

Worcester Regional Transit Authority



Request for Qualification (RFQ) # 2025-02

FOR

On-Call Owner's Project Manager Services

RFQ DUE:
November 8, 2024
2:00 p.m., EST

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SECTION 1. INTRODUCTION

The Worcester Regional Transit Authority, herein referred to as “WRTA” is a political subdivision of the Commonwealth of Massachusetts. It is responsible for public transit services in thirty-seven (37) communities within the Central Massachusetts region. The WRTA was created pursuant to Massachusetts General Laws, Chapter 161B. The WRTA is required to comply with the mandates of the Americans with Disabilities Act (ADA) of 1990, as are the entities with which it contracts for transit services. In addition, the performance of this contract is subject to the requirements of Title VI of the Civil Rights Act of 1964 and all equal opportunity requirements.

The WRTA is issuing this *Request for Qualifications (RFQ)* to engage a qualified “Owner’s Project Manager” as defined by the provisions of this RFQ on an as-needed, project by project basis (on-call) to provide Project Management and Oversight Services for varied renovation / rehabilitation projects. The Authority anticipates issuing one three-year contract with five one-year options to extend the term of the contract at the sole discretion of the WRTA. WRTA reserves the right to procure the services described in these solicitation documents from other firms at its sole discretion.

The contract awarded under this RFQ may be funded in whole or in part by the Federal Transit Administration (FTA). The successful proposer shall cooperate with WRTA to ensure the full conformance with its funding agreements with FTA. The successful Proposer shall comply with all terms and conditions prescribed for third party contracts by the FTA, if applicable.

SECTION 2. INSTRUCTIONS TO PROPOSERS

2.1 RFQ Schedule

The following is an anticipated RFQ engagement schedule. The WRTA may change the estimated dates and process as deemed necessary.

The proposed schedule for submittal, reviews, and notification is as follows:

Activity	Date
Release & Advertise RFQ	October 11, 2024
Deadline for Questions/Clarifications	October 25, 2024
Response to Questions/Clarifications	October 29, 2024
Deadline for Issuance of Updates and Addenda	October 29, 2024
Proposals Due	November 8, 2024
Approximate award date	November 15, 2024

2.2 Proposal Preparation & Submission

- Proposer Information – Proposal shall include the fully completed *Prospective Proposer Fact Sheet* form included in Exhibit A of this RFQ.

- Non-Collusion Declaration – Proposal shall include the fully completed and signed *Non-Collusion Declaration* included in Exhibit B of this RFQ.
- Certification as to Payment of State Taxes – Proposal shall include the fully completed and signed *Certification as to Payment of State Taxes* included in Exhibit C of this RFQ.
- Customer References – Proposal shall include the *Customer References* form included in Exhibit D of this RFQ. **Please be certain to list contact names and phone numbers that are accurate and current.**
- Government-Wide Debarment and Suspension Certification – Proposal shall include the fully completed and signed *Government-Wide Debarment and Suspension Certification* form included in Exhibit E of this RFQ.
- Lobbying Certification – Proposal shall include the fully completed and signed *Lobbying Certification* included in Exhibit F of this RFQ.
- Cost Proposal (in separate sealed envelope) – Proposal shall include the fully completed Cost Proposal. Non-compliance with this requirement will result in the Proposal being deemed non-responsive.

2.3 Proposer-Prepared Documents

To facilitate the WRTA’s objective review of the RFQ’s from different Firms, the Firms are requested to organize the document using a standardized format. Each RFQ should contain the following:

Statement of Qualifications (non-price proposal) – A submittal indicating the capability of the Proposer to perform the attached *Scope of Work* is required. It shall include the information and be formatted as follows:

- Cover Letter. Letter on company letterhead shall identify the RFQ number and be signed by an officer authorized to bind the Proposer contractually and shall address the below matters.
 - Proposer’s interest and willingness to enter into a contract with WRTA to perform the work as described in the *Scope of Work*; and proposer’s commitment to the effect that it would exert its “best efforts” in fulfilling its responsibilities therein.
 - Proposer’s willingness to accept the contract terms and conditions included in the *WRTA Agreement for Services* and the *Scope of Work*.
 - Proposer’s ability and willingness to obtain insurance meeting the requirements indicated in the *WRTA Agreement for Services*.
 - Statement indicating that proposals shall be valid for a 90-day period, commencing from the RFQ due date and shall include the name, title, address, email, and telephone number of the individual to whom correspondence and other contact should be directed to during the selection process.

- Firm Background. Proposer shall provide, at a minimum, the following information about the prime consultant or any subcontract firm or individuals on the team:
 - Firm name and business addresses, contact(s), including phone number and e-mail address;
 - Subconsultant firm(s) name and business addresses, contact(s), including phone number, and e-mail address;
 - Individual consultant name and business address, phone number, and e-mail address;
 - Year firm(s) was established (including former names and year established, if applicable); and
 - Firm type/ownership and parent company, if applicable;
 - Location of office from which work will be provided.

- Relevant Experience. The Proposer shall provide a description of relevant prior experiences that exhibits the Proposer’s capabilities to perform the required scope of services. This prior project experience shall be limited to a total of five (5) project assignments (the same project may be cited for different assignments, if appropriate). No assignment shall have started prior to 2014. The Proposer shall provide, in tabular form, a summary of this relevant prior project experience with particular reference to the categories of services within the detailed Scope of Work.

The Proposer shall include in the Proposal a description of each relevant prior project assignment and a reference for each project.

The Proposer shall list any projects, which have resulted in time extensions and/or the assessment of liquidated damages against any member of the project team during the last five (5) years.

- Key Personnel. The Proposer shall identify individuals proposed for the assignment under this RFQ and specify why individual has been included. The Proposer shall provide a summary of the relevant experience of individuals proposed for assignment under this RFQ with particular reference to the categories of services within the Scope of Work.

- Approach to Accomplishing Scope of Work. Proposers shall describe their approach to accomplishing the scope of work. This section should reflect the Proposer’s knowledge and experience with the management and technical methodologies, standards, and tools required to successfully manage and deliver services.

Describe innovative approaches that have been used in the execution of similar programs that will be advantageous and cost effect to WRTA.

Cost Proposal (in separate sealed envelope) – Proposers are directed to submit their Cost Proposal in a separate, sealed envelope and labeled in a manner defined above. Cost Proposals must include and address the sections listed below, for a proposal to be accepted for evaluation.

- Cover Letter – The cover letter shall identify the RFQ number, proposal component and summary of contents, and shall identify the proposing organization.
- Consultant’s Direct Labor Rates – Proposers shall include hourly salaries for the anticipated positions for the first contract year. The salaries shall be exclusive of any burden or mark-ups. Proposers shall provide the same data for any proposed subconsultants.
- Consultant’s / Subconsultant’s Audited Overhead Rates – Proposer shall submit both the consultant’s and any subconsultant’s current audited overhead rate / multiplier, which will be used for proposals submitted in response to Task Orders under the first year of the contract.
- Consultant’s / Subconsultant’s Profit / Mark-up – Proposer shall submit the consultant’s and any subconsultant’s profit mark-up for the proposals submitted in response to Task Orders requested over the entire 8-year term. Any mark-up rate for management of any subconsultant work must also be noted here.

Please note: Fixed-fee pricing for each WRTA-issued Task Order will be negotiated based on the successful respondent’s quoted salaries, audited overhead rates and profit/mark-up percentages in the Cost Proposal (for the first year) along with eligible expenses incurred. For the second, and all subsequent years of the Agreement term, increases in direct hourly salary rates shall be limited to the equivalent of the Consumer Price Index (“CPI”) for the applicable year based on the percentage change as evidenced by the most recent CPI for the greater Worcester, MA geographic area up to a maximum of 4% as approved by WRTA; and overhead rates shall be based on the audited overhead rates for the given year submitted by the consultant.

2.4 Submittal Contents, Location, & Deadline

Contents: Four (4) physical copies of the **non-cost proposal** and one (1) physical copy of the **cost proposal in separate sealed envelope** must be submitted in hard copy, and one (1) version of the non-cost proposal must be submitted in electronic format (Google Drive or Dropbox) in Adobe PDF to:

Worcester Regional Transit Authority
 On-Call Owner’s Project Manager Services
 60 Foster Street
 Worcester, MA 01608
 Attention: Dinusha Perera, Grants and Procurement Manager
 Electronic Submission: email to: dperera@therta.com

Proposal must be sealed and clearly marked on the outside as follows: **“On-Call Owner’s Project Manager Services – RFP #2025-02.”**

Deadline - Proposals shall be submitted no later than 2:00 PM Eastern Standard Time (EST) on November 8, 2024. Proposals received after the date and time specified above will not be considered and will be returned to the submitter unopened. There will no public opening of submittals at the deadline or otherwise.

2.5 Withdrawal of Submittal

A proposer may withdraw a submittal any time prior to the submittal deadline by a submitting written request executed by the proposer's authorized representative. Any such withdrawal does no prejudice the right to resubmit a submittal by the deadline.

2.6 Submittal Stipulations

Submittals submitted as a result of this solicitation become property of WRTA. WRTA will not pay any costs incurred by an Proposer resulting from preparation or delivery of its submittal. Submittals will remain valid for 90 calendar days following submittal due date. WRTA reserves the following rights and will exercise such rights if it is in WRTA's best interest to do so:

- The WRTA reserves the unqualified right, in its sole and absolute discretion, to undertake discussions with one or more Proposers or any third party, to waive any irregularities, to waive defects or noncompliance in the filing or contents of any Submission, and to proceed with that Submission, or elements of one or more Submissions, if any, which in its sole judgment will, under the circumstances, best serve the WRTA's interest.
- The WRTA reserves the unqualified right to amend the terms of this RFQ at any time, and to solicit and accept modifications to any Submission at any time when it is in the best interest of the WRTA to do so.
- The WRTA reserves the unqualified right, in its sole and absolute discretion, to choose or reject any Submission received in response to this RFQ, either on the basis of an evaluation of the factors listed in this RFQ or for other reasons, whether or not any Submission offers the highest monetary compensation to the WRTA or any other public entity.
- The WRTA reserves the unqualified right, in its sole and absolute discretion, to reject any and all Submissions or to suspend or abandon this RFQ process at any time, with no recourse for any Proposer.
- The information contained in this RFQ and in any subsequent addenda or related documents is provided as general information only. The WRTA makes no representations, warranties, or guarantees that the information contained herein is accurate or complete. The furnishing of such information by the WRTA shall not create or be deemed to create any obligation or liability upon it for any reasons whatsoever, and each recipient of the RFQ, by presenting a submission to the WRTA, expressly agrees that it has not relied upon the foregoing information, and that it shall not hold the WRTA, or any third party who advised or prepared a report for the WRTA, liable or responsible therefore in any manner whatsoever.

- The WRTA may, at any time, request further information from any Proposer, interview any Proposers to more fully understand their responses to this RFQ, and require any Proposer to arrange a site visit for its Evaluation Committee.
- The WRTA reserves the right, in its sole discretion, to develop the project on any schedule and use any chosen approach.
- Neither the expression of any Proposer's interest, nor the submission of any Proposer's qualifications and any documents or other information, nor the acceptance thereof by the WRTA, nor any correspondence, discussions, meetings or other communications between an Proposer and the WRTA, nor a determination by the WRTA that the Proposer is qualified hereunder, shall: (i) impose any obligation on the WRTA to include the Proposer in any such further procedures which the WRTA may utilize prior to the final selection of a Proposer, (ii) be deemed to impose any obligation whatsoever on the WRTA to select the Proposer, or to enter into negotiations with the Proposer, or (iii) entitle the Proposer's to any compensation or reimbursement for any costs or expenses incurred by the Proposer in connection with the Proposer's submission hereunder. No costs of responding to the RFQ or any addenda thereto, nor of the attending any subsequent interviews or meetings in connection with this development opportunity, shall be reimbursed by the WRTA.
- The WRTA may consult with individuals familiar with each Proposer regarding the Proposer's prior operations and development or management projects, financial plan, past performance, experience and qualifications, or other matters, whether or not the specific individuals are identified in the RFQ response. Submission of Qualifications in response to this RFQ shall constitute permission for the WRTA to make such inquiries, and authorization to third parties to respond thereto.
- The individual responses to this RFQ, including all drawings, plans, photos and narrative material shall become the property of the WRTA upon their receipt thereof. The WRTA will maintain the confidentiality of any material that is provided in response to this RFQ and clearly marked "Confidential", to the maximum extent possible, in a manner consistent with applicable law. Given the liberal nature of the Commonwealth's public records law, Proposers should nevertheless be aware that any information given to the WRTA in response to this RFQ or any correspondence, discussion, meeting, or other communication between the Proposer and the WRTA before, with, or after the submission of the response, either orally or in writing, may not be, or may not be deemed to have been, proprietary or confidential.
- Neither the members of the WRTA nor any individual member, nor any officer, agent, or employee thereof shall be charged personally by a Proposer or any third party with any liability or held liable to it under neither any term or provision of this RFQ nor any statement made herein.
- The WRTA reserves the unqualified right, in its sole and absolute discretion, to disqualify any team, firm, or individual from any phase or component of the selection

processor this development opportunity, due to: (i) felonious or other criminal record in any jurisdiction (domestic or foreign); (ii) a determination by the WRTA that the Proposer has failed to disclose any matter that materially relates to the fitness or ability of the Proposer to perform the work and services associated with this development opportunity, or a conflict of interest; or (iii) a determination that such disqualification would serve the public interest.

- The WRTA reserves the unqualified right to: (i) disqualify any prospective Proposer or reject any response at any time solely on the grounds that a real or perceived legal or policy conflict of interest is presented; (ii) require any prospective Proposer to take any action or supply any information necessary to remove the conflict, including without limitation, obtaining an opinion from the State Ethics Commission; or (iii) terminate any contract arising out of this RFQ if, in the opinion of the WRTA, any such relationship would constitute or have the potential to create a real or perceived conflict of interest.
- The WRTA reserves the unqualified right, in its sole and absolute discretion, to reject any subcontractor or individual working on a consultant team and to replace the sub-consultant or individual with a mutually acceptable replacement.
- The WRTA reserves the unqualified right, in its sole and absolute discretion, to retain more than one owner's project manager firm and assign work based on needs of a particular project and the experience and qualifications of the firm.

2.7 Failure to Perform

WRTA may remove from mailing lists for future IFB's/RFQ's/RFP's, for an undermined period of time, the name of any Proposer for failure to accept a contract and/or unsatisfactory performance.

2.8 Pre-Proposal Meeting

No pre-proposal meeting will be scheduled.

2.9 Questions / Clarifications

Questions or clarifications must be received by the WRTA in writing no later than October 25, 2024 at 5:00 PM.

2.10 Bid Bond

A bid bond is not required for this RFP.

2.11 Performance Bond

A performance bond is not required for this RFP.

2.12 Multiple Proposals

Only one proposal will be accepted from any one person, partnership, corporation or other entity.

2.13 Updates and Addenda

No one is authorized to amend any of these documents in any respect by an oral statement or to make any representation or interpretation in conflict with their provisions. Any changes to these documents will be issued in writing via Addendum by Dinusha Perera or her designee.

Proposers shall be responsible for continually checking the WRTA's website at www.therta.com for the most current information regarding this RFQ. Current information may be in the form of an update or formal addendum. Updates and / or addenda will be posted on the above-mentioned website by October 29, 2024 at 5:00 p.m. EST.

2.14 Point of Contact

All questions regarding this RFQ shall be directed in writing to Dinusha Perera who may be reached by email at dperera@therta.com. No other individual has the authority to respond to any questions submitted unless specifically authorized by Dinusha Perera. Failure to adhere to this process may disqualify the proposer.

2.15 Interpretation

Should any discrepancies or omissions be found in the RFQ specifications / requirements, or doubt as to their meaning, the proposer shall notify the WRTA in writing at once (email is acceptable). The WRTA will post updates or addenda on its website (www.therta.com). The WRTA shall not be responsible for oral interpretations. All addenda issued shall be incorporated in the Contract.

2.16 Proprietary Information

All information appearing within the bid is subject to public inspection. Any proprietary information must be clearly marked as such and submitted in a separate sealed envelope. Reference sealed envelope within the body of the bid.

2.17 Exceptions and / or Deviations

No exceptions to or deviations from this specification will be considered, unless each exception or deviation is specifically stated by the proposer as an exception on the request form and accompanied by a detailed statement completely defining the exception and / or deviation. The manufacturer's name, product name or trade name, and catalog or part number must be shown on the RFQ in the designated places; however, that information is not sufficient evidence that the proposer is making an exception. If no exception or deviation is shown, the Proposer will be required to furnish the equipment exactly as specified herein. The burden of proof of compliance with this specification will be the responsibility of the Proposer. The WRTA reserves the right to reject, as unresponsive, any bid not containing all information requested by the WRTA.

SECTION 3. EVALUATION

3.1 Responsiveness

WRTA shall examine the submittals for the purpose of ascertaining its completeness and responsiveness to the requirements of this solicitation. Such process may involve requesting additional or clarifying information from the proposer. Submittals that do not contain all

required material, information, or forms; or where such materials, information, or forms are substantially incomplete, may be determined as non-responsive and rejected by WRTA. In such cases, WRTA shall notify the proposer in writing of its rejection and the basis thereof.

3.2 Evaluation Criteria

An Evaluation Committee will evaluate and rank submittals to determine the most qualified Proposer(s) using the criteria in the table below. Following the initial evaluation and scoring the Evaluation Committee will develop a ranking of submittals. Based on the initial ranking, WRTA’s staff may either (1) transmit to the WRTA Administrator a recommendation of contract award to the highest proposer; or (2) request interviews with any firm during the selection process.

Category	Description	Scoring Criteria
Overall Quantity and Responsiveness of Proposal	This evaluation criteria considers how well-written and concise, how organized and responsive, and how well the Proposal demonstrates an understanding of the RFQ and project requirements	20
Firm / Team Qualifications	This evaluation criteria considers the experience, capacity and ability of the Firm/Team to satisfactorily accomplish all the required Services. This review shall also be based on the successful performance and examples of previous construction projects cited that are similar in size (small/medium), scope and complexity to this project with an emphasis on public transit/FTA funded projects and on-call engineering/architectural services for governmental agencies.	30
Key Personnel	The professional, technical, and managerial qualifications and experience of personnel put forth in the proposal, including qualifications of proposed Project Manager and subconsultants (if applicable); Key staff knowledge and understanding of applicable regulations and codes and familiarity with local conditions relating to the Scope of Work.	30
Approach and Capacity	The capacity to provide disciplines necessary for the work and the capacity to provide personnel; Demonstrated ability and description of the approach and tools used to manage project timelines, budget, invoicing, coordination, and communication; Approach to project management and client communications.	20
Total		100

3.3 Interviews

As part of the evaluation process, WRTA may conduct interview with the highest ranked proposer(s) within a competitive range (whichever is applicable). Such interviews are for information gathering and clarification for the Evaluation Committee. WRTA may conduct interviews in person or by Zoom. Any proposer requested to be interviewed shall make its best effort to be available during the interview dates listed in this solicitation. WRTA reserves the

right to award a contract without interviews and/or negotiations if deemed unnecessary to determine the most qualified, responsible proposer.

3.4 Final Evaluation

If WRTA chooses to conduct interviews, the Evaluation Committee will conduct a final round of scoring that takes into consideration information gleaned from interviews. Based upon the final scores, WRTA will determine the highest ranked proposer.

3.5 Pre-Award Deliverables

Upon determination of the highest ranked proposer and prior to consideration of contract award, WRTA will request the following from the proposer:

- Insurance Certificate – A certificate of insurance showing the coverage types and dollar limits stipulated in paragraph 9 of the *WRTA Agreement for Services*
- System for Award Management – A .pdf copy showing the proposer is registered and active from the U.S. government’s System for Award Management (SAM).

SECTION 4 CONTRACT AWARD

Upon prompt receipt of the Pre-Award Deliverables listed above, WRTA staff will prepare a recommendation for contract award to be considered by the WRTA Administrator.

If the award recommendation is approved, it is the intent of WRTA to execute the documents as soon as practical after such award. The contract will be composed of the *WRTA Agreement for Services*, the *Federal Transit Administration Contract Clauses*, the *Scope of Work*, and the proposers’ submission.

The option for five one-year contract extensions may be exercised if mutually agreed to by WRTA and proposer. To exercise the option, WRTA will request an updated Cost Proposal for a one-year contract extension three months prior to the termination of the existing contract. Based upon the outcome of price negotiations, WRTA will determine whether to move forward with a one-year contract extension.

SECTION 5 SCOPE OF WORK

5.1 General Description

The WRTA seeks to solicit proposals from qualified firms to provide on-call owner’s project management services in support of needed physical improvements to its:

- bus transfer, customer service and administrative facility
- bus and paratransit maintenance and operations facility
- bus stops / shelters
- Union Station railway station (not owned or operated by WRTA)

The on-call contract is for a three-year period with five one-year term options. Work will be performed as needed and at WRTA’s discretion on an individual task order basis. The WRTA

will negotiate with the successful respondent(s) specific task and fee proposals for individual task orders issued by the WRTA through the 8-year term – based on advanced WRTA approved hourly labor rates by position including profit, and audited overhead rates.

The list of anticipated projects is included as an example of need; projects are subjected to be modified, eliminated, or added to the list as needs change during the contract period. Projects will be initiated on an on-call basis and performed with a project specific scope of work.

5.2 Scope of Services

Responsibilities of the selected firm as Owner’s Project Manager will involve management of all aspects of project planning, design, and construction activities of WRTA assets as directed by its Administrator. The OPM will be the Authority’s principal agent and will be independent of all other project consultants.

Professional services to be provided by the OPM under Agreement on individual Task Orders may include, but may not be limited to, the following tasks and activities

- Owner’s Project Manager shall provide project management services to facilitate, coordinate and manage the Project and to monitor procurement procedures, design, construction and other related activities for conformance with the Massachusetts General Laws and the WRTA’s established schedule and budget, as approved by the WRTA. Services shall be continued at the discretion of the WRTA, by contract amendment, through substantial use and occupancy by the WRTA, project closeout and final auditing as conducted by the WRTA.
- The Owner’s Project Manager, as the WRTA’s agent, shall serve as an advisor and representative of the WRTA for the Project, prepare agendas for and attend building committee meetings, attend meetings with other representatives of the WRTA, municipal administration and attend neighborhood meetings relating to the Project, and participate as a member of the WRTA’s Prequalification Committee as applicable.
- The Owner’s Project Manager shall assist the WRTA in the preparation of application material, requests for reimbursement, and other documentation to be submitted to the WRTA.
- The Owner’s Project Manager shall monitor and review the technical accuracy, efficiency, coordination and cost-effectiveness of all designs, drawings, reports, estimates and other work furnished by the Designer and provide comments and recommendations as necessary.
- The Owner’s Project Manager shall promptly review all Designer submissions and shall meet with the Designer to discuss those submissions. Upon completion of its review, the Owner’s Project Manager shall recommend that the WRTA: 1) approve the submission as made; 2) approve that part of the submission that is acceptable and reject the remainder; 3) reject the submission; or 4) require the Designer to submit additional information or details in support of its submission.

- Owner's Project Manager shall review all applications for payments, requisitions and invoices relating to the project as submitted by the WRTA's engineering consultants, Construction Manager, equipment vendors and all other prime contractors and suppliers and make recommendations to the WRTA's relative to amounts due.
- The Owner's Project Manager shall review, document and make recommendations to the WRTA relative to all claims for additional work. The Owner's Project Manager will be responsible for commissioning and turnover and, if the chosen method of construction delivery, the Owner's Project Manager will provide services for the construction manager at risk specifically, preparation of the CM at Risk application, participation in the selection of a construction manager and management of the CM at Risk contractor.

5.3 Anticipated Projects/Tasks

- Renovation of interior passenger waiting area at WRTA Transfer Center
- Concrete repair / replacement at WRTA Transfer Center
- Battery Electric Bus infrastructure improvements at WRTA M&O Facility
- HVAC repairs at WRTA M&O Facility
- Monitoring and subrecipient oversight for construction projects at Worcester's Union Station

5.4 Complete Projects

This scope of work does not include a complete description of all services or processes that may be required to carry out each Task Order. This scope of work is provided only for matters considered key to the projects. Except as described herein, contractor shall provide all services necessary to properly complete each ordered project.

SECTION 6. STANDARD TERMS AND CONDITIONS

6.1 Invoicing

The WRTA will only pay by original invoice. The WRTA will not authorize and does not participate in funding payments to a contractor prior to the incurrence of costs. Progress payments may be authorized provided the following requirements are followed:

- Progress payments are only made to the contractor for costs incurred in the performance of the contract
- When progress payments are used, the WRTA must obtain title to property (materials, equipment, etc.) for which progress payments are made

6.2 Controlling Law

The Contract shall be governed and construed in accordance with the laws of the Commonwealth of Massachusetts and proper venue for legal action regarding the Contract shall be WRTA.

6.3 Taxes, Charges and Extras

The WRTA is exempt from all federal excise taxes, including tax on transportation and Massachusetts's sales tax. Price(s) quoted to the WRTA shall not include said taxes. Upon request the WRTA will furnish the Contractor with a tax exemption certificate.

No charge for delivery, drayage, express, parcel post, packing, cartage, insurance, license fees, permits, cost of bonds, or for any other purpose will be paid by the WRTA unless expressly included and itemized in the bid.

6.4 Alteration or Variation of Terms

It is mutually understood and agreed that no alteration or variation of the terms of this RFP or subsequent task order shall be valid unless made or confirmed in writing and signed by the parties hereto, and that no oral understanding or agreements not incorporated herein, and no alterations or variations of the terms hereof unless made or confirmed in writing between the parties hereto shall be binding on any of the parties hereto.

6.5 Assignability

A contract is not assignable by Proposer either in whole or in part.

6.6 Compliance with Statute

Proposer hereby warrants that all applicable Federal and State statutes and regulations or local ordinances will be complied with in connection with the sale and delivery of the property furnished.

6.7 Insurance Requirements

By signing its proposal, Proposer acknowledges that it has read and understands the insurance requirement for this proposal as described in paragraph 9 of the *Agreement for Services – EXHIBIT H*. Proposer also understands that the evidence of required insurance, naming the WRTA as an additional insured, must be submitted upon contract signing; otherwise, the WRTA may rescind its acceptance of the Proposer's proposal.

6.8 Warranty

Proposer warrants to WRTA that the goods and / or services covered by this order will conform to the drawings, specifications, samples, descriptions and time provisions furnished by WRTA and will be of first-class material and workmanship and free from defects; and WRTA reserves the right to cancel the unfilled portion of this order without liability to Proposer for breach of this warranty. Goods will be received subject to inspection and acceptance at destination by WRTA; risk of loss before acceptance shall be on Proposer. Defective goods rejected by WRTA may without prejudice to any other legal remedy be held at Proposer's risk and returned to Proposer at Proposer's expense. Defects are not waived by acceptance of goods or by failure to notify Proposer thereof.

6.9 Federal Contract Clauses

The goods and / or services covered by this RFP are being funded in part with funds from the U.S. Department of Transportation, Federal Transit Administration, and the Commonwealth of

Massachusetts Department of Transportation. By submitting a proposal, the proposer agrees to comply with the clauses found in **EXHIBIT G – Federal Contract Clauses**.

6.10 Davis-Bacon

The goods and / or services covered by this RFP are not subject to Davis-Bacon and related acts compliance.

6.11 Rights and Remedies of WRTA for Default

In the event any item furnished by the Proposer in the performance of the contract or Task order should fail to conform to specifications therefore, or to the sample submitted by the Proposer with his bid, the WRTA may reject the same, and it shall thereupon become the duty of the Proposer to reclaim and remove the same, without expense to the WRTA, and immediately to replace all such rejected items with others conforming to such specifications or samples; providing that should the Proposer fail, neglect or refuse so to do the WRTA shall have the right to purchase on the open market, in lieu thereof, a corresponding quantity of any such items and to deduct from any moneys due or that may thereafter become due to the Proposer the difference between the prices named in the contract or Task order and make the actual cost thereof to the WRTA. In the event the Proposer shall fail to make prompt delivery as specified of any item, the same conditions as to the rights of the WRTA to purchase in the open market and to reimbursement set forth above shall apply, except when delivery is delayed by fire, strike, freight embargo, or Act of God or the government. Cost of delivery of an item which does not meet specifications, will be the responsibility of the Proposer. The rights and remedies of the WRTA provided above shall not be exclusive and are in addition to any other rights and remedies provided by the law or under the contract.

6.12 Severability

Should any part of the Contract or Task Order be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect the validity of the remainder of the Contract or Task Order which shall continue in full force and effect; provided that the remainder of the Contract or Task Order can, absent the excised portion, be reasonably interpreted to give the effect to the intentions of the parties.

6.13 Limitation on Funding

The Contract for services resulting from this RFQ will be subject to the contract between the WRTA and the availability of on-going funds from the WRTA's funding sources. The Contract for this service is contingent upon receipt of these funds by the WRTA. In the event that funding from these sources is eliminated or decreased, the WRTA reserves the right to terminate the Contract or modify it accordingly.

6.14 Evaluation Results

Evaluation results are available for inspection at the office of the WRTA located at:
60 Foster Street
Worcester, MA 01608

6.15 DBE Objective / Policy Statement

The Worcester Regional Transit Authority (WRTA) has established a Disadvantaged Business Enterprise (DBE) Program in accordance with regulations of the U.S. Department of

Transportation (DOT), 49 CFR § 26. The WRTA has received Federal financial assistance from the DOT and as a condition of receiving this assistance, the WRTA has signed an assurance that it will comply with 49 CFR § 26.

It is the policy of the WRTA to ensure that all contracts and procurements will be administered without discrimination on the basis of race, color, national origin, or sex. The WRTA ensures that Disadvantaged Business Enterprises (DBEs) shall have an equal opportunity to compete for and participate in DOT-assisted contracts. It is also our policy to:

1. To create a level playing field on which DBEs can compete fairly for DOT-assisted contracts;
2. To ensure that the DBE program is narrowly tailored in accordance with applicable law;
3. To ensure that only firms that fully meet 49 CFR § 26 eligibility standards are permitted to participate as DBEs;
4. To help remove barriers to the participation of DBEs in DOT-assisted contracts;
5. To assist the development of firms that can compete successfully in the marketplace outside the DBE program.

The Grants and Procurement Manager has been designated as the DBE Liaison Officer (DBELO). The DBELO has direct, independent access to the Chief Executive Officer (Administrator) concerning DBE program matters. The DBELO is responsible for implementing all aspects of the WRTA DBE Program. The WRTA has adequate staff, (including procurement, finance, etc.), to administer the program in compliance with 49 CFR § 26.

WRTA has circulated this Policy Statement to its Advisory Board, throughout our organization, and to the DBE and non-DBE business communities that perform work on our DOT-assisted contracts. Distribution has been accomplished via our website www.therta.com, inclusion with procurement documents, and through outreach to community organizations.

6.16 Bid Protest Procedures

WRTA has established procurement protest procedures to ensure uniform, timely, and fair consideration of complaints received by WRTA concerning its procurement activities. Such procedures are available on WRTA's website at the following link: <https://therta.com/business-with-wrta/contract-ops-surplus-equipment-sales/>

EXHIBIT A
PROSPECTIVE PROPOSER FACT SHEET

Name of Contractor: _____

Contractor Tax ID#: ____ - ____ - ____ - ____ - ____

Contractor's License #: _____ Type: _____ (as applicable)

Contractor Does Business As: Individual Partnership Corporation
 Government Fiduciary Other _____

Contractor is a: Resident Non-Resident of Massachusetts

- 1) Are you or your firm authorized to business in Massachusetts? Yes No
- 2) Are you or your firm a certified DBE? Yes No
- 3) Is this a local business? Yes No
- 4) This firm has been in continuous business under the present name for ____ years.

- End Exhibit A -

EXHIBIT B

NON-COLLUSION DECLARATION

TO BE EXECUTED BY PROPOSER AND SUBMITTED WITH RFP

I, _____, am the

_____ of _____,
(Position / Title) (Company)

the party making the foregoing RFP that the RFP is not made in the interest of, or on behalf of, any undisclosed person, partnership, company, association, organization, or corporation; that the RFP is genuine and not collusive or sham; that the Proposer has not directly or indirectly induced or solicited any other Proposer to put in a false or sham RFP; and has not directly or indirectly colluded, conspired, connived, or agreed with any Proposer or anyone else to put in a sham RFP, or that anyone shall refrain from bidding; that the Proposer has not in any manner directly or indirectly, sought by agreement, communication, or conference with anyone to fix the bid price of the Proposer or any other Proposer, or to fix any overhead, profit, or cost element of the bid price, or of that of any other Proposer, or to secure any advantage against the public body awarding the contract of anyone interested in the proposed contract; that all statements contained in the RFP are true; and, further, that the Proposer has not, directly or indirectly, submitted his or her bid price or any breakdown thereof, or the contents thereof, or divulged information or data relative thereto, or paid, and will not pay, any fee to any corporation, partnership, company association, organization, bid depository, or to any member or agent thereof to effectuate a collusive or sham bid.

I declare under penalty of perjury under the laws of the Commonwealth of Massachusetts that the foregoing is true and correct:

(Date)

(Signature)

- End Exhibit B -

EXHIBIT C

CERTIFICATION AS TO PAYMENT OF STATE TAXES

Pursuant to Chapter 62C of the Massachusetts General Laws, Section 49A(b), I,

_____, authorized signatory for the CONTRACTOR does hereby certify under the pains and penalties of perjury that said CONTRACTOR has complied with all laws of the Commonwealth of Massachusetts relating to taxes, reporting of employees and contractors, and withholding and remitting child support.

Social Security Number or
Federal Identification Number

Signature of Individual or
Corporate Name

By:
Corporate Officer
(if applicable)

- End Exhibit C -

EXHIBIT D

CUSTOMER REFERENCES

List and submit with this RFP three (3) customer references, preferably within the Commonwealth of Massachusetts, for whom the Proposer has furnished a similar service.

1. COMPANY NAME: _____

CONTACT PERSON: _____

TELEPHONE NUMBER: _____

EMAIL ADDRESS: _____

COMPANY ADDRESS: _____

2. COMPANY NAME: _____

CONTACT PERSON: _____

TELEPHONE NUMBER: _____

EMAIL ADDRESS: _____

COMPANY ADDRESS: _____

3. COMPANY NAME: _____

CONTACT PERSON: _____

TELEPHONE NUMBER: _____

EMAIL ADDRESS: _____

COMPANY ADDRESS: _____

- End Exhibit D -

EXHIBIT E

GOVERNMENT-WIDE DEBARMENT AND SUSPENSION CERTIFICATE

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 WRTA. If it is later determined by the WRTA that the bidder or proposer knowingly rendered an erroneous certification, in addition to remedies available to the WRTA, 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.

_____ Signature of Contractor's Authorized Official

_____ Name and Title of Contractor's Authorized Official

_____ Date

LOBBYING CERTIFICATION

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

C 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.

D 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 WRTA, 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.

E 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 subcontractors 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.

_____ Signature of Contractor's Authorized Official

_____ Name and Title of Contractor's Authorized Official

_____ Date

- End Exhibit F -
EXHIBIT G

FEDERAL CONTRACT CLAUSES

**Federally Required and Other Model Contract Clauses
Applicability of Third-Party Contract Clauses – Professional Services > \$100,000
(Excluding micro-purchases, and exceptions as noted within each clause)**

1. NO GOVERNMENT OBLIGATIONS TO THIRD PARTIES
2. PROGRAM FRAUD AND FALSE OR FRAUDULENT STATEMENTS AND RELATED ACTS
3. ACCESS TO RECORDS AND REPORTS
4. CHANGES TO FEDERAL REQUIREMENTS
5. CIVIL RIGHTS LAWS AND REGULATIONS
6. INCORPORATION OF FTA TERMS
7. ENERGY CONSERVATION
8. TERMINATION
9. GOVERNMENT-WIDE DEBARMENT AND SUSPENSION
10. VIOLATION AND BREACH OF CONTRACT
11. LOBBYING RESTRICTIONS
12. CLEAN AIR ACT AND FEDERAL WATER POLLUTION CONTROL ACT
13. FLY AMERICA
14. DISADVANTAGED BUSINESS ENTERPRISE (DBE)
- 4d. PROMPT PAYMENT
15. VETERANS HIRING PREFERENCE
16. PROHIBITION ON CERTAIN TELECOMMUNICATIONS AND VIDEO SURVEILLANCE SERVICES OR EQUIPMENT
17. NOTICE TO FTA AND U.S. DOT INSPECTOR GENERAL OF INFORMATION RELATED TO FRAUD, WASTE, ABUSE, OR OTHER LEGAL MATTERS

1. NO GOVERNMENT OBLIGATION TO THIRD PARTIES - *Applies to All Contracts*

The WRTA 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 WRTA, 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.

2. 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.

3. ACCESS TO RECORDS AND REPORTS - *Applies to All Procurement Types*

49 U.S.C. § 5325(g)

2 C.F.R. § 200.333

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.

4. 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.

5. CIVIL RIGHTS LAWS AND REGULATIONS – *Applies to All Procurement Types*

Civil Rights and Equal Opportunity – The WRTA is an Equal Opportunity Employer. As such, the WRTA agrees to comply with all applicable Federal civil rights laws and implementing regulations. Apart from inconsistent requirements imposed by Federal laws or regulations, the WRTA 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.

6. INCORPORATION OF FEDERAL TRANSIT ADMINISTRATION (FTA) TERMS – *Applies to all Contracts*

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 the WRTA requests which would cause the WRTA to be in violation of the FTA terms and conditions.

7. 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.

8. 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 WRTA may terminate this contract, in whole or in part, at any time by written notice to the Contractor when it is in the WRTA'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 WRTA to be paid the Contractor. If the Contractor has any property in its possession belonging to WRTA, the Contractor will account for the same, and dispose of it in the manner WRTA 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 WRTA may terminate this contract for default. Termination shall be affected 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 WRTA 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 WRTA, 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 WRTA, 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 WRTA'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 WRTA setting forth the nature of said breach or default, WRTA 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 WRTA 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 WRTA elects to waive its remedies for any breach by Contractor of any covenant, term or condition of this contract, such waiver by WRTA shall not limit WRTA'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 WRTA, by written notice, may terminate this contract, in whole or in part, when it is in the WRTA's interest. If this contract is terminated, the WRTA 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 WRTA may terminate this contract for default. The WRTA 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 WRTA.

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 WRTA may terminate this contract for default. The WRTA 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 WRTA goods, the Contractor shall, upon direction of the WRTA, protect and preserve the goods until surrendered to the WRTA or its agent. The Contractor and WRTA 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 WRTA.

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, WRTA may terminate this contract for default. The WRTA shall terminate by delivering to the Contractor a Notice of Termination specifying the nature of the default. In this event, the WRTA 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 WRTA 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 WRTA 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 WRTA, acts of another contractor in the performance of a contract with WRTA, epidemics, quarantine restrictions, strikes, freight embargoes; and
2. The Contractor, within [10] days from the beginning of any delay, notifies WRTA in writing of the causes of delay. If, in the judgment of WRTA, the delay is excusable, the time for completing the work shall be extended. The judgment of WRTA 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 WRTA.

Termination for Convenience or Default (Architect and Engineering)

The WRTA may terminate this contract in whole or in part, for the WRTA's convenience or because of the failure of the Contractor to fulfill the contract obligations. The WRTA 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 WRTA'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. WRTA 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 WRTA, the WRTA'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 WRTA may complete the work by contract or otherwise and the Contractor shall be liable for any additional cost incurred by the WRTA.

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 WRTA.

Termination for Convenience or Default (Cost-Type Contracts)

The WRTA 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 WRTA 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 WRTA, or property supplied to the Contractor by the WRTA. If the termination is for default, the WRTA 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 WRTA and the parties shall negotiate the termination settlement to be paid the Contractor.

If the termination is for the convenience of WRTA, 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 WRTA determines that the Contractor has an excusable reason for not performing, the WRTA, after setting up a new work schedule, may allow the Contractor to continue work, or treat the termination as a Termination for Convenience.

9. 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

Debarment, Suspension, Ineligibility and Voluntary Exclusion

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 WRTA 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 WRTA. If it is later determined by the WRTA that the bidder or proposer knowingly rendered an erroneous certification, in addition to remedies available to the WRTA, 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.

SEE EXHIBIT E OF RFP FOR DEBARMENT AND SUSPENSION CERTIFICATION

10. 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 WRTA The WRTA shall have the following rights in the event that the WRTA 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 WRTA 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 WRTA, the Contractor expressly agrees that no default, act or omission of the WRTA shall constitute a material breach of this Contract, entitling Contractor to cancel or rescind the Contract (unless the WRTA 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 WRTA 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 WRTA takes action contemplated herein, the WRTA will provide the Contractor with sixty (60) days written notice that the WRTA 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 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 WRTA's Administrator. 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 Administrator. 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 Administrator shall be binding upon the Contractor and the Contractor shall abide by the decision.

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 WRTA's direction or decisions made thereof.

Performance during Dispute Unless otherwise directed by WRTA, 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 WRTA 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 WRTA 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 WRTA 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.

11. 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

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 WRTA, 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 WRTA, 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 subcontractors 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.

SEE EXHIBIT F OF RFP FOR LOBBYING RESTRICTIONS CERTIFICATION

12. 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).

13. 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, WRTAs, and others 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)*

14. DISADVANTAGED BUSINESS ENTERPRISE (DBE) – *Applies to All Procurement Types*

49 C.F.R. part 26

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 WRTA's overall goal for DBE participation is 1.22%.

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 WRTA 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/Proposer 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 WRTA. 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 WRTA, 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 WRTA.

15. VETERANS HIRING PREFERENCE

49 U.S.C. 5325(k) et seq.

Veterans Employment - WRTAs and sub-WRTAs 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.

16. PROHIBITION ON CERTAIN TELECOMMUNICATIONS AND VIDEO SURVEILLANCE SERVICES OR EQUIPMENT – *Applies to All Procurements*

2 CFR 200.216

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 provided 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.

17. NOTICE TO FTA AND U.S. DOT INSPECTOR GENERAL OF INFORMATION RELATED TO FRAUD, WASTE, ABUSE, OR OTHER LEGAL MATTERS – *Applies to All Contracts in excess of \$25,000*

FTA Master Agreement §39(b)

If a current or prospective legal matter that may affect the Federal Government emerges, the Contractor must promptly notify the Worcester Regional Transit Authority (WRTA), which will promptly notify the 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 WRTA, which will promptly notify the 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 WRTA 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.

- End Exhibit G -

EXHIBIT H

AGREEMENT FOR SERVICES

BY AND BETWEEN

WORCESTER REGIONAL TRANSIT AUTHORITY

AND

CONSULTANT

THIS AGREEMENT made this ____ day of _____, 20__ by and between the Worcester Regional Transit Authority (hereinafter referred to as the “WRTA”) a body politic and political subdivision of the Commonwealth of Massachusetts established pursuant to M.G.L. Chapter 161b, and having a usual place of business at 60 Foster Street, Worcester, Massachusetts, and _____, a _____ corporation having a usual place of business at _____, hereinafter referred to as the “CONTRACTOR”.

WITNESSETH:

WHEREAS, the WRTA invited the submission of proposals for the purchase and delivery of _____, hereinafter the “Project”; and

WHEREAS, the CONTRACTOR submitted a Proposal to perform the work required to complete the Project; and

WHEREAS, the WRTA has decided to award the contract therefor to the CONTRACTOR.

NOW, THEREFORE, the WRTA and the CONTRACTOR agree as follows:

1. CONTRACT DOCUMENTS. The Contract Documents consist of this Agreement, the Request for Proposals, the Federal Contract Clauses, and the CONTRACTOR’s Proposal. The Contract Documents constitute the entire Agreement between the parties concerning the work, and all are as fully a part of this Agreement as if attached hereto.
2. THE WORK. The Work consists of On-Call Owner’s Project Manager Services, as more fully described in the Contract Documents as defined above.
3. TERM OF CONTRACT. This Agreement shall be in effect from _____ and shall expire on _____, unless terminated earlier pursuant to the terms hereof. The WRTA reserves the right to extend the agreement term through no more than two (2) additional (1) year extensions. During any extension hereof, the terms and conditions of this agreement will remain in full force and effect.
4. COMPENSATION.

- A. The WRTA shall pay the CONTRACTOR as full compensation for the performance of the work outlined in Section 2 above the contract sum of \$_____.
 - B. The acceptance by the CONTRACTOR of final payment for items and/or services provided shall be deemed a release of the WRTA from any and all claims and liabilities under this Agreement.
 - C. Neither the WRTA's review, approval, or acceptance of, nor payment for any of the items and/or services provided shall be construed to operate as a waiver of any rights of the WRTA under the Agreement or any cause of action arising out of the performance of the Agreement.
 - D. The WRTA shall cancel this Agreement if funds are not appropriated or otherwise made available to support continuation of performance in any fiscal year succeeding the current fiscal year.
5. PAYMENT OF COMPENSATION. The WRTA shall make payments within thirty (30) days after its receipt of Invoice.
 6. LIABILITY OF THE WRTA. The WRTA's liability hereunder shall be to make all payments when they shall become due, and the WRTA shall be under no further obligation or liability. Nothing in this Agreement shall be construed to render the WRTA or any appointed official or employee of the WRTA, or their successors, personally liable for any obligation under this Agreement.
 7. INDEPENDENT CONTRACTOR. The CONTRACTOR acknowledges and agrees that it is acting as an independent contractor for all work and services rendered pursuant to this Agreement, and shall not be considered an employee or agent of the WRTA for any purpose.
 8. INDEMNIFICATION. The CONTRACTOR shall indemnify, defend, and hold the WRTA harmless from and against any and all claims, demands, liabilities, actions, causes of actions, costs and expenses, including attorney's fees, arising out of the CONTRACTOR's breach of this Agreement or the negligence or misconduct of the CONTRACTOR, or the CONTRACTOR's agents or employees. This obligation shall survive the termination or expiration of this Agreement.
 9. INSURANCE.
 - A. The CONTRACTOR shall obtain and maintain in full force and effect during the term of this Agreement the insurance coverage in companies licensed to do business in the Commonwealth of Massachusetts, and acceptable to the WRTA, as set forth below:

General Liability

Bodily Injury Liability	\$1,000,000 per occurrence
Property Damage Liability	\$500,000 per occurrence
(or combined single limit)	\$1,000,000 per occurrence

Automobile Liability

Bodily Injury Liability	\$1,000,000 per occurrence
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Property Damage Liability \$500,000 per occurrence
(or combined single limit) \$1,000,000 per occurrence

Workers' Compensation Insurance

Coverage for all employees in accordance with Massachusetts General Laws

Professional Liability Insurance

Minimum Coverage \$1,000,000 per occurrence

B. All policies shall identify the WRTA as an additional insured (except Workers' Compensation) and shall provide that the WRTA shall receive written notification at least 30 days prior to the effective date of any amendment or cancellation. Certificates evidencing all such coverages shall be provided to the WRTA upon the execution of this Agreement. Each such certificate shall specifically refer to this Agreement and shall state that such insurance is as required by this Agreement. Failure to provide or to continue in force such insurance shall be deemed a material breach of this Agreement and shall be grounds for immediate termination.

10. ASSIGNMENT. The CONTRACTOR shall not assign, sublet, or otherwise transfer this Agreement, in whole or in part, without the prior written consent of the WRTA, and shall not assign any of the moneys payable under this Agreement, except by and with the written consent of the WRTA.

11. TERMINATION. A. Termination for Cause. If at any time during the term of this Agreement the WRTA determines that the CONTRACTOR has breached the terms of this Agreement by negligently or incompetently performing the work, or any part thereof, or by failing to perform the work in a timely fashion, or by failing to perform the work to the satisfaction of the WRTA, or by not complying with the direction of the WRTA or its agents, or by otherwise failing to perform this Agreement in accordance with all of its terms and provisions, the WRTA shall notify the CONTRACTOR in writing stating therein the nature of the alleged breach and directing the CONTRACTOR to cure such breach within ten (10) days. The CONTRACTOR specifically agrees that it shall indemnify and hold the WRTA harmless from any loss, damage, cost, charge, expense or claim arising out of or resulting from such breach regardless of its knowledge or authorization of the actions resulting in the breach. If the CONTRACTOR fails to cure said breach within ten (10) days, the WRTA may, at its election at any time after the expiration of said ten (10) days, terminate this Agreement by giving written notice thereof to the CONTRACTOR specifying the effective date of the termination. Upon receipt of said notice, the CONTRACTOR shall cease to incur additional expenses in connection with this Agreement. Upon the date specified in said notice, this Agreement shall terminate. Such termination shall not prejudice or waive any rights or action which the WRTA may have against the CONTRACTOR up to the date of such termination, and the CONTRACTOR shall be liable to the WRTA for any amount which it may be required to pay in excess of the compensation provided herein in order to complete the work specified herein in a timely manner. Upon such termination, the CONTRACTOR shall be entitled to compensation for all satisfactory work completed prior to the termination date, as determined by the WRTA.

B. Termination for Convenience. The WRTA may terminate this Agreement at any time for convenience by providing the CONTRACTOR written notice specifying therein the termination

date which shall not be sooner than ten days from the issuance of said notice. Upon receipt of said notice, the CONTRACTOR shall cease to incur additional expenses in connection with this Agreement. Upon such termination, the CONTRACTOR shall be entitled to compensation for all satisfactory work completed prior to the termination date, as determined by the WRTA, such payment not to exceed the fair value of the services provided hereunder.

12. INSPECTION AND REPORTS. The WRTA shall have the right at any time to inspect the work of the CONTRACTOR, including the right to enter upon any property owned or occupied by CONTRACTOR, whether situated within or beyond the limits of the WRTA. Whenever requested, CONTRACTOR shall immediately furnish to the WRTA full and complete written reports of its operation under this Contract in such detail and with such information as the WRTA may request.
13. ROYALTIES AND PATENTS. The CONTRACTOR shall pay all applicable royalties and license fees. In addition, the CONTRACTOR hereby represents that it is duly authorized to use any process or other intellectual property rights held by third parties in the performance of this Agreement, it shall defend all suits or claims for infringement of any patent or other intellectual property rights and shall indemnify and hold the WRTA harmless from loss on account thereof.
14. SUCCESSOR AND ASSIGNS. This Agreement is binding upon the parties hereto, their successors, assigns and legal representatives. Neither the WRTA nor the CONTRACTOR shall assign or transfer any interest in the Agreement without the written consent of the other.
15. COMPLIANCE WITH LAWS. The CONTRACTOR shall comply with all Federal, State, and local laws, rules, regulations and orders applicable to the work provided pursuant to this Agreement, such provisions being incorporated herein by reference, and shall be responsible for obtaining all necessary licenses, permits, and approvals required for the performance of such work.
16. NOTICE. Any and all notices, or other communications required or permitted under this Agreement, shall be in writing and delivered by hand or mailed postage prepaid, return receipt requested, by registered or certified mail or by other reputable delivery service, to the parties at the addresses set forth on Page 1 or furnished from time to time in writing hereafter by one party to the other party. Any such notice or correspondence shall be deemed given when so delivered by hand, if so mailed, when deposited with the U.S. Postal Service or, if sent by private overnight or other delivery service, when deposited with such delivery service.
17. SEVERABILITY. If any term or condition of this Agreement or any application thereof shall to any extent be held invalid, illegal, or unenforceable by the court of competent jurisdiction, the validity, legality, and enforceability of the remaining terms and conditions of this Agreement shall not be deemed affected thereby unless one or both parties would be substantially or materially prejudiced.
18. GOVERNING LAW. This Agreement shall be governed by, construed, and enforced in accordance with the laws of the Commonwealth of Massachusetts and the CONTRACTOR submits to the jurisdiction of any of its appropriate courts for the adjudication of disputes arising out of this Agreement.

19. ENTIRE AGREEMENT. This Agreement, including all documents incorporated herein by reference, constitutes the entire integrated agreement between the parties with respect to the matters described. This Agreement supersedes all prior agreements, negotiations and representations, either written or oral, and it shall not be modified or amended except by a written document executed by the parties hereto.

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

WORCESTER REGIONAL TRANSIT AUTHORITY

By : _____

Title: Administrator

Date: _____

CONTRACTOR:

(Signature)

(Name and Title)

(Date)

- End Exhibit H -