harmless from any and all claims for damages arising out of bodily injury to or death of any person or persons, and for all claims for damages arising out of injury to or destruction of property caused by accident resulting from the use of implements, equipment or labor used in the performance of the contractor or from any neglect, default or omission, or want of proper care, or misconduct on the part of the Contractor or for anyone of his employ during the execution of the contract.
31. Prior to starting on this contract, the Contractor shall deposit with the Contracting Officer certificates from the insurer to the effect that the insurance policies required in the above paragraphs have been issued to the Contractor. The certificates must be on a form satisfactory to the Purchasing Agent.
32. Except as may otherwise be stated herein, the Contractor shall also carry bodily injury and property damage insurance in an amount not less than those set forth above covering the operation of all motor powered vehicles owned or operated by the Contractor and engaged in this contract.

DISCOUNT

33. Prompt pay discounts will be considered when determining the low bid except when discounts are for a period of less than 30 days. In this event prompt pay discounts will not be taken into consideration when determining low bid.
34. Time, in connection with discount offered, will be computed from date of completion and/or delivery and acceptance at destination, or from date correct bill or voucher properly certified by the contract is received if the latter date is later than the date of completion and acceptance and/or delivery and acceptance.

GUARANTEE

35. The bidder to who a contract is awarded guarantees to the City of Worcester all equipment, materials and or workmanship for a period of one (1) year after final inspection and acceptance and shall replace promptly any defective equipment, materials and/or workmanship required without additional cost to the City.

DELIVERIES AND COMPLETION

36. It is understood and agreed that in the event of failure on the part of the bidder to indicate date of delivery and/or completion, delivery and/or completion will be made within twelve (12) days from date of notification. Should the successful bidder fail to make delivery or complete contract within time specified, the City reserves the right to make the purchase on such orders at the open market and charge any excess over contract price to the account of the successful bidder, who shall pay the same.
37. The contractor shall familiarize himself with the location and facilities for storage.
38. The City through its Purchasing Division reserves the right to divert delivery from one location to another, and to allow for any change in operating conditions or for any other cause not now foreseen and to proportion deliveries according to available storage facilities.

SAMPLING AND ANALYSIS

39. Each bidder must state the commercial name of the product quoted, name, and address of operator or agent from whom the product will be purchased and in addition shall furnish an analysis of the product, date of analysis, by whom made and their address.
40. Samples of the product to be delivered may be taken by a representative of the City, either prior to delivery or while it is being delivered in the storage facilities at destination, or will be taken from the storage facilities to which the product has been delivered as determined from time to time by the Purchasing Agent. Bidder agrees to furnish the necessary manual labor, without additional cost required to assemble the physical samples, which is to be performed under the direction of the City representative.
41. The representative of the City taking the samples shall be given the opportunity, while sampling, to affix his or her signature to the delivery slip each item represented in his/her sample.
42. Any product after the sampling and analysis, not found meeting the requirements of the contract shall be sufficient cause for the cancellation of the contract at the option of the Purchasing Agent.
43. If any product is found that does not meet the analysis submitted by the bidder in his/her proposal, the Purchasing Agent may, at his or her option, exercise his/her right to reject the product and require that all or any part thereof shall be removed promptly by and at the expense of the contractor and replace it forthwith with a product satisfactory to the Purchasing Agent, or to retain the product and compensate the contractor in an amount as determined by the Purchasing Agent and the City Manager.
44. It is understood and agreed that it shall be a material breach of any contract resulting from this bid for the Contractor to engage in any practice which shall violate any provisions of Massachusetts General Laws, Chapter 151B, relative to discrimination in hiring, discharge, compensation, or terms, conditions or privileges of employment because of race, color, religious creed, national origin, sex, age or ancestry.
45. The undersigned as bidder, declares that the only parties interested in this proposal as principals are named herein; that this proposal is made without collusion with any other person, firm or corporation, that no officer or agent of the City is directly or indirectly interested in this bid; and he/she proposes and agrees that if this proposal is accepted he/she will contract with the City in accordance with the specifications, also the terms and conditions as spelled out in this bid form.
46. No Person, including but not limited to corporations, partnerships, limited partnerships or limited liability corporations, shall be eligible to receive a contract under this invitation to bid and/or requires for proposal if that person has been convicted of any felony offense involving the distribution of controlled substances as that term is defined under Chapter 94C of the General Laws and, for contracts to be performed for on-site services to the Worcester Public Schools, if that person or any person to be employed by that person in the performance of such on-site services has been convicted of a "sex offense" or a "sex offense involving a child" or a "sexually violent offense" or would meet the definition of "sexually violent predator" as those terms are defined in Section 178C of the General Laws and who must register with the sex offender registry board.

47. The Contractor shall at all times enforce strict discipline and good order among his employees and shall not employ for work or services relating to this contract any unfit person or anyone not skilled in the task assigned to him. In light of the fact that the performance of this contract requires the Contractor and its employees to have significant interaction with the public, the Contractor shall require all employees who may perform services under this contract to conduct themselves in a courteous, professional manner. If the Contractor is notified by the Contract Officer that any person engaged upon the work is incompetent, unfaithful, disorderly, discourteous, or otherwise unsatisfactory, then such person shall be discharged from providing services or work pursuant to this contract. Without limiting the generality of the foregoing, intimidation, threats and/or violent conduct of any kind or nature directed to members of the public are absolutely prohibited. Failure to comply with this requirement shall be grounds for termination of the contract.
48. The Contractor's performance may be evaluated on an ongoing basis including but not limited to consideration of complaints received from members of the public. In order to facilitate this evaluation, the Contractor shall provide the City with documents and records upon request. The Contractor shall further obtain from its employees authorization that appropriate City personnel may obtain all available criminal offender information ("CORI") from the Criminal History Systems Board. A high number of unresolved complaints, any number of complaints that are particularly severe, or employment of individuals who have been convicted of assault or other violent crimes shall be grounds for the early termination or non-renewal of the contract by the City.
49. The procurement officer shall award the contract to the lowest responsible and responsive bidder. The term "responsible bidder" means "a person who has the capability to perform fully the contract requirements, and the integrity and reliability which assures good faith performance." Consistent with its duty to maintain public order and promote public safety, the City has determined that this contract is of a type and nature so as to be particularly sensitive due, at least in part, to the contractor's inherent access and dealings with the members of the general public. Therefore, the City has concluded that additional scrutiny is justified as it determines whether a particular bidder is responsible, having the integrity and reliability to properly perform the requested services. This may entail consideration of the contractor's system of oversight, training and supervision of its employees, including but not limited to its requirement of a high standard of customer service and courtesy in its dealings with the public. The bidder's care and diligence in hiring and assigning its employees will also be considered. In making its determination, the City reserves the right to examine any and all information at its disposal, including but not limited to prior City contracts, the experiences and information obtained from current and former customers (whether identified by the bidder as references or not), as well as other sources available to the City, including but not limited to court documents, newspapers, financial reports (such as DUNS), and certain police data and reports.
50. The Contractor, acting through its owner(s) or any of its employees, or its agents or sub-contractors and any of their employees, shall not engage in any behavior, whether during the course of its duties under this contract or at any other time, that is illegal, criminal or otherwise shocking or offensive to the general public. The determination whether any particular behavior is illegal, criminal or shocking to the general public shall rest in the sound judgment of the Contracting Officer or the City Manager. In making such determination, the Contracting Officer or the City Manager shall apply the general standards of the community. No criminal conviction or formal charges shall be required to make such determination. Such behavior need be something more than trivial and something which would cause the general public to have concerns either about the safety of individuals coming in contact with the Contractor or about the character and integrity of the individuals with which the City does business. Violation of this provision shall be grounds for immediate and unilateral termination of this contract by the City upon five days' notice as otherwise provided herein

GIVE FULL NAMES AND RESIDENCES OF ALL PERSONS INTERESTED IN THE FOREGOING PROPOSAL.

(NOTICE: Give first and last name in full; in case of corporations, give corporate name and names of President, Treasurer, and Manager; and in case of firms give names of the individual members)

Name Address Zip Code

KINDLY FURNISH THE FOLLOWING INFORMATION REGARDING BIDDER:

(1) If a Proprietorship

Name of Owner _____

Business Address _____

Zip Code _____ Telephone No. _____

Home Address _____

Zip Code _____ Telephone No. _____

(2) If a Partnership
Full names and addresses of all partners

Name Address Zip Code

Business Address _____ Zip Code _____

Tel. No. _____

(3) If a Corporation

Full Legal Name _____

State of Incorporation _____ Qualified in Massachusetts ? Yes _____ No _____

Principal Place of Business _____

Street _____ P.O. Box _____

City/Town _____ State _____ Zip _____

Telephone No. _____

Place of Business in Massachusetts _____

Street _____ P.O. Box _____

City/Town _____ State _____ Zip _____

Telephone No. _____

GIVE THE FOLLOWING INFORMATION REGARDING SURETY COMPANY

Full Legal Name of Surety Company _____

State of Incorporation _____ Admitted in Massachusetts ? Yes _____ No _____

Principal Place of Business _____

Street _____ P.O. Box _____

City/Town _____ State _____ Zip _____

Place of Business in Massachusetts _____

Street _____ P.O. Box _____

City/Town _____ State _____ Zip _____

Telephone No. _____

NOTE

The Office of the Attorney General, Washington, D.C. requires the following information on all bid proposals amounting to \$1,000.00 or more.

F.I.D. Number of bidder _____

This number is regularly used by companies when filing their "EMPLOYER'S FEDERAL TAX RETURN, U.S." Treasury Department Form 941.

AUTHORIZED SIGNATURE OF BIDDER _____ TITLE _____
PLEASE SIGN

DATE _____ BID SECURITY \$ N/A

The name of Customer Service Representative and the Contract Administrator responsible for servicing this account in the event of contract award are:

NAME (PLEASE PRINT) *Customer Service Rep.* _____ TEL. NO. _____

NAME (PLEASE PRINT) *Contract Administrator* _____ TEL. NO. _____

FAX NUMBER _____ FAX # _____

E-MAIL (Customer Service Rep.): _____

E-MAIL (Contract Administrator): _____

UNDER MASSACHUSETTS GENERAL LAWS, CHAPTER 30B: SECTION 10, THE FOLLOWING CERTIFICATION MUST BE PROVIDED:

Section 10. A person submitting a bid or a proposal for the procurement or disposal of supplies, or services to any governmental body shall certify in writing, on the bid or proposal, as follows:

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

(Please Print) _____

Name of Person Signing Bid

Signature of Person Signing Bid

Company

No award will be made without vendor certification of the above.

Bidders must state and identify the product offered, such as manufacturer's name, trade name, brand name and quality next to each item. WE MUST KNOW WHAT HAS BEEN OFFERED.

The quantities shown herein are estimated only and the Contractor will be required to furnish all quantities ordered by the City during the period of the contract.

YES ☒ NO ☐

Delivery to be made to: Worcester, MA

This Bid includes addenda numbered _____

NO PRICE ADJUSTMENTS ALLOWED. PRICES QUOTED ARE FINAL. CHECK BEFORE SIGNING!

BIDDER TO COMPLETE ITEMS BELOW

| Item No. | Estimated Quantity | Description | | | Unit Price | Total Amount |
|----------|--------------------|---|--|--|------------|-----------------------------------|
| | | <p>Grounds maintenance services at Union Station as per the attached requirements and specifications of the Worcester Redevelopment Authority for a one year period.</p> | | | | See Pricing & Specification Pages |
| | | <p>All questions must be sent via email to gagliastroc@worcesterma.gov</p> | | | | |
| | | | | | | |

TERMS, PROMPT PAY DISCOUNT _____% 30 DAYS, NET 45 DAYS.

DELIVERY AND/OR COMPLETION TO BE MADE WITHIN as required by the City DAYS FROM DATE OF NOTIFICATION BY THE CITY.

NAME OF BIDDER _____

DISCLOSURE OF CONTRACT RENEWAL

This contract may be renewed for a second and third year at the sole discretion of the City of Worcester, the option of which will be determined at the end of the current contract year.

In no event will increase exceed _____ % for the second contract year.
(TO BE COMPLETED BY BIDDER)

In no event will increase exceed _____ % for the third contract year.
(TO BE COMPLETED BY BIDDER)

Name

Date

Title

IF VENDOR DOES NOT WISH TO BE CONSIDERED FOR A SECOND AND THIRD YEAR OPTION,
PLEASE INDICATE BY CHECKING THIS BOX: ☐

IMPORTANT

It is understood and agreed, that failure by the bidder to complete the above increase statement, it is the bidders intent to accept a second and third year option at zero (0) percent increase.

All other Terms and Conditions to remain the same.

UNION STATION
2 WASHINGTON SQUARE

GROUNDS MAINTENANCE SERVICES SPECIFICATIONS

Scope of Work – Provide all labor, materials, equipment, supervision, and other services required to complete the work in accordance with the specifications for “Grounds Maintenance Services”.

BID PRICING: This contract shall be priced per hour and/or lump sum with various scopes defined, and specific quantities provided. Quantities are for bid purposes only.

This work is for the delivery of professional “Grounds Maintenance” Landscaping and shall be completed in an expeditious, consistent manner and to the minimum requirements of the specifications. All material, supplies and products cost per General Conditions.

GROUNDS MAINTENANCE to include the following services shall be provided as described below within the infrastructure of Union Station. See Exhibit “A” as a general guide to areas of service.

Provide planting and mulching of seasonal plants and flowers to create a showpiece display. Conduct periodic weeding to maintain display. Watering of plants. Late summer removal of plants and replace with hardier plants. Work also entails eliminating water from the irrigation system in the fall.

Part 1: Landscape Maintenance Services Scope, Schedule and Pricing
(Month durations are approximate)

A. Spring Clean Up: Month of April

1. Removal of winter debris from lawns, beds, walks, driveways, loading dock area, plaza and platform, etc. and perimeter of property.
2. Prune winterkill from all flower beds
3. Power edge curbs and walks.
4. Mulch existing mulch beds with 2” or processed hemlock mulch.
 - a. Removal of prior application or excessive mulch from beds, if needed
 - b. Contractor shall install mulch within existing plant beds and around trees to a depth of 2” once per year in April/May.
 - c. Mulch materials shall be approved by WRA personnel prior to placement.
 - d. Contractor shall install mulch at a depth of two (2) inches
 - e. Contractor shall trim all plant/vegetation before installing new mulch
 - f. Contractor shall clean up branching bushes & hedges before installing mulch so there is a clear view at grade of the planting bed.
 - g. Prior to performing any mulching Contractor shall weed each bed and remove all trash, debris, and litter.
5. Clean up and removal of sand and debris from walks and driveways and parking areas.

Cost for Section: A \$ _____

B. Lawn and General Maintenance: Weekly – May through October

1. Mowing/ Trimming/Blower maintenance must be performed in a way to ensure that all users are protected; all machines, equipment and blowers must be idle when users are encountered see GENERAL CONDITIONS.

2. Mowing of all Grass Areas Once per week during the period of and as needed per the WRA's discretion during the remaining months.
3. Prior to performing any mowing or trimming Contractor will need to remove any litter or debris that may be cut up and then spread throughout the area or thrown into adjacent areas or surfaces
4. Provide mowing to a height of 2.5" to 3.0 "in height and trimming to include edging at walkways.
5. For each mowing, the Contractor shall also include trimming, sweeping of all walkways, entrances, ramps, plaza, platform, driveways, parking areas, loading dock and the front lower plaza and monumental stairs. Including weeding and deadheading flowers as needed All hard surfaces must be blown clear of debris after each mowing/trimming; walks, plazas, platform and driveways each visit.
6. Police infrastructure for litter and other debris – remove as required.
7. Keeping all drains at driveways and plaza clear.
8. Weekly sweeping and blowing of all walkways and waiting areas @ front, lower bus waiting and entrances, upper-level Plaza, (including membrane roof area), and platform.
9. Provide mowing and trimming of adjacent driveways (sidewalk areas) and curb lines.
10. Thatching one time per season of all lawn areas.
11. Contractor shall ensure limbs/foliage are clear of walkways through trimming on an as needed basis.
12. Weeding of beds and maintaining front flower beds.
13. Clean up of entire interior enclosed fenced area at bus slip area and Harding St/Taxi, snow storage and loading dock lane, once per month.
14. When Compactor removed by other for emptying perform coordinated Clean up @ loading dock area
15. Prune and/or shear of trees **once** per season.
- 16.

Cost for Section: B \$ _____

C. Fall Clean Up: End of November – Start of December

1. Clean up and removal of leaves and other debris from lawns, bed and throughout the infrastructure and perimeter of property.

Cost for Section: C \$ _____

D. Trash/Litter Removal: End of November – Start of December

1. Trash/ Litter removal from islands, medians, squares, street gutters & side of roads.
2. Trash/ Litter removal shall be as needed and/or on a schedule as approved by owner.
3. All trash/debris shall be disposed of as allowed on site utilizing the WRA compactor upon approval by WRA representative.

Cost for Section: D \$ _____

E. Additional Grounds & Landscape Maintenance Services: January –December

1. Contractor shall provide additional Grounds & Landscape maintenance services on an as needed basis as requested by the WRA.

Price total to include **3 Person crew with truck and appropriate seasonal equipment.**
For Bidding Purposes Estimated 40 Hours Total

Cost for Section: E \$ _____(3 people per 40 Hrs. with truck)

TOTAL SUM (A-E above) = \$ _____

ENTER SECTION TOTALS ON BID PRICING SHEET

PART 2- SNOW & ICE MANAGEMENT SERVICES

The Contractor awarded this contract shall perform: all labor, equipment, vehicles, tools, and accessories necessary to perform and deliver on a regularly scheduled basis, as well as an as-needed basis, professional SNOW & ICE MANAGEMENT SERVICES at Union Station, 2 Washington Square, Worcester, Massachusetts.

Scope of Work – Provide all labor, materials, equipment, supervision, and other services required to complete the work in accordance with the specifications for “Snow & Ice Management Services”. Contractor awarded this contract shall perform the Snow and Ice Management services listed below on a prioritized and regularly scheduled basis and on an as-needed basis. Scope and schedules may be adjusted at the discretion of the WRA.

The Contractor shall perform regularly scheduled daily safety checks of snow and ice conditions in addition to pre and post weather events to determine and verify safe passage, traversing and travel at all times and that clear and remove snow and treat areas throughout the infrastructure as defined; including but not limited to; all parking areas, drives, walkways, plazas, crosswalks and building walkways. All infrastructure and proximate areas shall be treated as determined by this contractor and at times as requested by the WRA’s representatives.

Snow and Ice management and treatment shall be performed at such frequencies as to maintain an infrastructure that allows and supports the safe, accessible passage, traversing and travel conditions for both pedestrian and vehicular traffic. Snow and Ice management and treatment will be completed in such a manner as to minimize the loss of parking areas and walkways. The Contractor will be required to remove accumulated snow (plowed or shoveled) from preceding storms expeditiously from infrastructure and/or as necessary to allow for effective management of on-going snow and ice weather events.

Ice Treatment - During conditions warranting ONLY ice treatment applications (no plowing, snow blowing and/or shoveling) the cost shall be equal to the Unit Price per lineal foot (LF) for labor and product (tax exempt) to dispense Calcium Chloride ice melt product in a (minimum 80lbs capacity) broadcast spreader. The slope gradient including cross slopes of existing sidewalk shall be considered to minimize snow melt and refreeze where possible.

Ice Treatment - During conditions warranting ONLY ice treatment applications (no plowing, snow blowing and/or shoveling) the cost shall be equal to the Unit Price per lineal foot (LF) for labor and product (tax exempt) to dispense Calcium Chloride ice melt product in a (minimum 80lbs capacity) broadcast spreader. The slope gradient including cross slopes of existing sidewalk shall be considered to minimize snow melt and refreeze where possible.

Additional Work: Due to drifting conditions, a call back to clear driveways, and entrances (due to drifting snow only) will be paid on a unit price basis as follows: based on the (average depth of the drift -in inches) X (the square foot area of the drift) x average SF total cost of all Locations.

The awarded bidder will be compensated for actual additional snow related activities based on the unit prices provided on the Pricing Sheet – Exhibit A. Price Sheet Totals indicate a base contract value only.

If the snow storage area on site is full additional costs for snow services shall amend the contract and

be based on unit prices provided for such and can include any additional costs for hauling.

The Contractor is required to have available adequate and sufficient equipment, manpower, and supplies to perform these professional services in a timely, effective, and efficient manner to accomplish the above services. Failure to do so will constitute a violation of the Contractor's obligation under this contract and may result in penalties, contract cancellation, and non-payment of invoices.

The Contractor is required to maintain an ADA accessible walkway clear path from the existing 2nd floor level train platform exit/entrance from the building (the current high-level platform access point to/from the building), along the plaza from the eastern end of the existing high-level platform down to the western side of the I-290 OH Bridge and the MBTA to the western side of the I-290 Bridge beyond Grafton St bridge. This also includes all existing ADA accessible ramps and stairs that shall always need to maintain a clear and treated path to allow safe passage, traversing and travel at all times.

Perform daily Safety Checks in addition to pre and post weather event Safety Checks throughout the infrastructure (as defined, typical) to establish conditions that will allow:

- safe passage, traversing and travel at all times and
- to evaluate and modify (as necessary) the Work Plan based on; present (daily) conditions and post event's; duration, magnitude, and type (mix) of precipitation respective to deployment and means and methods of Snow and Ice operations personnel, equipment and treatment.

SNOW AND ICE MANAGEMENT AND TREATMENT

1. It is the intent and requirement of this contract that the contractor shall be fully responsible for SNOW & ICE MANAGEMENT SERVICES at Union Station as specified and throughout its infrastructure as defined. (SEE DEFINITIONS) All products used must be pre-approved by the WRA prior to application.
2. Throughout the duration of this contract and at all times, it shall remain the sole responsibility of this contractor to (preemptively) determine when to initiate, commence, perform and maintain said services under his contract. Removal of snow shall be completed no later than 24 hours after snow stops
3. Notwithstanding the above, the WRA representative, may at various times and/or on a case-by-case basis request commencement of said services.
4. In case of unique or protracted duration storms, Snow & Ice Management Services shall be at an earlier and longer time at the same bid unit prices. Initial Work to be done during a protracted storm shall include opening and maintaining entrances driveways, parking and drive isles and pedestrian walkways ramps, platform areas. These initial operations may require the repetition of cleaning of some areas because of subsequently fallen snow. The Contractor will have a maximum of 24 hours to perform detailed clean up and removal to onsite location of all the snow after a storm finishes.
5. No snow shall be placed in the landscaped areas, pedestrian areas, or over catch-basins, except when the Contractor is authorized to pile the snow, temporarily, on paved portions of the infrastructure locations only as approved by the WRA representative.
6. In cases of snowstorms with minimum accumulations, and especially storms occurring late in

the winter season, Snow and Ice Management and treatment and stack/stockpiling may be requested by the contractor and authorized by WRA representative in all or some of the infrastructure. The snow will be left stack/stockpiled in designated places and not removed. During these times, it shall remain the contractor's responsibility to maintain a safe passage, traversing and travel at all times via ice treatment as may be necessary.

7. On Site (limited) Storage of Contractor's pre-approved contractor equipment may be stored on site, at the discretion of, and coordinated with, the with approval of the WRA Representative. The Contractor assumes all liability for all equipment stored on-site and agrees to hold the WRA harmless. The Contractor agrees to remove all or any equipment stored on-site within one business day's notification,
8. If the Contractor is required to be called back due to insufficient amount of a treatment application, it will be at the Contractor's expense.
9. Drift clearing during the 24 hour event period is included in the bid price for the event.
10. Authorization of Work: The Successful Bidder shall be contracted to the WRA and shall be provided with a list of personnel authorized to direct services. No other authorization shall be honored. Contractor shall notify a WRA authorized representative upon completion of services for each event. The Contractor shall not be paid for services that were not requested by authorized personnel.
11. The contractor is to include as part of his bid a list of equipment for consideration to be used and stored on-site.
12. Follow-Up: Immediately after each of the snow removal events, the Contractor's representative shall be available to tour the infrastructure areas with a designated WRA's representative to review the work.

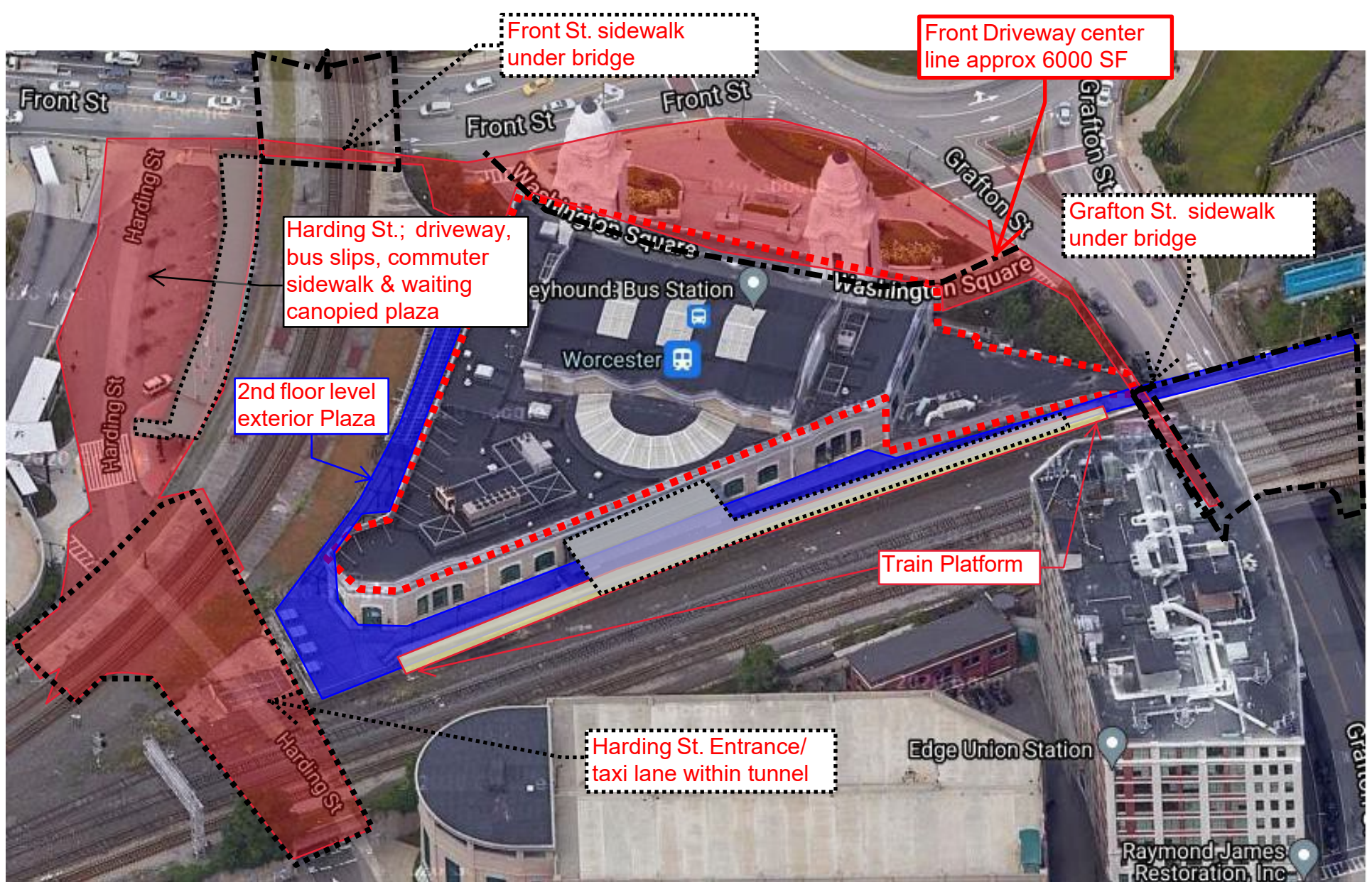
DAMAGE

- A. At the end of each snow season the Contractor will remove all accumulated debris from the above areas, and repair, at no additional cost to the WRA, any damage incurred due to weather conditions or plowing. (e.g. building, rails, pot holes, broken and disrupted curbing, paving, pavers, curbs, or stationary building monuments, fences or fixtures)
- B. The Contractor shall exercise care in his work and shall be held liable for any damage incurred beyond normal wear and tear.
- C. Any damage to granite or asphalt curb, guard rails, fencing, concrete or asphalt sidewalks, parking meters, sign poles, signs, or landscaped areas, occurring during the Contractor's snow or removal operations will be corrected by the Contractor, or in failing to do so will be corrected by others and charged to the Contractor.
- D. The Contractor shall be liable for any and all repairs and/or damage to vehicles and/or property.
- E. CONTRACTOR'S EQUIPMENT

- Equipment (includes fuels & operator): including but not limited: owned or leased; vehicles, any and all equipment or machines (powered and non-powered), all tools and accessories; to be on hand, maintained, fully operational in good operating condition, safe, compliant emissions, in clean and working condition as required to reliably support the contract work utilizing best Industry best practices. Equipment must meet all rules, regulations, registration, and inspection requirements of the Commonwealth of Massachusetts.
 - o Vehicles must be equipped with approved industry standard safety equipment including but not limited to backup warning, strobes, etc.
- The contractor is to include as part of his bid a list of equipment that will be used and is anticipated to be stored on site.
- The equipment to be provided is subject to inspection and approval by WRA/City personnel.

SNOW REMOVAL Additional Information

1. The Contractor shall begin and perform efficient snow removal operations from infrastructure using appropriate equipment to eliminate stockpiles/stacking that obscure or impede public rights of ways, crosswalks, driveways, parking, walkways, driveways, as further described below.
 - a. The Contractor shall commence snow removal operations at the earliest opportunity. Removal may be scheduled to occur concurrent with and during an active storm as appropriate based on duration and intensity and the progress of clearing. However, removal shall be completed no later than 24 hours after snow stops. The Contractor shall satisfactorily remove all snow displaced from snow management operations from the hard surfaces and areas within 24 hours upon stoppage in snow fall.
2. The Contractor shall not pile snow higher than two feet near line of sight at or near intersections of traffic lanes and/or cross walks. Any stockpiled snow exceeding 2 feet shall be cleared at the contractor's expense.
3. The Contractor is responsible for keeping all driveway entrances and exits, as well as sidewalks open to intersection crossings, free of snow at all times. The narrow walks behind fixed appurtenances, inaccessible for equipment clearing, shall be cleared using hand methods.
4. The Contractor shall remove snow from infrastructure in accordance with a priority list, established protocol and/or in an updated Work Plan approved by WRA representative.
5. Authorization of Work the Successful Bidder shall be contracted to the WRA representative(s) and shall be provided with a list of personnel authorized to direct services. No other authorization shall be honored The Contractor shall not be paid for services that were not requested by authorized personnel.
6. Contractor shall notify a WRA authorized representative upon completion of services for each event.
7. Follow-Up: Immediately after each of the snow removal events, the Contractor's representative shall be available to tour the activity areas with a designated WRA's representative to review the work.



Driveway, bus slips, sidewalks, plaza



Canopy



Street, driveway, bus slips, sidewalks, plaza under Tunnel or Bridge;



Train Platform



2nd floor level plaza walkway

WRA- SNOW & ICE MANAGEMENT SERVICES @ UNION STATION

EXHIBIT "A"

Page 1 of 7

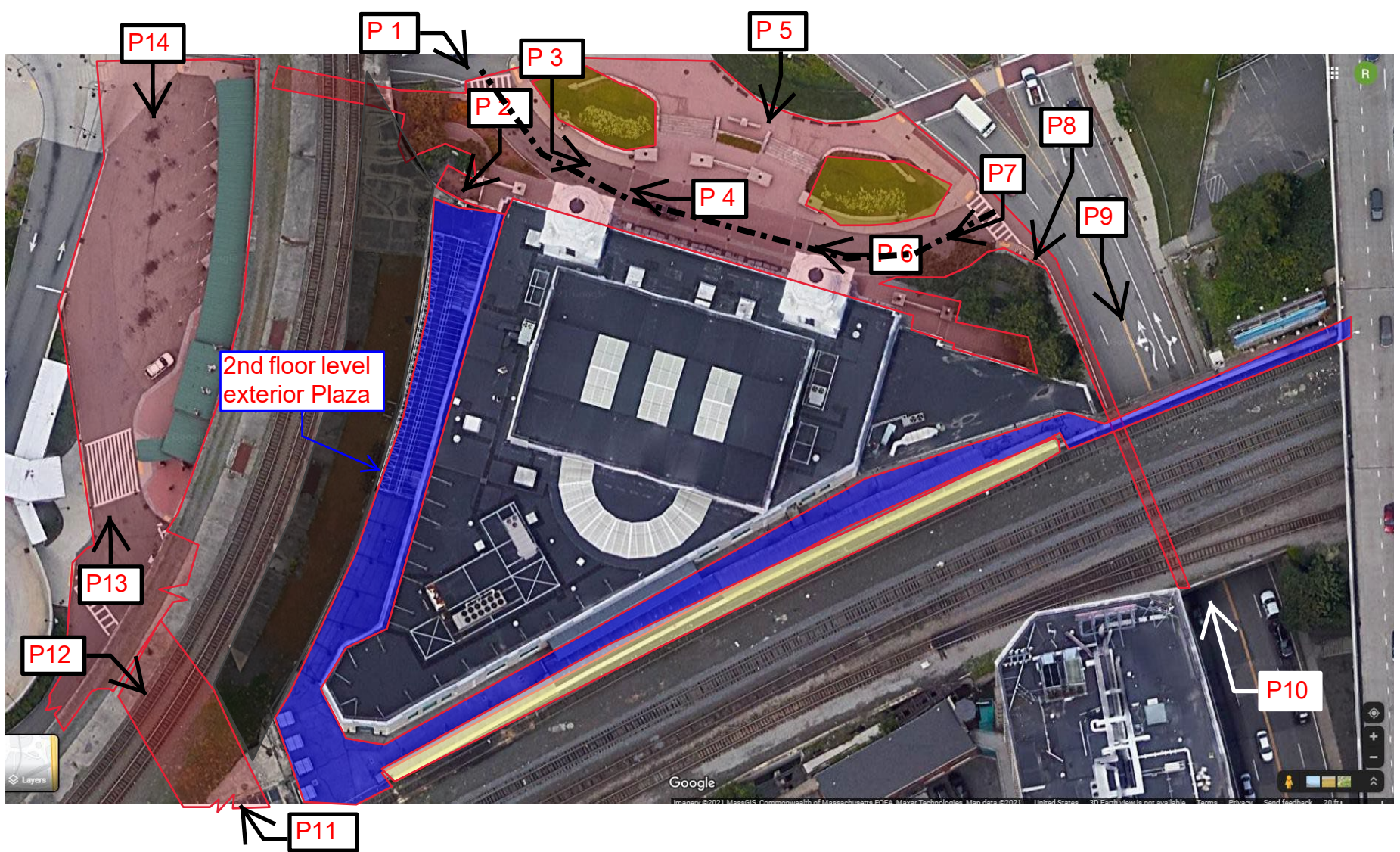






EXHIBIT "A"
WRA- SNOW & ICE MANAGEMENT SERVICES @ UNION STATION
Page 4 of 7

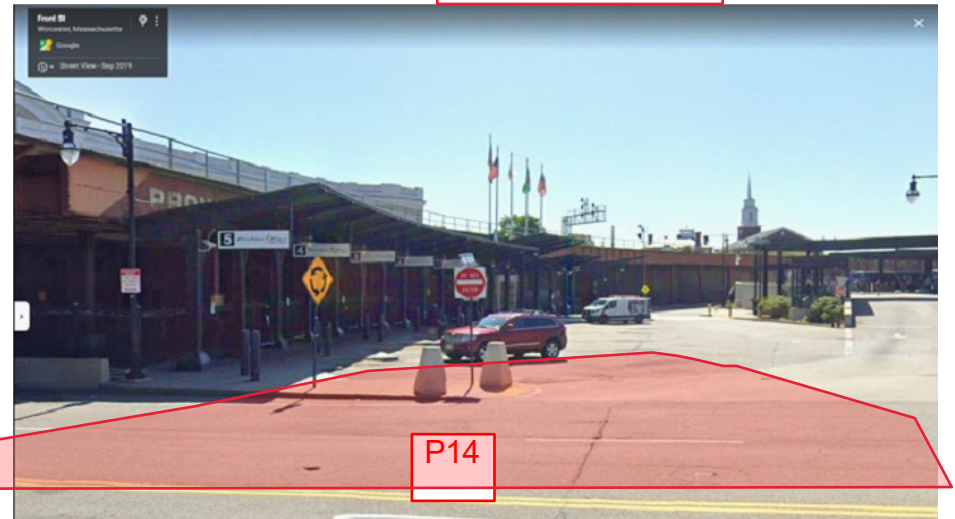




EXHIBIT "A"
WRA- SNOW & ICE MANAGEMENT SERVICES @ UNION STATION
Page 6 of 7



SNOW REMOVAL
STORAGE



FRONT ST

PRICE PROPOSAL FORM

Contractor: _____

Bidder shall perform **Parts 1 and 2** services required under this IFB for a period of one (1) year from date of contract. Contract may be renewed at the sole discretion of the WRA for two additional one-year periods. See renewal option page located elsewhere within this bid.:

| Part 1: Landscape Maintenance | | |
|--------------------------------------|--|-----------------------------|
| | | Cost for Section: \$ |
| Reference Section of work | SCOPE OF WORK TO BE PERFORMED | |
| A. | Spring Clean Up: | \$ |
| B. | Lawn and General Maintenance: | \$ |
| C. | Fall Clean Up: | \$ |
| D. | Trash/Litter Removal | \$ |
| E. | Additional Grounds & Landscape Maintenance Services: | \$ |
| F. | Total <u>ONE</u> (1) Year All Landscape Services Total Lines A- E above | \$ |
| | | |
| | | |
| | | |

| PART 2: UNION STATION - SNOW and ICE Management and Treatment - Exhibit A | | | | | | | | |
|---|-----------------------------|-----------------------------------|-------------------|---------------------|--------------------|---------------------|----------------------|-------------------------------|
| Snow and Ice Management and Treatment | | | | | | | | |
| *Including operator, materials, and labor as applicable. Areas are approximate. | | | | | | | | |
| | LOCATION | *Approximate SQUARE Footage | 0 - 3.0 inches | 3.1 - 6.0 inches | 6.1 -9.0 inches | 9.1 -12.0 inches | 12.1 -18.0 inches | 18.1+ inches or greater |
| | Front Plaza | 3,400 | \$ | \$ | \$ | \$ | \$ | \$ |
| | Harding Street | 50,000 | \$ | \$ | \$ | \$ | \$ | \$ |
| | 2nd Exterior Level Plaza | 20,000 | \$ | \$ | \$ | \$ | \$ | \$ |
| | Front Driveway | 6,000 | \$ | \$ | \$ | \$ | \$ | \$ |
| | | Sub Total | \$ | \$ | \$ | \$ | \$ | \$ |
| | | | | | | | | |
| Union Station - Snow Removal | | | | | | | | |
| | Front Plaza | 3,400 | \$ | \$ | \$ | \$ | \$ | \$ |
| | Harding Street | 50,000 | \$ | \$ | \$ | \$ | \$ | \$ |
| | Front Driveway | 6,000 | \$ | \$ | \$ | \$ | \$ | \$ |
| | | Sub Total | \$ | \$ | \$ | \$ | \$ | \$ |
| | | | | | | | | |
| | Snow and Ice Totals | | \$ | \$ | \$ | \$ | \$ | \$ |
| | | | | | | | | |
| | | | | | | | | |
| GRAND TOTAL Parts 1 & 2: Grounds Maintenance Services | | | | | | \$ | | |

Appendix A: Federally Required Contract Clauses and Forms

Note:

- a. The goods and /or services covered by this solicitation are being funded in part by the Federal Transit Administration (FTA). As such, the enclosed Federal Contract Clauses & associated forms apply to this procurement and will become a part of the resulting contract.
Submit the enclosed Required Certifications with the proposal or bid.
- b. **SAM.GOV** Certification – **All proposers must be registered on the System for Award Management (SAM)**, an official website of the U.S. government, online at www.sam.gov, or self-certify, using the attached form, that the business has not been debarred or suspended. There is no cost to register on the SAM website. This process can take an extended period of time, so please **register early**.

Federally Required Contract Clauses & Forms Applicability of Third Party Contract Clauses (Excluding micro-purchases, and exceptions as noted within each clause)

*** Indicates form to be submitted with bid; where applicable.**

1. ACCESS TO RECORDS AND REPORTS
2. BONDING REQUIREMENTS *
- ~~3. BUS TESTING~~
4. BUY AMERICA REQUIREMENTS *
5. CARGO PREFERENCE REQUIREMENTS
- ~~6. CHARTER SERVICE~~
7. CLEAN AIR ACT AND FEDERAL WATER POLLUTION CONTROL ACT
8. CIVIL RIGHTS LAWS AND REGULATIONS
- 8.5. SPECIAL DOL EEO CLAUSE - Department of Labor, Equal Employment Opportunity
9. DISADVANTAGED BUSINESS ENTERPRISE (DBE) *
- 9d. PROMPT PAYMENT
10. EMPLOYEE PROTECTIONS
11. ENERGY CONSERVATION
12. FLY AMERICA *
13. GOVERNMENT-WIDE DEBARMENT AND SUSPENSION *
14. LOBBYING RESTRICTIONS *

15. NO GOVERNMENT OBLIGATIONS TO THIRD PARTIES
16. PATENT RIGHTS AND RIGHTS IN DATA
17. PRE-AWARD AND POST-DELIVERY AUDITS OF ROLLING STOCK PURCHASES
18. PROGRAM FRAUD AND FALSE OR FRAUDULENT STATEMENTS AND RELATED ACTS
- ~~19. PUBLIC TRANSPORTATION EMPLOYEE PROTECTIVE ARRANGEMENTS~~
20. RECYCLED PRODUCTS
21. SAFE OPERATION OF MOTOR VEHICLES
- ~~22. SCHOOL BUS OPERATIONS~~
23. SEISMIC SAFETY
24. SUBSTANCE ABUSE REQUIREMENTS
25. TERMINATION
26. VIOLATION AND BREACH OF CONTRACT
27. CHANGES TO FEDERAL REQUIREMENTS
28. INCORPORATION OF FTA TERMS
29. AMERICANS WITH DISABILITIES ACT (ADA)
30. CONFORMANCE WITH ITS NATIONAL ARCHITECTURE
31. DAVIS-BACON ACT AND COPELAND ANTI-KICKBACK ACT
32. VETERANS HIRING PREFERENCE
33. PROHIBITION ON CERTAIN TELECOMMUNICATIONS AND VIDEO SURVEILLANCE SERVICES OR EQUIPMENT
34. NOTICE TO FTA AND U.S. DOT INSPECTOR GENERAL OF INFORMATION RELATED TO FRAUD, WASTE, ABUSE, OR OTHER LEGAL MATTERS
35. BUY AMERICA / BUILD AMERICA *

1. ACCESS TO RECORDS AND REPORTS

Applies to All Procurement Types

49 U.S.C. § 5325(g)

2 C.F.R. § 200.333

49 C.F.R. part 633

Access to Records and Reports

a. Record Retention. The Contractor will retain, and will require its subcontractors of all tiers to retain, complete and readily accessible records related in whole or in part to the contract, including, but not limited to, data, documents, reports, statistics, sub-agreements, leases, subcontracts, arrangements, other third party agreements of any type, and supporting materials related to those records.

b. Retention Period. The Contractor agrees to comply with the record retention requirements in accordance with 2 C.F.R. § 200.333. The Contractor shall maintain all books, records, accounts and reports required under this Contract for a period of at not less than three (3) years after the date of termination or expiration of this Contract, except in the event of litigation or settlement of claims arising from the performance of this Contract, in which case records shall be maintained until the disposition of all such litigation, appeals, claims or exceptions related thereto.

c. Access to Records. The Contractor agrees to provide sufficient access to FTA and its contractors to inspect and audit records and information related to performance of this contract as reasonably may be required.

d. Access to the Sites of Performance. The Contractor agrees to permit FTA and its contractors access to the sites of performance under this contract as reasonably may be required.

2. BONDING REQUIREMENTS *

Applies to Construction Procurements > \$100,000

2 C.F.R. § 200.325

31 C.F.R. part 223

***See bid package for bonding forms and requirements.**

Bond Requirements

Bid Guarantee

Bidders shall furnish a bid guaranty in the form of a bid bond, or certified treasurer's or cashier's check issued by a responsible bank or trust company, made payable to the Worcester Redevelopment Authority (WRA). The amount of such guaranty shall be equal to _____ or _____% of the total bid

In submitting this bid, it is understood and agreed by bidder that the WRA reserves the right to reject any and all bids, or part of any bid, and it is agreed that the Bid may not be withdrawn for a period of [90] days subsequent to the opening of bids, without the written consent of the WRA.

It is also understood and agreed that if the undersigned bidder should withdraw any part or all of his bid within [90] days after the bid opening without the written consent of the WRA, or refuse or be unable to enter into this Contract as provided above, or refuse or be unable to furnish adequate and acceptable Performance and Payment Bonds, or refuse or be unable to furnish adequate and acceptable insurance, as provided above, it shall forfeit its bid guaranty to the extent WRA'S damages occasioned by such withdrawal, or refusal, or inability to enter into an agreement, or provide adequate security thereof.

It is further understood and agreed that to the extent the defaulting bidder's bid guaranty shall prove inadequate to fully recompense WRA for the damages occasioned by default, then the undersigned bidder agrees to indemnify WRA and pay over to WRA the difference between the bid guarantee and WRA'S total damages so as to make WRA whole.

The undersigned understands that any material alteration of any of the above or any of the material contained herein, other than that requested will render the bid unresponsive.

Performance Guarantee

A Performance Guarantee in the amount of _____% of the Contract value is required by the WRA to ensure faithful performance of the Contract. Either a Performance Bond or an Irrevocable Stand-By Letter of Credit shall be provided by the Contractor and shall remain in full force for the term of the Agreement. The successful Bidder shall certify that it will provide the requisite Performance Guarantee to the WRA within ten (10) business days from Contract execution. The WRA requires all Performance Bonds to be provided by a fully qualified surety company acceptable to the WRA and listed as a company currently authorized under 31 C.F.R. part 22 as possessing a Certificate of Authority as described hereunder. WRA may require additional performance bond protection when the contract price is increased. The increase in protection shall generally equal 100 percent of the increase in contract price. The WRA may secure additional protection by directing the Contractor to increase the amount of the existing bond or to obtain an additional bond.

~~If the Bidder chooses to provide a Letter of Credit as its Performance Guarantee, the Bidder shall furnish with its bid, certification that an Irrevocable Stand-By Letter of Credit will be furnished should the Bidder become the successful Contractor. The Bidder shall also provide a statement from the banking institution certifying that an Irrevocable Stand-By Letter of Credit for the action will be provided if the Contract is awarded to the Bidder. The Irrevocable Stand-By Letter of Credit will only be accepted by the WRA if:~~

- ~~1. A bank in good standing issues it. The WRA will not accept a Letter of Credit from an entity other than a bank.~~
- ~~2. It is in writing and signed by the issuing bank.~~
- ~~3. It conspicuously states that it is an irrevocable, non-transferable, "standby" Letter of Credit.~~
- ~~4. The WRA is identified as the Beneficiary.~~

5. It is in an amount equal to 100% of the Contract value. This amount must be in U.S. dollars. The effective date of the Letter of Credit is the same as the effective date of the Contract

6. The expiration date of the Letter of Credit coincides with the term of this Agreement.

7. It indicates that it is being issued in order to support the obligation of the Contractor to perform under the Contract. It must specifically reference the Contract between the WRA and the Contractor the work stipulated herein.

The issuing bank's obligation to pay will arise upon the presentation of the original Letter of Credit and a certificate and draft (similar to the attached forms contained in Sections X and Y) to the issuing bank's representative at a location and time to be determined by the parties. This documentation will indicate that the Contractor is in default under the Contract.

Payment Bonds

A Labor and Materials Payment Bond equal to _____% of the contract value must be furnished by the contractor to WRA as security for payment by the Contractor and subcontractors for labor, materials, and rental of equipment. The bond may be issued by a fully qualified surety company acceptable to (WRA) and listed as a company currently authorized under 31 C.F.R. part 223 as possessing a Certificate of Authority as described thereunder.

* See WRA form for certification to be included with Bid Package.

Sample Bond Certifications

Performance Guarantee Certification

~~The undersigned hereby certifies that the Bidder shall provide a Performance Guarantee in accordance with the Specifications.~~

~~Designate below which form of Performance Guarantee shall be provided:~~

Performance Bond

Irrevocable Stand By Letter of Credit

BIDDER'S NAME: _____

AUTHORIZED SIGNATURE: _____

TITLE: _____

DATE: _____

~~* See WRA form for certification to be included with Bid.~~

Performance Bond

KNOW ALL MEN BY THESE PRESENTS: that _____
(Insert full name and address and legal title of Contractor) as Principal, hereinafter called Contractor,
_____ and (Insert full name
and address or legal title of Surety) as Surety, hereinafter called Surety, are held and firmly bound unto
WRA as Oblige, hereinafter called Authority, in the amount of Dollars _____ (\$) for the
payment whereof Contractor and Surety bind themselves, their heirs, executors, administrators,
successors and assigns, jointly and severally, firmly by these presents.

WHEREAS, Contractor has by written agreement dated, 20____, entered into a contract with the WRA
for Contract No. _____, which contract is by reference made a part hereof, and is
hereinafter referred to as the Contract.

NOW, THEREFORE, THE CONDITION OF THIS OBLIGATION is such that, if Contractor shall promptly and
faithfully perform said Contract, then this obligation shall be null and void; otherwise it shall remain in
full force and effect.

The Surety hereby waives notice of any alteration or extension of time made by the WRA. Whenever

Contractor shall be, and is declared by the WRA to be in default under the Contract, the
WRA having performed WRA'S obligations thereunder, the Surety may promptly remedy the default, or
shall promptly

1. Complete the Contract in accordance with its terms and conditions, or
2. Obtain a bid or bids for completing the Contract in accordance with its terms and conditions, and
upon determination by Surety of the lowest responsible bidder, or, if the WRA elects, upon
determination by the WRA and the Surety jointly of the lowest responsible bidder, arrange for a
contract between such bidder and the Authority, and make available as Work progresses (even though
there should be a default or a succession of defaults under the contract or contracts of completion
arranged under this paragraph) sufficient funds to pay the cost of completion less the balance of the
contract price; but not exceeding, the amount set forth in the first paragraph hereof. The term "balance
of the contract price," as used in this paragraph, shall mean the total amount payable by the WRA to
Contractor under the Contract and any amendments thereto, less the amount properly paid by the
WRA to Contractor.

~~Any suit under this bond must be instituted before the expiration of two (2) years from the date on which final payment under the Contract falls due.~~

~~No right of action shall accrue on this bond to or for the use of any person or corporation other than the WRA or the heirs, executors, administrators or successors of the WRA.~~

Signed and sealed this _____ day of _____, 20____.

WITNESS _____ PRINCIPAL _____

_____ (SEAL)

(Title)

WITNESS _____ SURETY _____

_____ (SEAL)

_____ (Title)

~~Attach hereto proof of authority of officers or agents to sign bond.~~

~~Irrevocable Stand-By Letter Of Credit Certificate~~

The undersigned states that he/she is of the _____ of the

(Title)

(The "Beneficiary") and hereby

(Name of Beneficiary)

Certifies on behalf of the Beneficiary to _____ (the "Bank"), with

(Name of Issuing Bank)

Reference to Irrevocable Standby Letter of Credit No. _____ Issued by the
Bank (the "Letter of Credit"), that:

1. The undersigned is duly authorized to execute and deliver this certificate on behalf of the Beneficiary.

2. The Beneficiary is making a drawing under the Letter of Credit.

3. An Event of Default has occurred under Contract No. _____.

4. The amount of the draft presented with this certificate does not exceed the total maximum amount
drawable today under the Letter of Credit as provided therein.

, this certificate is executed this day of _____, 20____.

(NAME OF BENEFICIARY)

By: _____

Its: _____

Bank Draft

FOR VALUE RECEIVED

Pay on presentment to _____ the sum of _____

(Name of Beneficiary) _____ Dollars (\$)

Charge the Account of _____ Irrevocably Standby Letter of

(Name of Issuing Bank)

Credit No. _____ Dated: 20____.

To _____

(Name of Issuing Bank)

NAME OF BENEFICIARY

By _____

Its _____

3. BUS TESTING

49 U.S.C. § 5318(e)
49 C.F.R. part 665

Bus Testing

The Contractor [Manufacturer] agrees to comply with the Bus Testing requirements under 49 U.S.C. 5318(e) and FTA's implementing regulation at 49 C.F.R. part 665 to ensure that the requisite testing is performed for all new bus models or any bus model with a major change in configuration or A-15 components, and that the bus model has achieved a passing score. Upon completion of the testing, the contractor shall obtain a copy of the bus testing reports from the operator of the testing facility and make that report(s) publicly available prior to final acceptance of the first vehicle by the WRA.

4. BUY AMERICA REQUIREMENTS *

Applies to Rolling Stock, Construction, Materials & Supplies Contracts >\$150,000

49 U.S.C. 5323(j)
49 C.F.R. part 661

Buy America

The contractor agrees to comply with 49 U.S.C. 5323(j) and 49 C.F.R. part 661, which provide that Federal funds may not be obligated unless all steel, iron, and manufactured products used in FTA funded projects are produced in the United States, unless a waiver has been granted by FTA or the product is subject to a general waiver. General waivers are listed in 49 C.F.R. § 661.7. Separate requirements for rolling stock are set out at 49 U.S.C. 5323(j)(2)(C) and 49 C.F.R. § 661.11.

The [bidder or offeror] must submit to [WRA] the appropriate Buy America certification below with its [bid or offer]. Bids or offers that are not accompanied by a completed Buy America certification will be rejected as nonresponsive.

In accordance with 49 C.F.R. § 661.6, for the procurement of steel, iron or manufactured products, use the certifications below.

Certificate of Compliance with Buy America Requirements

The bidder or offeror hereby certifies that it will comply with the requirements of 49 U.S.C. 5323(j)(1), and the applicable regulations in 49 C.F.R. part 661.

Date: _____

Signature: _____

Company: _____

Name: _____

Title: _____

Certificate of Non-Compliance with Buy America Requirements

The bidder or offeror hereby certifies that it cannot comply with the requirements of 49 U.S.C. 5323(j), but it may qualify for an exception to the requirement pursuant to 49 U.S.C. 5323(j)(2), as amended, and the applicable regulations in 49 C.F.R. § 661.7.

Date: _____

Signature: _____

Company: _____

Name: _____

Title: _____

In accordance with 49 C.F.R. § 661.12, for the procurement of rolling stock (including train control, communication, and traction power equipment) use the following certifications:

Certificate of Compliance with Buy America Rolling Stock Requirements

The bidder or offeror hereby certifies that it will comply with the requirements of 49 U.S.C. 5323(j), and the applicable regulations of 49 C.F.R. § 661.11.

Date: _____

Signature: _____

Company: _____

Name: _____

Title: _____

Certificate of Non-Compliance with Buy America Rolling Stock Requirements

The bidder or offeror hereby certifies that it cannot comply with the requirements of 49 U.S.C. 5323(j), but may qualify for an exception to the requirement consistent with 49 U.S.C. 5323(j)(2)(C), and the applicable regulations in 49 C.F.R. § 661.7.

Date: _____

Signature: _____

Company: _____

Name: _____

Title: _____

5. CARGO PREFERENCE REQUIREMENTS

Applies to Rolling Stock, Construction, Material & Supplies that may be transported by ocean vessel.

46 U.S.C. § 55305

46 C.F.R. part 381

Cargo Preference - Use of United States-Flag Vessels

The contractor agrees:

- a. to use privately owned United States-Flag commercial vessels to ship at least 50 percent of the gross tonnage (computed separately for dry bulk carriers, dry cargo liners, and tankers) involved, whenever shipping any equipment, material, or commodities pursuant to the underlying contract to the extent such vessels are available at fair and reasonable rates for United States-Flag commercial vessels;
- b. to furnish within 20 working days following the date of loading for shipments originating within the United States or within 30 working days following the date of loading for shipments originating outside the United States, a legible copy of a rated, "on-board" commercial ocean bill-of-lading in English for each shipment of cargo described in the preceding paragraph to the Division of National Cargo, Office of Market Development, Maritime Administration, Washington, DC 20590 and to the FTA, WRTA, & WRA (through the contractor in the case of a subcontractor's bill-of-lading.); and
- c. to include these requirements in all subcontracts issued pursuant to this contract when the subcontract may involve the transport of equipment, material, or commodities by ocean vessel.

6. CHARTER SERVICE

Applies to All Operations/Management/Subrecipients contracts

49 U.S.C. 5323(d) and (r)

49 C.F.R. part 604

Charter Service

The contractor agrees to comply with 49 U.S.C. 5323(d), 5323(r), and 49 C.F.R. part 604, which provides that WRTAs and subWRTAs of FTA assistance are prohibited from providing charter service using federally funded equipment or facilities if there is at least one private charter operator willing and able to provide the service, except as permitted under:

1. Federal transit laws, specifically 49 U.S.C. § 5323(d);
2. FTA regulations, "Charter Service," 49 C.F.R. part 604;
3. Any other federal Charter Service regulations; or
4. Federal guidance, except as FTA determines otherwise in writing.

~~The contractor agrees that if it engages in a pattern of violations of FTA's Charter Service regulations, FTA may require corrective measures or impose remedies on it. These corrective measures and remedies may include:~~

- ~~1. Barring it or any subcontractor operating public transportation under its Award that has provided prohibited charter service from receiving federal assistance from FTA;~~
- ~~2. Withholding an amount of federal assistance as provided by Appendix D to part 604 of FTA's Charter Service regulations; or~~
- ~~3. Any other appropriate remedy that may apply.~~

~~The contractor should also include the substance of this clause in each subcontract that may involve operating public transit services.~~

7. CLEAN AIR ACT AND FEDERAL WATER POLLUTION CONTROL ACT

Applies to All Procurement Types >\$150,000

42 U.S.C. §§ 7401 – 7671q

33 U.S.C. §§ 1251-1387

2 C.F.R. part 200, Appendix II (G)

The Contractor agrees:

- 1) It will not use any violating facilities;
- 2) It will report the use of facilities placed on or likely to be placed on the U.S. EPA "List of Violating Facilities;"
- 3) It will report violations of use of prohibited facilities to FTA; and
- 4) It will comply with the inspection and other requirements of the Clean Air Act, as amended, (42 U.S.C. §§ 7401 – 7671q); and the Federal Water Pollution Control Act as amended, (33 U.S.C. §§ 1251-1387).

8. CIVIL RIGHTS LAWS AND REGULATIONS

Applies to All Procurement Types

Civil Rights and Equal Opportunity

The WRA is an Equal Opportunity Employer. As such, the WRA agrees to comply with all applicable Federal civil rights laws and implementing regulations. Apart from inconsistent requirements imposed by Federal laws or regulations, the WRA agrees to comply with the requirements of 49 U.S.C. § 5323(h) (3) by not using any Federal assistance awarded by FTA to support procurements using exclusionary or discriminatory specifications.

Under this Agreement, the Contractor shall at all times comply with the following requirements and shall include these requirements in each subcontract entered into as part thereof.

1. **Nondiscrimination.** In accordance with Federal transit law at 49 U.S.C. § 5332, the Contractor agrees that it will not discriminate against any employee or applicant for employment because of race, color, religion, national origin, sex, disability, or age. In addition, the Contractor agrees to comply with applicable Federal implementing regulations and other implementing requirements FTA may issue.

2. **Race, Color, Religion, National Origin, Sex.** In accordance with Title VII of the Civil Rights Act, as amended, 42 U.S.C. § 2000e et seq., and Federal transit laws at 49 U.S.C. § 5332, the Contractor agrees to comply with all applicable equal employment opportunity requirements of U.S. Department of Labor (U.S. DOL) regulations, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor," 41 C.F.R. chapter 60, and Executive Order No. 11246, "Equal Employment Opportunity in Federal Employment," September 24, 1965, 42 U.S.C. § 2000e note, as amended by any later Executive Order that amends or supersedes it, referenced in 42 U.S.C. § 2000e note. The Contractor agrees to take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, national origin, or sex (including sexual orientation and gender identity). Such action shall include, but not be limited to, the following: employment, promotion, demotion or transfer, recruitment or recruitment advertising, layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.

3. **Age.** In accordance with the Age Discrimination in Employment Act, 29 U.S.C. §§ 621- 634, U.S. Equal Employment Opportunity Commission (U.S. EEOC) regulations, "Age Discrimination in Employment Act," 29 C.F.R. part 1625, the Age Discrimination Act of 1975, as amended, 42 U.S.C. § 6101 et seq., U.S. Health and Human Services regulations, "Nondiscrimination on the Basis of Age in Programs or Activities Receiving Federal Financial Assistance," 45 C.F.R. part 90, and Federal transit law at 49 U.S.C. § 5332, the Contractor agrees to refrain from discrimination against present and prospective employees for reason of age. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.

4. **Disabilities.** In accordance with section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 794, the Americans with Disabilities Act of 1990, as amended, 42 U.S.C. § 12101 et seq., the Architectural Barriers Act of 1968, as amended, 42 U.S.C. § 4151 et seq., and Federal transit law at 49 U.S.C. § 5332, the Contractor agrees that it will not discriminate against individuals on the basis of disability. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.

5. **Special DOL EEO Clause** – *Applies to construction contracts > \$10,000;*

This contractor and subcontractor shall abide by the requirements of 41 CFR 60-1.4(a), 60-300.5(a) and 60- 741.5(a). These regulations prohibit discrimination against qualified individuals based on their status as protected veterans or individuals with disabilities, and prohibit discrimination against all individuals

based on their race, color, religion, sex, sexual orientation, gender identity or national origin. Moreover, these regulations require that covered prime contractors and subcontractors take affirmative action to employ and advance in employment individuals without regard to race, color, religion, sex, sexual orientation, gender identity, national origin, disability or veteran status.

9. DISADVANTAGED BUSINESS ENTERPRISE (DBE) *

Applies to All Procurement Types

49 C.F.R. part 26

* **See WRA forms to be included with Bid.**

The following contract clause is required in all DOT-assisted prime and subcontracts:

a. This contract is subject to the requirements of Title 49, Code of Federal Regulations, Part 26, *Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs*. The national goal for participation of Disadvantaged Business Enterprises (DBE) is 10%. **The project's overall goal for DBE participation is 1.22%; (Worcester Redevelopment Authority (WRA) the Federal Grant Subrecipient & Worcester Regional Transit Authority (WRTA) Federal Grant Recipient's combined goal).**

b. The contractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of this DOT-assisted contract. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the WRA deems appropriate, which may include, but is not limited to:

(1) Withholding monthly progress payments;

(2) Assessing sanctions;

(3) Liquidated damages; and/or

(4) Disqualifying the contractor from future bidding as non-responsible. 49 C.F.R. § 26.13(b).

Each subcontract the contractor signs with a subcontractor must include the assurance in this paragraph (see 49 CFR 26.13(b)).

c. The successful bidder/offeror will be required to report its DBE participation obtained through race-neutral means throughout the period of performance.

d. **PROMPT PAYMENT** - The contractor is required to pay its subcontractors performing work related to this contract for satisfactory performance of that work no later than 30 days after the contractor's receipt of payment for that work from the WRA. In addition, the contractor is required to return any retainage payments to those subcontractors within 30 days after the subcontractor's work related to this contract is satisfactorily completed.

e. The contractor must promptly notify the WRA, whenever a DBE subcontractor performing work

related to this contract is terminated or fails to complete its work, and must make good faith efforts to engage another DBE subcontractor to perform at least the same amount of work. The contractor may not terminate any DBE subcontractor and perform that work through its own forces or those of an affiliate without prior written consent of the WRA.

Additional information for contracts with Contract Goals

Overview

It is the policy of the WRA and the United States Department of Transportation ("DOT") that Disadvantaged Business Enterprises ("DBE's"), as defined herein and in the Federal regulations published at 49 C.F.R. part 26, shall have an equal opportunity to participate in DOT-assisted contracts. It is also the policy of the WRA to:

1. Ensure nondiscrimination in the award and administration of DOT-assisted contracts;
2. Create a level playing field on which DBE's can compete fairly for DOT-assisted contracts;
3. Ensure that the DBE program is narrowly tailored in accordance with applicable law;
4. Ensure that only firms that fully meet 49 C.F.R. part 26 eligibility standards are permitted to participate as DBE's;
5. Help remove barriers to the participation of DBEs in DOT assisted contracts;
6. To promote the use of DBEs in all types of federally assisted contracts and procurement activities; and
7. Assist in the development of firms that can compete successfully in the marketplace outside the DBE program.

This Contract is subject to 49 C.F.R. part 26. Therefore, the Contractor must satisfy the requirements for DBE participation as set forth herein. These requirements are in addition to all other equal opportunity employment requirements of this Contract. The WRA shall make all determinations with regard to whether or not a Bidder/Offeror is in compliance with the requirements stated herein. In assessing compliance, the WRA may consider during its review of the Bidder/Offeror's submission package, the Bidder/Offeror's documented history of non-compliance with DBE requirements on previous contracts with the WRA.

Contract Assurance

The Contractor, subrecipient or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this Contract. The Contractor shall carry out applicable requirements of 49 C.F.R. part 26 in the award and administration of DOT-assisted contracts. Failure by the Contractor to carry out these requirements is a material breach of this Contract, which may result in the termination of this Contract or such other remedy as the WRA deems appropriate.

DBE Participation

For the purpose of this Contract, the WRA will accept only DBE's who are:

1. Certified, at the time of bid opening or proposal evaluation, by the MassDOT Unified Certification Program (UCP).

DBE Participation Goal

The DBE participation goal for this Contract is set at ____%. This goal represents those elements of work under this Contract performed by qualified Disadvantaged Business Enterprises for amounts totaling **not less than** ____% of the total Contract price. Failure to meet the stated goal at the time of proposal submission **may** render the Bidder/Offeror non-responsive.

Proposed Submission

Each Bidder/Offeror, as part of its submission, shall supply the following information:

1. A completed DBE Utilization Form (see below) that indicates the percentage and dollar value of the total bid/contract amount to be supplied by Disadvantaged Business Enterprises under this Contract.
2. A list of those qualified DBE's with whom the Bidder/Offeror intends to contract for the performance of portions of the work under the Contract, the agreed price to be paid to each DBE for work, the Contract items or parts to be performed by each DBE, a proposed timetable for the performance or delivery of the Contract item, and other information as required by the **DBE Participation Schedule** (see below). No work shall be included in the Schedule that the Bidder/Offeror has reason to believe the listed DBE will subcontract, at any tier, to other than another DBE. If awarded the Contract, the Bidder/Offeror may not deviate from the DBE Participation Schedule submitted in response to the bid. Any subsequent changes and/or substitutions of DBE firms will require review and written approval by the WRA.
3. An original **DBE Letter of Intent** (see below) from each DBE listed in the **DBE Participation Schedule**.
4. An original **DBE Affidavit** (see below) from each DBE stating that there has not been any change in its status since the date of its last certification

Good Faith Efforts

If the Bidder/Offeror is unable to meet the goal set forth above (DBE Participation Goal), the WRA will consider the Bidder/Offeror's documented good faith efforts to meet the goal in determining responsiveness. The types of actions that the WRA will consider as part of the Bidder/Offeror's good faith efforts include, but are not limited to, the following:

1. Documented communication with the WRA's DBE Coordinator (questions of IFB or RFP requirements, subcontracting opportunities, appropriate certification, will be addressed in a timely fashion);
2. Pre-bid meeting attendance. At the pre-bid meeting, the WRA generally informs potential Bidder/Offeror's of DBE subcontracting opportunities;

3. The Bidder/Offeror's own solicitations to obtain DBE involvement in general circulation media, trade association publication, minority-focus media and other reasonable and available means within sufficient time to allow DBEs to respond to the solicitation;
4. Written notification to DBE's encouraging participation in the proposed Contract; and
5. Efforts made to identify specific portions of the work that might be performed by DBE's.

The Bidder/Offeror shall provide the following details, at a minimum, of the specific efforts it made to negotiate in good faith with DBE's for elements of the Contract:

1. The names, addresses, and telephone numbers of DBE's that were contacted;
2. A description of the information provided to targeted DBE's regarding the specifications and bid proposals for portions of the work;
3. Efforts made to assist DBE's contacted in obtaining bonding or insurance required by the Bidder or the Authority.

Further, the documentation of good faith efforts must include copies of each DBE and non-DBE subcontractor quote submitted when a non-DBE subcontractor was selected over a DBE for work on the contract. 49 C.F.R. § 26.53(b) (2) (VI). In determining whether a Bidder has made good faith efforts, the Authority may take into account the performance of other Bidders in meeting the Contract goals. For example, if the apparent successful Bidder failed to meet the goal, but meets or exceeds the average DBE participation obtained by other Bidders, the Authority may view this as evidence of the Bidder having made good faith efforts.

Administrative Reconsideration

Within five (5) business days of being informed by the WRA that it is not responsive or responsible because it has not documented sufficient good faith efforts, the Bidder/Offeror may request administrative reconsideration. The Bidder should make this request in writing to the WRA's DBELO/CFO. The DBELO/CFO will forward the Bidder/Offeror's request to a reconsideration official who will not have played any role in the original determination that the Bidder/Offeror did not document sufficient good faith efforts.

As part of this reconsideration, the Bidder/Offeror will have the opportunity to provide written documentation or argument concerning the issue of whether it met the goal or made adequate good faith efforts to do so. The Bidder/Offeror will have the opportunity to meet in person with the assigned reconsideration official to discuss the issue of whether it met the goal or made adequate good faith efforts to do so. The WRA will send the Bidder/Offeror a written decision on its reconsideration, explaining the basis for finding that the Bidder/Offeror did or did not meet the goal or make adequate A-34 good faith efforts to do so. The result of the reconsideration process is not administratively appealable to the Department of Transportation.

Termination of DBE Subcontractor

The Contractor shall not terminate the DBE subcontractor(s) listed in the **DBE Participation Schedule** (see below) without the WRA's prior written consent. The WRA may provide such written consent only if the Contractor has good cause to terminate the DBE firm. Before transmitting a request to terminate, the Contractor shall give notice in writing to the DBE subcontractor of its intent to terminate and the reason for the request. The Contractor shall give the DBE five days to respond to the notice and advise of the reasons why it objects to the proposed termination. When a DBE subcontractor is terminated or fails to complete its work on the Contract for any reason, the Contractor shall make good faith efforts to find another DBE subcontractor to substitute for the original DBE and immediately notify the WRA in writing of its efforts to replace the original DBE. These good faith efforts shall be directed at finding another DBE to perform at least the same amount of work under the Contract as the DBE that was terminated, to the extent needed to meet the Contract goal established for this procurement. Failure to comply with these requirements will be in accordance with Section 8 below (Sanctions for Violations).

Continued Compliance

The WRA shall monitor the Contractor's DBE compliance during the life of the Contract. In the event this procurement exceeds ninety (90) days, **it will be the responsibility of the Contractor to submit quarterly written reports to the WRA** that summarize the total DBE value for this Contract.

These reports shall provide the following details:

- DBE utilization established for the Contract;
- Total value of expenditures with DBE firms for the quarter;
- The value of expenditures with each DBE firm for the quarter by race and gender;
- Total value of expenditures with DBE firms from inception of the Contract; and
- The value of expenditures with each DBE firm from the inception of the Contract by race and gender.

Reports and other correspondence must be submitted to the DBE Coordinator with copies provided to the Worcester Redevelopment Authority and the Worcester Regional Transit Authority. Reports shall continue to be submitted quarterly until final payment is issued or until DBE participation is completed.

The successful Bidder/Offeror shall permit:

- The WRA to have access to necessary records to examine information as the WRA deems appropriate for the purpose of investigating and determining compliance with this provision, including, but not limited to, records of expenditures, invoices, and contract between the successful Bidder/Offeror and other DBE parties entered into during the life of the Contract.

- The authorized representative(s) of the WRA, the U.S. Department of Transportation, the Comptroller General of the United States, to inspect and audit all data and record of the Contractor relating to its performance under the Disadvantaged Business Enterprise Participation provision of this Contract.
- All data/record(s) pertaining to DBE shall be submitted with Certified Payroll and maintained by the Contractor for monthly review with draft application for payment at the project meeting.

Sanctions for Violations

If at any time the WRA has reason to believe that the Contractor is in violation of its obligations under this Agreement or has otherwise failed to comply with terms of this Section, the WRA may, in addition to pursuing any other available legal remedy, commence proceedings, which may include but are not limited to, the following:

- Suspension of any payment or part due the Contractor until such time as the issues concerning the Contractor's compliance are resolved; and
- Termination or cancellation of the Contract, in whole or in part, unless the successful Contractor is able to demonstrate within a reasonable time that it is in compliance with the DBE terms stated herein.

DBE UTILIZATION FORM

The undersigned Bidder/Offeror has satisfied the requirements of the solicitation in the following manner (please check the appropriate space):

_____ The Bidder/Offer is committed to a minimum of _____% DBE utilization on this contract.

_____ The Bidder/Offeror (if unable to meet the DBE goal of %) is committed to a minimum of _____% DBE utilization on this contract and submits documentation demonstrating good faith efforts

DBE PARTICIPATION SCHEDULE

The Bidder/Offeror shall complete the following information for all DBE's participating in the contract that comprises the DBE Utilization percent stated in the DBE Utilization Form. The Bidder/Offeror shall also furnish the name and telephone number of the appropriate contact person should the Authority have any questions in relation to the information furnished herein.

DBE IDENTIFICATION AND INFORMATION FORM

| Name and Address | Contact Name and Telephone Number | Participation Percent (Of Total Contract Value) | Description Of Work To Be Performed | Performed Race and Gender of Firm |
|------------------|-----------------------------------|---|-------------------------------------|-----------------------------------|
| | | | | |

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|--|--|--|--|--|
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10. EMPLOYEE PROTECTIONS

Applicability – See each section

49 U.S.C. § 5333(a)

40 U.S.C. §§ 3141 – 3148

29 C.F.R. part 5

18 U.S.C. § 874

29 C.F.R. part 3

40 U.S.C. §§3701-3708

29 C.F.R. part 1926

Prevailing Wage and Anti-Kickback

Applies to Construction Contracts >\$2,000

For all prime construction, alteration or repair contracts in excess of \$2,000 awarded by FTA, the Contractor shall comply with the Davis-Bacon Act and the Copeland “Anti-Kickback” Act. Under 49 U.S.C. § 5333(a), prevailing wage protections apply to laborers and mechanics employed on FTA assisted construction, alteration, or repair projects. The Contractor will comply with the Davis-Bacon Act, 40 U.S.C. §§ 3141-3144, and 3146-3148 as supplemented by DOL regulations at 29 C.F.R. part 5, “Labor Standards Provisions Applicable to Contracts Governing Federally Financed and Assisted Construction.” In accordance with the statute, the Contractor shall pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, the Contractor agrees to pay wages not less than once a week. The Contractor shall also comply with the Copeland “Anti-Kickback” Act (40 U.S.C. § 3145), as supplemented by DOL regulations at 29 C.F.R. part 3, “Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in part by Loans or Grants from the United States.” The Contractor is prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled.

Contract Work Hours and Safety Standards

Applies to Operations/Management/Subrecipients, Rolling Stock, Construction Contracts >\$100,000

For all contracts in excess of \$100,000 that involve the employment of mechanics or laborers, the Contractor shall comply with the Contract Work Hours and Safety Standards Act (40 U.S.C. §§ 3701-3708), as supplemented by the DOL regulations at 29 C.F.R. part 5. Under 40 U.S.C. § 3702 of the Act, the Contractor shall compute the wages of every mechanic and laborer, including watchmen and guards, on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of 40

U.S.C. § 3704 are applicable to construction work and provide that no laborer or mechanic be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchase of supplies or materials or articles ordinarily available on the open market, or to contracts for transportation or transmission of intelligence.

In the event of any violation of the clause set forth herein, the Contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, the Contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of this clause in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by this clause.

The FTA shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the Contractor or subcontractor under any such contract or any other Federal contract with the same prime Contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime Contractor, such sums as may be determined to be necessary to satisfy any liabilities of such Contractor or subcontractor for unpaid wages and liquidated damages as provided in this section.

The Contractor or subcontractor shall insert in any subcontracts the clauses set forth in this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime Contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in this agreement.

Contract Work Hours and Safety Standards for Awards Not Involving Construction

The Contractor shall comply with all federal laws, regulations, and requirements providing wage and hour protections for non-construction employees, in accordance with 40 U.S.C. § 3702, Contract Work Hours and Safety Standards Act, and other relevant parts of that Act, 40 U.S.C. § 3701 et seq., and U.S. DOL regulations, "Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction (also Labor Standards Provisions Applicable to Non-construction Contracts Subject to the Contract Work Hours and Safety Standards Act)," 29 C.F.R. part 5.

The Contractor shall maintain payrolls and basic payroll records during the course of the work and shall preserve them for a period of three (3) years from the completion of the contract for all laborers and mechanics, including guards and watchmen, working on the contract. Such records shall contain the name and address of each such employee, social security number, correct classifications, hourly rates of wages paid, daily and weekly number of hours worked, deductions made, and actual wages paid.

Such records maintained under this paragraph shall be made available by the Contractor for inspection, copying, or transcription by authorized representatives of the FTA and the Department of Labor, and the Contractor will permit such representatives to interview employees during working hours on the job.

The contractor shall require the inclusion of the language of this clause within subcontracts of all tiers.

11. ENERGY CONSERVATION

Applies to All Procurements

42 U.S.C. 6321 et seq.

49 C.F.R. part 622, subpart C

The contractor agrees to comply with mandatory standards and policies relating to energy efficiency, which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act.

12. FLY AMERICA *

Applies to All Procurements involving foreign transport or travel by air

49 U.S.C. § 40118

41 C.F.R. part 301-10

48 C.F.R. part 47.4

Fly America Requirements

a) Definitions. As used in this clause—

“International air transportation” means transportation by air between a place in the United States and a place outside the United States or between two places both of which are outside the United States.

“United States” means the 50 States, the District of Columbia, and outlying areas.

“U.S.-flag air carrier” means an air carrier holding a certificate under 49 U.S.C. Chapter 411.

b) When Federal funds are used to fund travel, Section 5 of the International Air Transportation Fair Competitive Practices Act of 1974 (49 U.S.C. 40118) (Fly America Act) requires contractors, the WRA, and others to use U.S.-flag air carriers for U.S. Government-financed international air transportation of personnel (and their personal effects) or property, to the extent that service by those carriers is available. It requires the Comptroller General of the United States, in the absence of satisfactory proof of the necessity for foreign-flag air transportation, to disallow expenditures from funds, appropriated or otherwise established for the account of the United States, for international air transportation secured aboard a foreign-flag air carrier if a U.S.-flag air carrier is available to provide such services.

c) If available, the Contractor, in performing work under this contract, shall use U.S.-flag carriers for international air transportation of personnel (and their personal effects) or property.

d) In the event that the Contractor selects a carrier other than a U.S.-flag air carrier for international air transportation, the Contractor shall include a statement on vouchers involving such transportation essentially as follows:

Statement of Unavailability of U.S.-Flag Air Carriers

International air transportation of persons (and their personal effects) or property by U.S.-flag air carrier was not available or it was necessary to use foreign-flag air carrier service for the following reasons. See FAR § 47.403. [State reasons]: _____

(End of statement)

e) The Contractor shall include the substance of this clause, including this paragraph (e), in each subcontract or purchase under this contract that may involve international air transportation.

(End of Clause)

13. GOVERNMENT-WIDE DEBARMENT AND SUSPENSION *

Applies to All Contracts >\$25,000

2 C.F.R. part 180

2 C.F.R. part 1200

2 C.F.R. § 200.213

2 C.F.R. part 200 Appendix II (I)

Executive Order 12549

Executive Order 12689

* **See WRA form for certification to be included with Bid.**

Debarment, Suspension, Ineligibility and Voluntary Exclusion

Debarment and Suspension (Executive Orders 12549 and 12689). A covered transaction (see 2 C.F.R. §§ 180.220 and 1200.220) must not be entered into with any party listed on the governmentwide exclusions in the **System for Award Management (SAM)**, in accordance with the OMB guidelines at 2C.F.R.180 that implement Executive Orders 12549 (31 U.S.C. §6101 note, 51 Fed. Reg. 6370,) and 12689 (31 U.S.C. §6101 note, 54 Fed. Reg. 34131), "Debarment and Suspension."

SAM Exclusions contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549. The Recipient agrees to include, and require each Third Party Participant to include, a similar provision in each lower tier covered transaction, ensuring that each lower tier Third Party Participant:

- (i) Complies with federal debarment and suspension requirements; and
- (ii) Reviews the SAM at <https://www.sam.gov>, if necessary to comply with U.S. DOT regulations, 2CFR Part1200.

The Contractor shall comply and facilitate compliance with U.S. DOT regulations, "Nonprocurement Suspension and Debarment," 2 C.F.R. part 1200, which adopts and supplements the U.S. Office of

Management and Budget (U.S. OMB) "Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement)," 2 C.F.R. part 180. These provisions apply to each contract at any tier of \$25,000 or more, and to each contract at any tier for a federally required audit (irrespective of the contract amount), and to each contract at any tier that must be approved by an FTA official irrespective of the contract amount. As such, the Contractor shall verify that its principals, affiliates, and subcontractors are eligible to participate in this federally funded contract and are not presently declared by any Federal department or agency to be:

- a) Debarred from participation in any federally assisted Award
- b) Suspended from participation in any federally assisted Award
- c) Proposed for debarment from participation in any federally assisted Award
- d) Declared ineligible to participate in any federally assisted Award
- e) Voluntarily excluded from participation in any federally assisted Award; or
- f) Disqualified from participation in any federally assisted Award.

By signing and submitting its bid or proposal, the bidder or proposer certifies as follows:

The certification in this clause is a material representation of fact relied upon by the WRA. If it is later determined by the WRA that the bidder or proposer knowingly rendered an erroneous certification, in addition to remedies available to the WRA, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment. The bidder or proposer agrees to comply with the requirements of 2 C.F.R. part 180, subpart C, as supplemented by 2 C.F.R. part 1200, while this offer is valid and throughout the period of any contract that may arise from this offer. The bidder or proposer further agrees to include a provision requiring such compliance in its lower tier covered transactions.

| | |
|-------|--|
| _____ | Name and Title of Contractor's Authorized Official |
| _____ | Signature of Contractor's Authorized Official |
| _____ | Date |
| _____ | Business Name |
| _____ | Business address |
| _____ | EIN |
| _____ | Email |
| _____ | Telephone |

LOBBYING RESTRICTIONS *

Applies to All Contracts >\$100,000

31 U.S.C. § 1352

2 C.F.R. § 200.450

2 C.F.R. part 200 appendix II (J)

49 C.F.R. part 20

* **See WRA form for certification to be included with Bid.**

The undersigned certifies, to the best of his or her knowledge and belief, that:

1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

3. The **undersigned shall require** that the language of this certification be included in the award documents for all **sub-awards at all tiers** (including subcontracts, sub-grants, and contracts under grants, loans, and cooperative agreements) and that **all sub-awards** shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

_____ Name and Title of Contractor's Authorized Official

_____ Signature of Contractor's Authorized Official

_____ Date

_____ Business Name

_____ Business address

_____ EIN

_____ Email

_____ Telephone

14. NO GOVERNMENT OBLIGATION TO THIRD PARTIES

Applies to All Contracts

The WRA and Contractor acknowledge and agree that, notwithstanding any concurrence by the Federal Government in or approval of the solicitation or award of the underlying Contract, absent the express written consent by the Federal Government, the Federal Government is not a party to this Contract and shall not be subject to any obligations or liabilities to the WRA, Contractor or any other party (whether or not a party to that contract) pertaining to any matter resulting from the underlying Contract. The Contractor agrees to include the above clause in each subcontract financed in whole or in part with Federal assistance provided by the FTA. It is further agreed that the clause shall not be modified, except to identify the subcontractor who will be subject to its provisions.

15. PATENT RIGHTS AND RIGHTS IN DATA

Applies to Professions Services/A&E – Research & Development

2 C.F.R. part 200, Appendix II (F)

37 C.F.R. part 401

Intellectual Property Rights This Project is funded through a Federal award with FTA for experimental, developmental, or research work purposes. As such, certain Patent Rights and Data Rights apply to all subject data first produced in the performance of this Contract. The Contractor shall grant the FTA intellectual property access and licenses deemed necessary for the work performed under this Agreement and in accordance with the requirements of 37 C.F.R. part 401, “Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements,” and any implementing regulations issued by FTA or U.S. DOT. The terms of an intellectual property agreement and software license rights will be finalized prior to execution of this Agreement and shall, at a minimum, include the following restrictions: Except for its own internal use, the Contractor may not publish or reproduce subject data in whole or in part, or in any manner or form, nor may the Contractor authorize others to do so, without the written consent of FTA, until such time as FTA may have either released or approved the release of such data to the public. This restriction on publication, however, does not apply to any contract with an academic institution. For purposes of this agreement, the term “subject data” means recorded information whether or not copyrighted, and that is delivered or specified to be delivered as required by the Contract. Examples of “subject data” include, but are not limited to computer software, standards, specifications, engineering drawings and associated lists, process sheets, manuals, technical reports, catalog item identifications, and related information, but do not include financial reports, cost analyses, or other similar information used for performance or administration of the Contract.

1. The Federal Government reserves a royalty-free, non-exclusive and irrevocable license to reproduce, publish, or otherwise use, and to authorize others to use for “Federal Government Purposes,” any subject data or copyright described below. For “Federal Government Purposes,” means use only for the direct purposes of the Federal Government. Without the copyright owner’s consent, the Federal Government may not extend its Federal license to any other party.

a. Any subject data developed under the Contract, whether or not a copyright has been obtained; and

b. Any rights of copyright purchased by the Contractor using Federal assistance in whole or in part by the FTA.

2. Unless FTA determines otherwise, the Contractor performing experimental, developmental, or research work required as part of this Contract agrees to permit FTA to make available to the public, either FTA's license in the copyright to any subject data developed in the course of the Contract, or a copy of the subject data first produced under the Contract for which a copyright has not been obtained. If the experimental, developmental, or research work, which is the subject of this Contract, is not completed for any reason whatsoever, all data developed under the Contract shall become subject data as defined herein and shall be delivered as the Federal Government may direct.

3. Unless prohibited by state law, upon request by the Federal Government, the Contractor agrees to indemnify, save, and hold harmless the Federal Government, its officers, agents, and employees acting within the scope of their official duties against any liability, including costs and expenses, resulting from any willful or intentional violation by the Contractor of proprietary rights, copyrights, or right of privacy, arising out of the publication, translation, reproduction, delivery, use, or disposition of any data furnished under that contract. The Contractor shall be required to indemnify the Federal Government for any such liability arising out of the wrongful act of any employee, official, or agents of the Federal Government.

4. Nothing contained in this clause on rights in data shall imply a license to the Federal Government under any patent or be construed as affecting the scope of any license or other right otherwise granted to the Federal Government under any patent.

5. Data developed by the Contractor and financed entirely without using Federal assistance provided by the Federal Government that has been incorporated into work required by the underlying Contract is exempt from the requirements herein, provided that the Contractor identifies those data in writing at the time of delivery of the Contract work.

6. The Contractor agrees to include these requirements in each subcontract for experimental, developmental, or research work financed in whole or in part with Federal assistance.

16. PRE-AWARD AND POST-DELIVERY AUDITS OF ROLLING STOCK PURCHASES

Applies to All Rolling Stock Purchases

49 U.S.C. 5323(m)

49 C.F.R. part 663

Pre-Award and Post-Delivery Audit Requirements

The Contractor agrees to comply with 49 U.S.C. § 5323(m) and FTA's implementing regulation at 49 C.F.R. part 663. The Contractor shall comply with the Buy America certification(s) submitted with its proposal/bid. The Contractor agrees to participate and cooperate in any pre-award and post-delivery audits performed pursuant to 49 C.F.R. part 663 and related FTA guidance.

17. PROGRAM FRAUD AND FALSE OR FRAUDULENT STATEMENTS AND RELATED ACTS

Applies to All Procurements

49 U.S.C. § 5323(l) (1)

31 U.S.C. §§ 3801-3812

18 U.S.C. § 1001

49 C.F.R. part 31

The Contractor acknowledges that the provisions of the Program Fraud Civil Remedies Act of 1986, as amended, 31 U.S.C. § 3801 et seq. and U.S. DOT regulations, "Program Fraud Civil Remedies," 49 C.F.R. part 31, apply to its actions pertaining to this Project. Upon execution of the underlying contract, the Contractor certifies or affirms the truthfulness and accuracy of any statement it has made, it makes, it may make, or causes to be made, pertaining to the underlying contract or the FTA assisted project for which this contract work is being performed. In addition to other penalties that may be applicable, the Contractor further acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification, the Federal Government reserves the right to impose the penalties of the Program Fraud Civil Remedies Act of 1986 on the Contractor to the extent the Federal Government deems appropriate.

The Contractor also acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification to the Federal Government under a contract connected with a project that is financed in whole or in part with Federal assistance originally awarded by FTA under the authority of 49 U.S.C. chapter 53, the Government reserves the right to impose the penalties of 18 U.S.C. § 1001 and 49 U.S.C. § 5323(l) on the Contractor, to the extent the Federal Government deems appropriate.

The Contractor agrees to include the above two clauses in each subcontract financed in whole or in part with Federal assistance provided by FTA. It is further agreed that the clauses shall not be modified, except to identify the subcontractor who will be subject to the provisions

18. PUBLIC TRANSPORTATION EMPLOYEE PROTECTIVE ARRANGEMENTS

Applies to Transit Operations funded with Section 5307, 5309, 531 or 5316 funds

49 U.S.C. § 5333(b) ("13(c)")

29 C.F.R. part 215

The Contractor agrees to comply with the following employee protective arrangements of 49 U.S.C. § 5333(b):

1. **U.S. DOL Certification.** Under this Contract or any Amendments thereto that involve public transportation operations that are supported with federal assistance, a certification issued by U.S. DOL is a condition of the Contract.

2. **Special Warranty.** When the Contract involves public transportation operations and is supported with federal assistance appropriated or made available for 49 U.S.C. § 5311, U.S. DOL will provide a Special Warranty for its Award, including its Award of federal assistance under the Tribal Transit Program. The U.S. DOL Special Warranty is a condition of the Contract.

3. **Special Arrangements.** The conditions of 49 U.S.C. § 5333(b) do not apply to Contractors providing public transportation operations pursuant to 49 U.S.C. § 5310. FTA reserves the right to make case-by-case determinations of the applicability of 49 U.S.C. § 5333(b) for all transfers of funding authorized under title 23, United States Code (flex funds), and make other exceptions as it deems appropriate, and, in those instances, any special arrangements required by FTA will be incorporated herein as required.

19. RECYCLED PRODUCTS

Applies to Operations/Management/Subrecipients; Rolling Stock; Construction Procurements - EPA

Selected Items >\$10,000 Annually

42 U.S.C. § 6962

40 C.F.R. part 247

2 C.F.R. part § 200.322

Recovered Materials the Contractor agrees to provide a preference for those products and services that conserve natural resources, protect the environment, and are energy efficient by complying with and facilitating compliance with Section 6002 of the Resource Conservation and Recovery Act, as amended, 42 U.S.C. § 6962, and U.S. Environmental Protection Agency (U.S. EPA), "Comprehensive Procurement Guideline for Products Containing Recovered Materials," 40 C.F.R. part 247.

20. SAFE OPERATION OF MOTOR VEHICLES

23 U.S.C. part 402
Executive Order No. 13043
Executive Order No. 13513
U.S. DOT Order No. 3902.10

Seat Belt Use

The Contractor is encouraged to adopt and promote on-the-job seat belt use policies and programs for its employees and other personnel that operate company-owned vehicles, company- A-60 rented vehicles, or personally operated vehicles. The terms “company-owned” and “company-leased” refer to vehicles owned or leased either by the Contractor or WRA.

Distracted Driving

The Contractor agrees to adopt and enforce workplace safety policies to decrease crashes caused by distracted drivers, including policies to ban text messaging while using an electronic device supplied by an employer, and driving a vehicle the driver owns or rents, a vehicle Contactor owns, leases, or rents, or a privately-owned vehicle when on official business in connection with the work performed under this agreement.

21. SCHOOL BUS OPERATIONS

Operations/Management/Subrecipients – All Contracts

49 U.S.C. 5323(f)

49 C.F.R. part 605

~~The contractor agrees to comply with 49 U.S.C. 5323(f), and 49 C.F.R. part 604, and not engage in school bus operations using federally funded equipment or facilities in competition with private operators of school buses, except as permitted under:~~

- ~~1. Federal transit laws, specifically 49 U.S.C. § 5323(f);~~
- ~~2. FTA regulations, “School Bus Operations,” 49 C.F.R. part 605;~~
- ~~3. Any other Federal School Bus regulations; or~~
- ~~4. Federal guidance, except as FTA determines otherwise in writing.~~

~~If Contractor violates this School Bus Agreement, FTA may:~~

- ~~1. Bar the Contractor from receiving Federal assistance for public transportation; or~~
- ~~2. Require the contractor to take such remedial measures as FTA considers appropriate.~~

~~When operating exclusive school bus service under an allowable exemption, the contractor may not use federally funded equipment, vehicles, or facilities.~~

~~The Contractor should include the substance of this clause in each subcontract or purchase under this contract that may operate public transportation services.~~

22. SEISMIC SAFETY

Professional Services - A&E & Construction for new buildings & additions

42 U.S.C. 7701 et seq.

49 C.F.R. part 41

Executive Order (E.O.) 12699The contractor agrees that any new building or addition to an existing building will be designed and constructed in accordance with the standards for Seismic Safety required in Department of Transportation (DOT) Seismic Safety Regulations 49 C.F.R. part 41 and will certify to compliance to the extent required by the regulation. The contractor also agrees to ensure that all work performed under this contract, including work performed by a subcontractor, is in compliance with the standards required by the Seismic Safety regulations and the certification of compliance issued on the project.

23. SUBSTANCE ABUSE REQUIREMENTS

~~Operations/Management/Subrecipients—Transit Operations funded with Section 5307, 5309, 5311 funds~~

~~49 U.S.C. § 5331~~

~~49 C.F.R. part 655~~

~~49 C.F.R. part 40~~

SUBSTANCE ABUSE TESTING

~~The Contractor agrees to participate in WRTA's drug and alcohol program established in compliance with 49 C.F.R. part 655.~~

24. TERMINATION

Applies to all contracts >\$10,000 if 49 CFR part 18 applies

2 C.F.R. § 200.339

2 C.F.R. part 200, Appendix II (B)

Termination for Convenience (General Provision)

The WRA may terminate this contract, in whole or in part, at any time by written notice to the Contractor when it is in the WRA's best interest. The Contractor shall be paid its costs, including contract close-out costs, and profit on work performed up to the time of termination. The Contractor shall promptly submit its termination claim to WRA to be paid the Contractor. If the Contractor has any property in its possession belonging to WRA, the Contractor will account for the same, and dispose of it in the manner WRA directs.

Termination for Default [Breach or Cause] (General Provision)

If the Contractor does not deliver supplies in accordance with the contract delivery schedule, or if the contract is for services, the Contractor fails to perform in the manner called for in the contract, or if the Contractor fails to comply with any other provisions of the contract, the WRA may terminate this contract for default. Termination shall be effected by serving a Notice of Termination on the Contractor setting forth the manner in which the Contractor is in default. The Contractor will be paid only the contract price for supplies delivered and accepted, or services performed in accordance with the manner of performance set forth in the contract.

If it is later determined by the WRA that the Contractor had an excusable reason for not performing, such as a strike, fire, or flood, events which are not the fault of or are beyond the control of the Contractor, the WRA, after setting up a new delivery of performance schedule, may allow the Contractor to continue work, or treat the termination as a Termination for Convenience.

Opportunity to Cure (General Provision)

The WRA, in its sole discretion may, in the case of a termination for breach or default, allow the Contractor [an appropriately short period of time] in which to cure the defect. In such case, the Notice of Termination will state the time period in which cure is permitted and other appropriate conditions

If Contractor fails to remedy to WRA's satisfaction the breach or default of any of the terms, covenants, or conditions of this Contract within [10 days] after receipt by Contractor of written notice from WRA setting forth the nature of said breach or default, WRA shall have the right to terminate the contract without any further obligation to Contractor. Any such termination for default shall not in any way operate to preclude WRA from also pursuing all available remedies against Contractor and its sureties for said breach or default.

Waiver of Remedies for any Breach

In the event that WRA elects to waive its remedies for any breach by Contractor of any covenant, term or condition of this contract, such waiver by WRA shall not limit WRA's remedies for any succeeding breach of that or of any other covenant, term, or condition of this contract.

Termination for Convenience (Professional or Transit Service Contracts)

The WRA, by written notice, may terminate this contract, in whole or in part, when it is in the WRA's interest. If this contract is terminated, the WRA shall be liable only for payment under the payment provisions of this contract for services rendered before the effective date of termination.

Termination for Default (Supplies and Service)

If the Contractor fails to deliver supplies or to perform the services within the time specified in this contract or any extension, or if the Contractor fails to comply with any other provisions of this contract, the WRA may terminate this contract for default. The WRA shall terminate by delivering to the Contractor a Notice of Termination specifying the nature of the default. The Contractor will only be paid the contract price for supplies delivered and accepted, or services performed in accordance with the manner or performance set forth in this contract.

If, after termination for failure to fulfill contract obligations, it is determined that the Contractor was not in default, the rights and obligations of the parties shall be the same as if the termination had been issued for the convenience of the WRA.

Termination for Default (Transportation Services)

If the Contractor fails to pick up the commodities or to perform the services, including delivery services, within the time specified in this contract or any extension, or if the Contractor fails to comply with any other provisions of this contract, the WRA may terminate this contract for default. The WRA shall terminate by delivering to the Contractor a Notice of Termination specifying the nature of default. The Contractor will only be paid the contract price for services performed in accordance with the manner of

performance set forth in this contract.

If this contract is terminated while the Contractor has possession of WRA goods, the Contractor shall, upon direction of the WRA, protect and preserve the goods until surrendered to the WRA or its agent. The Contractor and WRA shall agree on payment for the preservation and protection of goods. Failure to agree on an amount will be resolved under the Dispute clause.

If, after termination for failure to fulfill contract obligations, it is determined that the Contractor was not in default, the rights and obligations of the parties shall be the same as if the termination had been issued for the convenience of the WRA.

Termination for Default (Construction)

If the Contractor refuses or fails to prosecute the work or any separable part, with the diligence that will ensure its completion within the time specified in this contract or any extension or fails to complete the work within this time, or if the Contractor fails to comply with any other provision of this contract, WRA may terminate this contract for default. The WRA shall terminate by delivering to the Contractor a Notice of Termination specifying the nature of the default. In this event, the WRA may take over the work and complete it by contract or otherwise, and may take possession of and use any materials, appliances, and plant on the work site necessary for completing the work. The Contractor and its sureties shall be liable for any damage to the WRA resulting from the Contractor's refusal or failure to complete the work within specified time, whether or not the Contractor's right to proceed with the work is terminated. This liability includes any increased costs incurred by the WRA in completing the work.

The Contractor's right to proceed shall not be terminated nor shall the Contractor be charged with damages under this clause if:

1. The delay in completing the work arises from unforeseeable causes beyond the control and without the fault or negligence of the Contractor. Examples of such causes include: acts of God, acts of WRA, acts of another contractor in the performance of a contract with WRA, epidemics, quarantine restrictions, strikes, freight embargoes; and
2. The Contractor, within [10] days from the beginning of any delay, notifies WRA in writing of the causes of delay. If, in the judgment of WRA, the delay is excusable, the time for completing the work shall be extended. The judgment of WRA shall be final and conclusive for the parties, but subject to appeal under the Disputes clause(s) of this contract.

If, after termination of the Contractor's right to proceed, it is determined that the Contractor was not in default, or that the delay was excusable, the rights and obligations of the parties will be the same as if the termination had been issued for the convenience of WRA.

Termination for Convenience or Default (Architect and Engineering)

The WRA may terminate this contract in whole or in part, for the WRA's convenience or because of the failure of the Contractor to fulfill the contract obligations. The WRA shall terminate by delivering to the Contractor a Notice of Termination specifying the nature, extent, and effective date of the termination. Upon receipt of the notice, the Contractor shall (1) immediately discontinue all services affected (unless the notice directs otherwise), and (2) deliver to the WRA's Contracting Officer all data, drawings, specifications, reports, estimates, summaries, and other information and materials accumulated in performing this contract, whether completed or in process. WRA has a royalty-free, nonexclusive, and irrevocable license to reproduce, publish or otherwise use, all such data, drawings, specifications, reports, estimates, summaries, and other information and materials.

If the termination is for the convenience of the WRA, the WRA's Contracting Officer shall make an equitable adjustment in the contract price but shall allow no anticipated profit on unperformed services.

If the termination is for failure of the Contractor to fulfill the contract obligations, the WRA may complete the work by contract or otherwise and the Contractor shall be liable for any additional cost incurred by the WRA.

If, after termination for failure to fulfill contract obligations, it is determined that the Contractor was not in default, the rights and obligations of the parties shall be the same as if the termination had been issued for the convenience of WRA.

Termination for Convenience or Default (Cost-Type Contracts)

The WRA may terminate this contract, or any portion of it, by serving a Notice of Termination on the Contractor. The notice shall state whether the termination is for convenience of WRA or for the default of the Contractor. If the termination is for default, the notice shall state the manner in which the Contractor has failed to perform the requirements of the contract. The Contractor shall account for any property in its possession paid for from funds received from the WRA, or property supplied to the Contractor by the WRA. If the termination is for default, the WRA may fix the fee, if the contract provides for a fee, to be paid the Contractor in proportion to the value, if any, of work performed up to the time of termination. The Contractor shall promptly submit its termination claim to the WRA and the parties shall negotiate the termination settlement to be paid the Contractor.

If the termination is for the convenience of WRA, the Contractor shall be paid its contract close-out costs, and a fee, if the contract provided for payment of a fee, in proportion to the work performed up to the time of termination. If, after serving a Notice of Termination for Default, the WRA determines that the Contractor has an excusable reason for not performing, the WRA, after setting up a new work schedule, may allow the Contractor to continue work, or treat the termination as a Termination for Convenience.

25. VIOLATION AND BREACH OF CONTRACT

Applies to all Contracts >\$100,000

2 C.F.R. § 200.326

2 C.F.R. part 200, Appendix II (A)

Rights and Remedies of the WRA

The WRA shall have the following rights in the event that the WRA deems the Contractor guilty of a breach of any term under the Contract.

1. The right to take over and complete the work or any part thereof as agency for and at the expense of the Contractor, either directly or through other contractors;
2. The right to cancel this Contract as to any or all of the work yet to be performed;
3. The right to specific performance, an injunction or any other appropriate equitable remedy; and
4. The right to money damages.

Rights and Remedies of Contractor

Inasmuch as the Contractor can be adequately compensated by money damages for any breach of this Contract, which may be committed by the WRA, the Contractor expressly agrees that no default, act or omission of the WRA shall constitute a material breach of this Contract, entitling Contractor to cancel or rescind the Contract (unless the WRA directs Contractor to do so) or to suspend or abandon performance.

Remedies

Substantial failure of the Contractor to complete the Project in accordance with the terms of this Agreement will be a default of this Agreement. In the event of a default, the WRA will have all remedies in law and equity, including the right to specific performance, without further assistance, and the rights to termination or suspension as provided herein. The Contractor recognizes that in the event of a breach of this Agreement by the Contractor before the WRA takes action contemplated herein, the WRA will provide the Contractor with sixty (60) days written notice that the WRA considers that such a breach has occurred and will provide the Contractor a reasonable period of time to respond and to take necessary corrective action.

Disputes

- **Example 1:** Disputes arising in the performance of this Contract that are not resolved by agreement of the parties shall be decided in writing by the authorized representative of WRA. This decision shall be final and conclusive unless within [10] days from the date of receipt of its copy, the Contractor mails or otherwise furnishes a written appeal to the [title of employee]. In connection with any such appeal, the Contractor shall be afforded an opportunity to be heard and to offer evidence in support of its position. The decision of the WRA shall be binding upon the Contractor and the Contractor shall abide by the decision.

- **Example 2:** The WRA and the Contractor intend to resolve all disputes under this Agreement to the

best of their abilities in an informal manner. To accomplish this end, the parties will use an Alternative Dispute Resolution process to resolve disputes in a manner designed to avoid litigation. In general, the parties contemplate that the Alternative Dispute Resolution process will include, at a minimum, an attempt to resolve disputes through communications between their staffs, and, if resolution is not reached at that level, a procedure for review and action on such disputes by appropriate management level officials within the WRA and the Contractor's organization.

In the event that a resolution of the dispute is not mutually agreed upon, the parties can agree to mediate the dispute or proceed with litigation. Notwithstanding any provision of this section, or any other provision of this Contract, it is expressly agreed and understood that any court proceeding arising out of a dispute under the Contract shall be heard by a Court de novo and the court shall not be limited in such proceeding to the issue of whether the Authority acted in an arbitrary, capricious or grossly erroneous manner.

Pending final settlement of any dispute, the parties shall proceed diligently with the performance of the Contract, and in accordance with the WRA's direction or decisions made thereof.

Performance during Dispute

Unless otherwise directed by WRA, Contractor shall continue performance under this Contract while matters in dispute are being resolved.

Claims for Damages

Should either party to the Contract suffer injury or damage to person or property because of any act or omission of the party or of any of its employees, agents or others for whose acts it is legally liable, a claim for damages therefor shall be made in writing to such other party within a reasonable time after the first observance of such injury or damage.

Remedies

Unless this Contract provides otherwise, all claims, counterclaims, disputes and other matters in question between the WRA and the Contractor arising out of or relating to this agreement or its breach will be decided by arbitration if the parties mutually agree, or in a court of competent jurisdiction within the State in which the WRA is located.

Rights and Remedies

The duties and obligations imposed by the Contract documents and the rights and remedies available thereunder shall be in addition to and not a limitation of any duties, obligations, rights and remedies otherwise imposed or available by law. No action or failure to act by the WRA or Contractor shall constitute a waiver of any right or duty afforded any of them under the Contract, nor shall any such action or failure to act constitute an approval of or acquiescence in any breach thereunder, except as may be specifically agreed in writing.

26. FEDERAL CHANGES

Applies to all Contracts
49 CFR Part 18

Federal Changes - Contractor shall at all times comply with all applicable FTA regulations, policies, procedures and directives, including without limitation those listed directly or by reference in the Master Agreement between Purchaser and FTA, as they may be amended or promulgated from time to time during the term of this contract. Contractor's failure to so comply shall constitute a material breach of this contract.

27. INCORPORATION OF FEDERAL TRANSIT ADMINISTRATION (FTA) TERMS

Applies to all Contracts

Incorporation of Federal Transit Administration (FTA) Terms - The preceding provisions include, in part, certain Standard Terms and Conditions required by DOT, whether or not expressly set forth in the preceding contract provisions. All contractual provisions required by DOT, as set forth in FTA Circular 4220.1F are hereby incorporated by reference. Anything to the contrary herein notwithstanding, all FTA mandated terms shall be deemed to control in the event of a conflict with other provisions contained in this Agreement. The Contractor shall not perform any act, fail to perform any act, or refuse to comply with any of the WRA requests which would cause the WRA to be in violation of the FTA terms and conditions.

28. AMERICANS WITH DISABILITIES ACT (ADA)

Applies to All A&E; Operations/Management/Subrecipients; Rolling Stock; Construction Contracts

ADA Access - This requirement applies to contracts for Architectural and Engineering Services. The contractor agrees to comply with the requirements of 49 U.S.C. § 5301 (d), which states the Federal policy that the elderly and persons with disabilities have the same right as other persons to use mass transportation service and facilities, and that special efforts shall be made in planning and designing those services and facilities to implement that policy. The contractor also agrees to comply with all applicable requirements of section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 794, which prohibits discrimination on the basis of handicaps, with the Americans with Disabilities Act of 1990 (ADA), as amended, 42 U.S.C. §§ 12101 et seq., which requires that accessible facilities and services be made available to persons with disabilities, including any subsequent amendments to that Act, and with the Architectural Barriers act of 1968, as amended, 42 U.S.C. §§ 4151 et seq., which requires that buildings and public accommodations be accessible to persons with disabilities, including any subsequent amendments to that Act. In addition, the contractor agrees to comply with any and all applicable requirements issued by the FTA, DOT, DOJ, U.S. GSA, U.S. EEOC, U.S. FCC, any subsequent amendments thereto and any other nondiscrimination statute(s) that may apply to the Project.

29. CONFORMANCE WITH ITS NATIONAL ARCHITECTURE

ITS projects shall conform to the National ITS Architecture and standards. Conformance with the National ITS Architecture is interpreted to mean the use of the National ITS Architecture to develop a regional ITS architecture in support of integration and the subsequent adherence of all ITS projects to that regional ITS architecture. Development of the regional ITS architecture should be consistent with the transportation planning process for Statewide and Metropolitan Transportation Planning (49 CFR Part 613 and 621).

30. DAVIS-BACON AND COPELAND ANTI-KICKBACK ACTS

Applies to Construction Contracts Valued over \$2,000

(1) **Minimum wages** - (i) All laborers and mechanics employed or working upon the site of the work (or under the United States Housing Act of 1937 or under the Housing Act of 1949 in the construction or development of the project), will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act (29 CFR part 3)), the full amount of wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the contractor and such laborers and mechanics.

Contributions made or costs reasonably anticipated for bona fide fringe benefits under section 1(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of paragraph (1)(iv) of this section; also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period. Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination for the classification of work actually performed, without regard to skill, except as provided in 29 CFR Part 5.5(a)(4). Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein: Provided that the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classifications and wage rates conformed under paragraph (1)(ii) of this section) and the Davis-Bacon poster (WH-1321) shall be posted at all times by the contractor and its subcontractors at the site of the work in a prominent and accessible place where it can be easily seen by the workers.

(ii)(A) The contracting officer shall require that any class of laborers or mechanics, including helpers, which is not listed in the wage determination and which is to be employed under the contract shall be classified in conformance with the wage determination. The contracting officer shall approve an additional classification and wage rate and fringe benefits therefore only when the following criteria have been met:

(1) Except with respect to helpers as defined as 29 CFR 5.2(n)(4), the work to be performed by the classification requested is not performed by a classification in the wage determination; and

(2) The classification is utilized in the area by the construction industry; and

(3) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination; and

(4) With respect to helpers as defined in 29 CFR 5.2(n)(4), such a classification prevails in the area in which the work is performed.

(B) If the contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and the contracting officer agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken shall be sent by the contracting officer to the Administrator of the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Washington, DC 20210. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

(C) In the event the contractor, the laborers or mechanics to be employed in the classification or their representatives, and the contracting officer do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), the contracting officer shall refer the questions, including the views of all interested parties and the recommendation of the contracting officer, to the Administrator for determination. The Administrator, or an authorized representative, will issue a determination within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

(D) The wage rate (including fringe benefits where appropriate) determined pursuant to paragraphs (a)(1)(ii) (B) or (C) of this section, shall be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification.

(iii) Whenever the minimum wage rate prescribed in the contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly rate, the contractor shall either pay the benefit as stated in the wage determination or shall pay another bona fide fringe benefit or an hourly cash equivalent thereof.

(iv) If the contractor does not make payments to a trustee or other third person, the contractor may consider as part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program, Provided, That the Secretary of Labor has found, upon the written request of the contractor, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the contractor to set aside in a separate account assets for the meeting of obligations under the plan or program.

(v)(A) The contracting officer shall require that any class of laborers or mechanics which is not listed in the wage determination and which is to be employed under the contract shall be classified in conformance with the wage determination. The contracting officer shall approve an additional classification and wage rate and fringe benefits therefor only when the following criteria have been met:

(1) The work to be performed by the classification requested is not performed by a classification in the wage determination; and

(2) The classification is utilized in the area by the construction industry; and

(3) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.

(B) If the contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and the contracting officer agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken shall be sent by the contracting officer to the Administrator of the Wage and Hour Division, Employment Standards Administration, Washington, DC 20210. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

(C) In the event the contractor, the laborers or mechanics to be employed in the classification or their representatives, and the contracting officer do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), the contracting officer shall refer the questions, including the views of all interested parties and the recommendation of the contracting officer, to the Administrator for determination. The Administrator, or an authorized representative, will issue a determination with 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

(D) The wage rate (including fringe benefits where appropriate) determined pursuant to paragraphs (a)(1)(v) (B) or (C) of this section, shall be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification.

(2) **Withholding** - The Worcester Regional Transit Authority shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld from the contractor under this contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to Davis-Bacon prevailing wage requirements, which is held by the same prime contractor, so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices, trainees, and helpers, employed by the contractor or any subcontractor the full amount of wages required by the contract. In the event of failure to pay any laborer or mechanic, including any apprentice, trainee, or helper, employed or working on the site of the work (or under the United States Housing Act of 1937 or under the Housing Act of 1949 in the construction or development of the project), all or part of the wages required by the contract, the Worcester Regional Transit Authority may, after written notice to the contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased.

(3) **Payrolls and basic records** - (i) Payrolls and basic records relating thereto shall be maintained by the contractor during the course of the work and preserved for a period of three years thereafter for all laborers and mechanics working at the site of the work (or under the United States Housing Act of 1937, or under the Housing Act of 1949, in the construction or development of the project). Such records shall contain the name, address, and social security number of each such worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in section 1(b)(2)(B) of the Davis-Bacon Act), daily and weekly number of hours worked, deductions made and actual wages paid. Whenever the Secretary of Labor has found under 29 CFR 5.5(a)(1)(iv) that the wages of any laborer or

mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in section 1(b)(2)(B) of the Davis-Bacon Act, the contractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits. Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs.

(ii)(A) The contractor shall submit weekly for each week in which any contract work is performed a copy of all payrolls to the Worcester Regional Transit Authority for transmission to the Federal Transit Administration. The payrolls submitted shall set out accurately and completely all of the information required to be maintained under section 5.5(a)(3)(i) of Regulations, 29 CFR part 5. This information may be submitted in any form desired. Optional Form WH-347 is available for this purpose and may be purchased from the Superintendent of Documents (Federal Stock Number 029-005-00014-1), U.S. Government Printing Office, Washington, DC 20402. The prime contractor is responsible for the submission of copies of payrolls by all subcontractors.

(B) Each payroll submitted shall be accompanied by a "Statement of Compliance," signed by the contractor or subcontractor or his or her agent who pays or supervises the payment of the persons employed under the contract and shall certify the following:

(1) That the payroll for the payroll period contains the information required to be maintained under section 5.5(a)(3)(i) of Regulations, 29 CFR part 5 and that such information is correct and complete;

(2) That each laborer or mechanic (including each helper, apprentice, and trainee) employed on the contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in Regulations, 29 CFR part 3;

(3) That each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification of work performed, as specified in the applicable wage determination incorporated into the contract.

(C) The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH-347 shall satisfy the requirement for submission of the "Statement of Compliance" required by paragraph (a)(3)(ii)(B) of this section.

(D) The falsification of any of the above certifications may subject the contractor or subcontractor to civil or criminal prosecution under section 1001 of title 18 and section 231 of title 31 of the United States Code.

(iii) The contractor or subcontractor shall make the records required under paragraph (a)(3)(i) of this section available for inspection, copying, or transcription by authorized representatives of the Federal

Transit Administration or the Department of Labor, and shall permit such representatives to interview employees during working hours on the job. If the contractor or subcontractor fails to submit the required records or to make them available, the Federal agency may, after written notice to the contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment action pursuant to 29 CFR 5.12.

(4) **Apprentices and trainees** - (i) Apprentices - Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Bureau of Apprenticeship and Training, or with a State Apprenticeship Agency recognized by the Bureau, or if a person is employed in his or her first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the Bureau of Apprenticeship and Training or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice. The allowable ratio of apprentices to journeymen on the job site in any craft classification shall not be greater than the ratio permitted to the contractor as to the entire work force under the registered program. Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated above, shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. Where a contractor is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyman's hourly rate) specified in the contractor's or subcontractor's registered program shall be observed. Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeymen hourly rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator of the Wage and Hour Division of the U.S. Department of Labor determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination. In the event the Bureau of Apprenticeship and Training, or a State Apprenticeship Agency recognized by the Bureau, withdraws approval of an apprenticeship program, the contractor will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(ii) Trainees - Except as provided in 29 CFR 5.16, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, Employment and Training Administration. The ratio of trainees to journeymen on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration. Every trainee must be paid at not less than the rate specified in the approved program for the trainee's level of progress, expressed as a percentage of the journeyman hourly rate

specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed on the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman wage rate on the wage determination which provides for less than full fringe benefits for apprentices. Any employee listed on the payroll at a trainee rate who is not registered and participating in a training plan approved by the Employment and Training Administration shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. In the event the Employment and Training Administration withdraws approval of a training program, the contractor will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(iii) Equal employment opportunity - The utilization of apprentices, trainees and journeymen under this part shall be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended, and 29 CFR part 30.

(5) **Compliance with Copeland Act requirements** - The contractor shall comply with the requirements of 29 CFR part 3, which are incorporated by reference in this contract.

(6) **Subcontracts** - The contractor or subcontractor shall insert in any subcontracts the clauses contained in 29 CFR 5.5(a)(1) through (10) and such other clauses as the Federal Transit Administration may by appropriate instructions require, and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all the contract clauses in 29 CFR 5.5.

(7) **Contract termination: debarment** - A breach of the contract clauses in 29 CFR 5.5 may be grounds for termination of the contract, and for debarment as a contractor and a subcontractor as provided in 29 CFR 5.12.

(8) **Compliance with Davis-Bacon and Related Act requirements** - All rulings and interpretations of the Davis-Bacon and Related Acts contained in 29 CFR parts 1, 3, and 5 are herein incorporated by reference in this contract.

(9) **Disputes concerning labor standards** - Disputes arising out of the labor standards provisions of this contract shall not be subject to the general disputes clause of this contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR parts 5, 6, and 7. Disputes within the meaning of this clause include disputes between the contractor (or any of its subcontractors) and the contracting agency, the U.S. Department of Labor, or the employees or their representatives.

(10) **Certification of eligibility** - (i) By entering into this contract, the contractor certifies that neither it (nor he or she) nor any person or firm who has an interest in the contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR

5.12(a)(1).

(ii) No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

(iii) The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 U.S.C. 1001.

31. VETERANS HIRING PREFERENCE
49 U.S.C. 5325(k) et seq.

Veterans Employment – WRTA and sub-recipients (WRA) of Federal financial assistance under this chapter shall ensure that contractors working on a capital project funded using such assistance give a hiring preference, to the extent practicable, to veterans (as defined in section 2108 of title 5) who have the requisite skills and abilities to perform the construction work required under the contract. This subsection shall not be understood, construed or enforced in any manner that would require an employer to give a preference to any veteran over any equally qualified applicant who is a member of any racial or ethnic minority, female, an individual with a disability, or a former employee.

32. PROHIBITION ON CERTAIN TELECOMMUNICATIONS AND VIDEO SURVEILLANCE SERVICES OR EQUIPMENT

2 CFR 200.216

Applicable to: All contracts

The contractor is prohibited from obligating or expending federal funds to:

1. Procure or obtain
2. Extend or renew a contract to procure or obtain; or
3. Enter into a contract (or extend or renew a contract) to procure or obtain equipment, services, or systems that use covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system. As described in Public Law 115-232, section 889, “covered telecommunications equipment or services” is:
 - a. Telecommunications equipment produced by Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate of such entities)
 - b. For the purpose of public safety, security of government facilities, physical security surveillance of critical infrastructure, and other national security purposes, video surveillance and telecommunications equipment produced by Hytera Communications Corporation, Hangzhou Hikvision Digital Technology Company, or Dahua Technology Company (or any subsidiary or affiliate of such entities).
 - c. Telecommunications or video surveillance services provided by such entities or using such equipment.
 - d. Telecommunications or video surveillance equipment or services produced or provided by an entity that the Secretary of Defense, in consultation with the Director of National Intelligence or the Director of the Federal Bureau of Investigation, reasonably believes to be an entity owned or controlled by, or otherwise connected to, the government of a covered foreign country.

The Contractor shall not provide covered telecommunications equipment or services in the performance of this contract.

33. NOTICE TO FTA AND U.S. DOT INSPECTOR GENERAL OF INFORMATION RELATED TO FRAUD, WASTE, ABUSE, OR OTHER LEGAL MATTERS

FTA Master Agreement §39(b) Applicable to: Contracts in excess of \$25,000.

If a current or prospective legal matter that may affect the Federal Government emerges, the Contractor must promptly notify the Worcester Redevelopment Authority (WRA), which will promptly notify the WRTA and FTA Chief Counsel and FTA Regional Counsel for the Region in which the WRTA is located. The Contractor must include an equivalent provision in its sub-agreements at every tier, for any agreement that is a “covered transaction” according to 2 C.F.R. §§ 180.220 and 1200.220.

- The types of legal matters that require notification include, but are not limited to, a major dispute, breach, default, litigation, or naming the Federal Government as a party to litigation or a legal disagreement in any forum for any reason.

- Matters that may affect the Federal Government include, but are not limited to, the Federal Government’s interests in the Award, the accompanying Underlying Agreement between the FTA and the WRTA, and any Amendments thereto, or the Federal Government’s administration or enforcement of federal laws, regulations, and requirements.

Additional Notice to U.S. DOT Inspector General. The Contractor must promptly notify the WRA, which will promptly notify the WRTA and U.S. DOT Inspector General in addition to the FTA Chief Counsel or Regional Counsel for the Region in which the WRTA is located, if the Contractor has knowledge of potential fraud, waste, or abuse occurring on a Project receiving assistance from FTA. The notification provision applies if a person has or may have submitted a false claim under the False Claims Act, 31 U.S.C. § 3729, et seq., or has or may have committed a criminal or civil violation of law pertaining to such matters as fraud, conflict of interest, bid rigging, misappropriation or embezzlement, bribery, gratuity, or similar misconduct involving federal assistance. This responsibility occurs whether the Project is subject to this Agreement or another agreement with the WRA involving a principal, officer, employee, agent, or Third

Party Participant of the Contractor. It also applies to subcontractors at any tier. Knowledge, as used in this paragraph, includes, but is not limited to, knowledge of a criminal or civil investigation by a Federal, state, or local law enforcement or other investigative agency, a criminal indictment or civil complaint, or probable cause that could support a criminal indictment, or any other credible information in the possession of the Contractor. In this paragraph, “promptly” means to refer information without delay and without change. This notification provision applies to all divisions of the Contractor, including divisions tasked with law enforcement or investigatory functions.

34. BUILD AMERICA/BUY AMERICA

(August 16, 2023)

DOT announced a public interest Waiver of Buy America Requirements for De Minimis Costs and Small Grants.

Domestic preferences are waived for iron, steel, manufactured products, and construction materials for which:

1. The total value of the non-compliant products is no more than the lesser of \$1,000,000 or 5% of total applicable costs for the project

-OR-

2. Project awards below \$500,000.

Construction materials used in the Project are subject to the domestic preference requirement of the Build America, Buy America Act, Pub. L. 117-58, div. G, tit. IX, §§ 70911 – 70927 (2021), as implemented by the U.S. Office of Management and Budget, the U.S. Department of Transportation, and FTA. The Recipient acknowledges that this agreement is neither a waiver of § 70914(a) nor a finding under § 70914(b).

The contractor agrees to comply with 49 U.S.C. 5323(j) and 49 C.F.R. part 661 and 2 CFR § 200.322 Domestic preferences for procurements, which provide that Federal funds may not be obligated unless all steel, iron, and manufactured products used in FTA funded projects are produced in the United States, unless a waiver has been granted by FTA or the product is subject to a general waiver.

General waivers are listed in 49 C.F.R. § 661.7. Construction materials used in the Project are subject to the domestic preference requirement of the Build America, Buy America Act, Pub. L. 117-58, div. G, tit. IX, §§ 70911 – 70927 (2021), as implemented by the U.S. Office of Management and Budget, the U.S. Department of Transportation, and FTA.

Separate requirements for rolling stock are set out at 49 U.S.C. 5323(j)(2)(C), 49 U.S.C. § 5323(u) and 49 C.F.R. § 661.11 Domestic preferences for procurements.

The bidder or offeror must submit the appropriate Buy America certification. Bids or offers that are not accompanied by a completed Buy America certification will be rejected as nonresponsive. For more information, please see the FTA's Buy America webpage at: <https://www.transit.dot.gov/buyamerica>

BUILD AMERICA, BUY AMERICA CERTIFICATION

This Certification shall be prepared by the manufacturer of the product and material being supplied for this contract.

CONTRACT NUMBER _____

PROJECT NUMBER _____

CONTRACTOR'S NAME _____

MANUFACTURER'S NAME _____

BILL OF LADING or INVOICE NUMBER _____

I. Steel and Iron Materials and Products

In accordance with 106.01(c)1, I hereby certify that all steel and iron materials and products listed below were produced and manufactured in the United States of America or territories subject to its jurisdiction.

| Material Name* | Quantity (units) | Company of Manufacture |
|----------------|------------------|------------------------|
| <hr/> | <hr/> | <hr/> |
| <hr/> | <hr/> | <hr/> |
| <hr/> | <hr/> | <hr/> |

* Identifying information such as Alloy, Grade, Type, Class, or other similar designation shall also be shown when appropriate.

I. Construction Materials

In accordance with 106.01(c)2, I hereby certify that all construction materials and manufacturing processes for the materials listed below occurred in the United States of America or territories subject to its jurisdiction.

| Material Name* | Quantity (units) | Company of Manufacture |
|----------------|------------------|------------------------|
| <hr/> | <hr/> | <hr/> |
| <hr/> | <hr/> | <hr/> |
| <hr/> | <hr/> | <hr/> |

* Identifying information shall be shown when appropriate.

SEE NEXT PAGE

| | |
|-------|--|
| <hr/> | Name and Title of Contractor's Authorized Official |
| <hr/> | Signature of Contractor's Authorized Official |
| <hr/> | Date |
| <hr/> | Contractor address |
| <hr/> | EIN |
| <hr/> | Email |
| <hr/> | Telephone |

Worcester Redevelopment Authority

RESPONSIBLE EMPLOYER & INCLUSIONARY PARTICIPATION POLICY

WHEREAS, the Worcester Redevelopment Authority was established as a public agency under chapter one hundred and twenty-one B of the General Laws to undertake projects to eliminate blighted, decadent, deteriorating and substandard areas within the city of Worcester; and

WHEREAS, the Worcester Redevelopment Authority finds and determines that it may advance the public purposes for which it was established by including certain minimum standards in construction contracts it awards directly or are awarded by developers and other entities in relation to urban renewal projects initiated by the Worcester Redevelopment Authority; and

WHEREAS, the Worcester Redevelopment Authority finds and determines that those minimum standards must include compliance with state laws governing the payment of prevailing wages, the provision of workers compensation coverage, and the proper classification of individuals as employees and not as independent contractors, as well as standards concerning health insurance coverage; and

WHEREAS, the Worcester Redevelopment Authority hereby further finds and determines that it may further advance the public purposes which it serves by establishing inclusionary participation requirements involving minorities and women and businesses owned by minorities and women to support educational pools, mentoring programs, joint ventures and the like during the planning, construction and operational phase of urban renewal projects.

NOW, THEREFORE, BE IT HEREBY RESOLVED, that it shall be the policy of the Worcester Redevelopment Authority that the following provisions shall apply as specified herein to the various contracts and agreements to which the Worcester Redevelopment Authority is a party:

Article I – General Policy for All Contracts

Every contract governed by this policy, including every request for proposals, shall include the following requirements:

- (1) Every contractor, at every tier, shall commit to workforce diversity and shall use best efforts to utilize 25 percent Worcester resident work hours, 38 percent people of color and indigenous people work hours and 10 percent women work hours and shall further commit to a goal of utilizing bona-fide women/minority-owned firms qualified by the State Supplier Diversity Office (SDO) or a local certifying agency by contracting with at least fifteen percent women-owned business enterprises (WBE) and ten percent minority-owned business enterprises (MBE) of the combined value of

contracts and subcontracts made by the contractor on account of this contract.

(2) All persons, contractors, and businesses supplying goods and/or services to the W.R.A. shall be required to comply with Chapter 2, Sections 37 (Fair CORI Practices), 38 (Gender Identity and Expression Policy), 39(Wage Theft Prevention) and 40(Human Trafficking Recognition & Elimination Policy) of the city of Worcester Revised Ordinances of 2008, as amended from time to time.

Article II - Construction Contracts

1. The W.R.A. hereby finds and determines that its funds are most efficiently and productively spent by awarding construction contracts to firms that include and enforce provisions requiring compliance with state laws governing the payment of prevailing wages, the provision of workers compensation coverage, and the proper classification of individuals as employees and not as independent contractors, as well as state law concerning health insurance coverage. The W.R.A. hereby further finds and determines that as a consumer of construction services it is appropriate for it to exercise entrepreneurial discretion by requiring firms that are awarded such contracts to comply with this policy because a failure to comply is injurious to the life, health and happiness of individuals employed by such firms and is deleterious to the quality of life in the City where most of such individuals reside.

2. As a condition to the award of a contract, whenever the W.R.A. is procuring construction services subject to the provisions of G.L. chapter 149 and chapter 149A the following shall be incorporated into the procurement documents and made part of the specifications and contract. Every person, company or corporation shall acknowledge, in writing, receipt of said requirements with their bid or proposal.

3. All bidders or proposers and all subcontractors and trade contractors, including subcontractors that are not subject to G.L. c.149, §44F, under the bidder for projects subject to G.L. c.149, §44A(2), and, proposers under G.L. c.149A, shall as a condition for bidding or subcontracting verify under oath and in writing at the time of bidding or submittal in response to an Invitation to Bid or in any event prior to entering into a subcontract at any tier, that they comply with the following conditions for bidding or subcontracting and, for the duration of the project, shall comply with the following obligations:

- a. The bidder or proposer and all trade contractors and subcontractors under the bidder or proposer must comply with the obligations established under G.L. c.149 to pay the appropriate lawful prevailing wage rates to their employees;
- b. The bidder or proposer and all trade contractors and subcontractors under the bidder or proposer must maintain appropriate industrial accident insurance coverage for all the employees on the project in accordance with G.L. c.152;

c. The bidder or proposer and all trade contractors and subcontractors under the bidder must properly classify employees as employees rather than independent contractors and treat them accordingly for purposes of workers' compensation insurance coverage, unemployment taxes, social security taxes and income tax withholding. (G.L. c.149, §148B on employee classification);

d. The bidder or proposer and all trade contractors and subcontractors under the bidder or proposer must at the time of bidding certify that, at the time employees begin work at the worksite, all employees will have successfully completed a course in construction safety and health approved by the United States Occupational Safety and Health Administration that is at least 10 hours in duration, and shall ensure that all employees working at the worksite possess such qualifications at all times throughout the duration of their work on the project and furnish documentation of successful completion of the course;

e. The bidder or proposer and all trade contractors and subcontractors under the bidder or proposer must be in compliance with the health and hospitalization requirements of the Massachusetts Health Care Reform law established by Chapter 58 of the Acts of 2006, as amended, and regulations promulgated under that statute by the Commonwealth Health Insurance Connector Authority.

f. The bidder or proposer and all trade contractors and subcontractors under the bidder or proposer must make arrangements to ensure that each employee of every contractor entering or leaving the project individually completes the appropriate entries in a daily sign-in/out log. The sign in/out log shall include: the location of the project; current date; printed employee name; signed employee name; and the time of each entry or exiting. The log shall contain a prominent notice that employees are entitled under state law to receive the prevailing wage rate for their work on the project. Such sign in/out logs shall be provided to the W.R.A. on a daily basis.

g. The bidder or proposer and all trade contractors and subcontractors under the bidder or proposer, prior to bidding or, if not subject to bidding requirements, prior to performing any work on the project, shall sign under oath under oath and provide to the W.R.A. a certification that they are not debarred or otherwise prevented from bidding for or performing work on a public project in the Commonwealth of Massachusetts or in the City.

4. A proposal or bid submitted by any general bidder or by any trade contractor or subcontractor under the general bidder or proposer that does not comply with any of the foregoing conditions for bidding shall be rejected, and no subcontract for work outside the scope of G.L. c.149, §44F shall be awarded to a subcontractor that does not comply with the foregoing conditions.

5. All bidders or proposers and all trade contractors and subcontractors under the bidder or proposer who are awarded or who otherwise obtain contracts on the projects subject to G.L. c.149, §44A(2) or c.149A, shall comply with each of the obligations set forth in this policy for the entire duration of their work on the project, and an officer of each bidder or subcontractor under the bidder shall certify under oath and in writing on a weekly basis that they are in compliance with such obligations.

6. Any proposer, bidder, trade contractor or subcontractor under the bidder or proposer who fails to comply with any one of obligations set forth in this Article II for any period of time shall be, at the sole discretion of the W.R.A., subject to one or more of the following sanctions: (1) cessation of work on the project until compliance is obtained; (2) withholding of payment due under any contract or subcontract until compliance is obtained; (3) permanent removal from any further work on the project.

7. In addition to the sanctions outlined in subsection (6) above, a proposer, general bidder or contractor shall be equally liable for the violations of its subcontractor with the exception of violations arising from work performed pursuant to subcontracts that are subject to G.L. c.149, §44F. Any contractor or subcontractor that has been determined by the City or by any court or agency to have violated any of the obligations set forth in this policy shall be barred from performing any work on any future W.R.A. projects for six months for a first violation, three years for a second violation and permanently for a third violation.

8. A contractor or a subcontractor upon a showing that it is not, despite having made a bona fide attempt, feasible to comply with the requirements of this Article II, may be granted a waiver by the W.R.A. The W.R.A. may delegate authority to grant such waivers to the city of Worcester contract compliance officer or any specifically named individual or individuals. Any such delegate shall report all waivers granted to the W.R.A. for informational purposes on the agenda of the monthly meeting following such waiver.

9. Violations of these requirements shall be considered by the W.R.A. in awarding any future contracts as a factor in determining whether any low bidder is a “responsible” bidder under G.L. c. 149, §44A(1), or G.L. c. 30, § 39M, or whether a firm, trade contractor or subcontractor is a “qualified” firm, trade contractor or subcontractor under G.L. c. 149A, §§ 5 and 8.

Article III - Design, Engineering & Procurement Contracts

1. The W.R.A. shall require every person or entity submitting a proposal to enter into a contract for design services, engineering services, or the procurement of goods, supplies or services in excess of \$100,000, with the W.R.A. to submit with any such proposal an inclusionary participation plan containing the following elements:

- A. A report detailing the results achieved by the contractor over the prior two years to employ minorities and women, subcontract with businesses owned by minorities and women, to support educational pools, mentoring programs, joint venturing and other creative initiatives to increase the level

of participation of minorities and women in employment and new business relationships.

- B. A plan detailing the efforts to be made by the proposer during the term of the proposed contract with the W.R.A. to employ minorities and women, subcontract with businesses owned by minorities and women, to support educational pools, mentoring programs, joint venturing and other creative initiatives to increase the level of participation of minorities and women in employment and new business relationships.

2. Every design services, engineering services or procurement contract awarded by the W.R.A. shall contain the inclusionary participation plan submitted pursuant to section 1.B of this article as legally binding commitments of the designer, engineer or vendor enforceable with provisions allowing the W.R.A. to: 1) suspend work under the contract until compliance is obtained; (2) withhold payment due under the contract until compliance is obtained; or, (3) in egregious cases, terminate the contract.

Article IV - Land Disposition Agreements with Developers

1. Any land disposition agreement whereby the W.R.A. agrees to convey W.R.A. property as part of the implementation of an urban renewal plan, or otherwise in the furtherance of its public purposes, wherein the value of the property exceeds \$1,000,000 shall include the following:

- A. A requirement that all the contractors and sub-contractors employed by the developer in relation to the project shall, where the amount of any such contract exceeds \$100,000 or the amount of any subcontract exceeds \$25,000, comply with the responsible employer provisions stated in Article II herein.
- B. A plan detailing the actions to be taken by the developer during the design, construction and operation of the proposed development to employ minorities and women, subcontract with businesses owned by minorities and women, to support educational pools, mentoring programs, joint venturing and other creative initiatives to increase the level of participation of minorities and women in employment and new business relationships.
- C. A requirement that the developer make a commitment that all contractors, subcontractors, designers, engineers and suppliers with contracts in excess of \$100,000 with the developer shall use documented bona fide efforts to ensure that, to the maximum practical extent, that the minimum goals set forth in Article I(1) herein are met.
- D. A requirement that the developer make a commitment that all contractors, subcontractors, designers, engineers and suppliers with contracts in excess of \$100,000 with the developer in relation to the project shall:
 - (1) formally advertise notices of all employment opportunities in newspapers published in the city of Worcester and minority and Spanish language publications circulated in the city of Worcester;
 - (2) give notice of such employment opportunities to the city of Worcester and state human resource agencies and active community groups

- and work closely with such agencies and groups to identify women, minorities and low-income persons for employment;
- (3) participate in existing local training programs and work with community-based training organizations, local school and educational agencies to develop new training programs to produce a pool of qualified women, minorities and low-income workers for all levels of employment;
 - (4) support educational pools, mentoring programs, joint venturing and other creative initiatives to increase the level of participation of minorities and women in employment and new business relationships.

E. A requirement that the developer make a commitment that it will:

- (1) provide reports documenting compliance with the foregoing requirements to the W.R.A. or any committee or individual it may designate for this purpose.

Article V - Leases Involving W.R.A. Property

1. All leases involving property of the W.R.A. wherein the amount of the rental payments exceeds \$100,000 annually shall include the following:
 - A. A requirement that all the contractors and sub-contractors employed by the lessee in relation to the lease shall, where the amount of any such contract exceeds \$100,000 or the amount of any subcontract exceeds \$25,000, comply with the responsible employer provisions stated in Article II herein.
 - B. A plan detailing the actions to be taken by the lessee during the design, construction and operation of the proposed leasehold improvements to employ minorities and women, subcontract with businesses owned by minorities and women, to support educational pools, mentoring programs, joint venturing and other creative initiatives to increase the level of participation of minorities and women in employment and new business relationships.
 - C. A requirement that the lessee make a commitment that all contractors, subcontractors, designers, engineers and suppliers with contracts in excess of \$100,000 with the lessee shall use documented bona fide efforts to ensure that, to the maximum practical extent, that the minimum goals set forth in Article I(1) herein are met.
 - D. A requirement that the lessee make a commitment that all contractors, subcontractors, designers, engineers and suppliers with contracts in excess of \$100,000 with the lessee in relation to the lease shall:
 - (1) formally advertise notices of all employment opportunities in newspapers published in the city of Worcester and minority and Spanish language publications circulated in the city of Worcester;
 - (2) give notice of such employment opportunities to the city of Worcester and state human resource agencies and active community groups

- and work closely with such agencies and groups to identify women, minorities and low-income persons for employment;
- (3) participate in existing local training programs and work with local school and educational agencies to develop new training programs to produce a pool of qualified women, minorities and low-income workers for all levels of employment;
 - (4) support educational pools, mentoring programs, joint venturing and other creative initiatives to increase the level of participation of minorities and women in employment and new business relationships.

E. A requirement that the lessee make a commitment that it will:

- (1) provide reports documenting compliance with the foregoing requirements to the W.R.A. or any committee or individual it may designate for this purpose.

Article VI - Miscellaneous

1. This policy shall not apply to:
 - A. Cooperation agreements or other contracts or leases entered into with the city of Worcester;
 - B. Grant agreements or other contracts entered into with the commonwealth of Massachusetts or the United States of America;
 - C. Loans, mortgages, bonds or other instruments financing W.R.A. operations, including depository agreements with banks or other financial institutions holding W.R.A. funds.
2. The W.R.A. reserves the right to waive this policy, in whole or in part, with respect to any particular contract, agreement, lease or transaction if it deems such a waiver in the best interests of the W.R.A. and the purposes for which it was established.
3. The W.R.A. reserves the right to impose additional requirements where any particular project is of sufficient size and scope to justify additional expectations and efforts.

Adopted
September 14, 2004

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July 18, 2006

Amended
October 2, 2007

Amended
March 12, 2013

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October 12, 2018

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