

Worcester Regional Transit Authority



Request for Qualifications (RFQ) # 2023-03

FOR

On-Call Architectural & Engineering Services

RFQ DUE:

March 24, 2023

2:00 p.m., EST

Dennis J Lipka, Administrator  
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60 Foster Street  
Worcester, MA 01608

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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, and is funded with Federal, State and local subsidies, as well as farebox revenue. 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), as are the entities with which it contracts for transit.

WRTA bus and paratransit van service is key to enabling thousands of people to get to and from work, school, medical facilities, etc. on a daily basis. As a public service provider, it is imperative that WRTA facilities are maintained and upgraded as necessary in order that those services may be provided in an effective and efficient manner.

The WRTA is issuing this *Request for Qualifications (RFQ) for On-Call Architectural & Engineering (A&E) Services* to engage a qualified firm to provide architectural, design, and engineering services to WRTA on an as-needed, project by project basis (on-call). The Authority intends to issue one three-year contract with two one-year options to extend the term.

To be considered for submittal evaluation, the offeror must have an office with a client access within 75 miles of WRTA Administrative Office located at 60 Foster Street, Worcester, MA 01608. Such distance shall be determined by using **driving** distance calculated by the *Google Maps* public webpage using the address of the offeror’s closest office.

## SECTION 2. INSTRUCTIONS TO OFFERORS

### 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	March 1, 2023
Pre-Proposal Conference (optional)	March 10, 2023
Deadline for Questions/Clarifications	March 14, 2023
Response to Questions/Clarifications	March 17, 2023
Deadline for Issuance of Updates and Addenda	March 20, 2023
Proposals Due	March 24, 2023
Interviews (if needed)	April 10 – 14, 2023
Approximate award date	April 17, 2023

## 2.2 Submittal Preparation & Submission

- Offeror Information – Submittal shall include the fully completed *Prospective Proposer Fact Sheet* form included in Exhibit A of this RFQ.
- Non-Collusion Declaration – Submittal shall include the fully completed and signed *Non-Collusion Declaration* included in Exhibit B of this RFQ.
- Certification as to Payment of State Taxes – Submittal shall include the fully completed and signed *Certification as to Payment of State Taxes* included in Exhibit C of this RFQ.
- Customer References – Submittal 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 – Submittal shall include the fully completed and signed *Government-Wide Debarment and Suspension Certification* form included in Exhibit E of this RFQ.
- Lobbying Certification – Submittal shall include the fully completed and signed *Lobbying Certification* included in Exhibit F of this RFQ.

## 2.3 Offeror-Prepared Documents

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

Statement of Qualifications – A submittal indicating the capability of the offeror 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 be signed by an officer authorized to bind the offeror contractually and shall address the below matters.
  - Offeror’s interest and willingness to enter into a contract with WRTA to perform the work as described in the *Scope of Work*; and offeror’s commitment to the effect that it would exert its “best efforts” in fulfilling its responsibilities therein.
  - Offeror’s willingness to accept the contract terms and conditions included in the *WRTA Agreement for Services* and the *Scope of Work*. If there are any contract terms that the offeror will not accept or proposes modifications to, the specifics of such should also be addressed in the cover letter or an attachment thereto. WRTA is limited in its ability to alter the terms and will assess whether it would be able to contract with offeror under offeror’s proposed contract revisions.
  - Offeror’s ability and willingness to obtain insurance meeting the requirements indicated in the *WRTA Agreement for Services*.

- General Background. Include the date your firm went into business, its growth pattern, types of services provided, number of personnel employed, and any other relevant information to provide evaluators with an understanding of offeror’s business. Include an organization chart of the firm.
- Firm Experience and Expertise. Provide a detailed explanation of the experience and expertise of the firm to include that of a general nature, expertise related to transit agencies, and/or public agencies, and that which pertain to the types of projects described in the *Scope of Work*.
- Individual Experience and Expertise. Provide a detailed explanation of the experience and expertise of the personnel the offeror proposes to use to support WRTA in meeting the requirements of a contract resulting from this RFQ. Include resumes for key personnel mentioned in this section. The information provided should identify organization affiliations and licenses held which pertain to work specified in support of WRTA. Key personnel are those expected to be committed to WRTA projects. Replacements of such personnel will not be permitted without prior consultation with and approval from WRTA.
  - At a minimum, key personnel listed must include: architect(s), civil engineer(s), structural engineer(s), mechanical engineer(s), electrical engineer(s), and landscape engineer(s).
- Subcontractors. List any subcontractor’s offeror may engage to provide support for any work outlined in the *Scope of Work* that offeror’s firm is unable to perform with in-house resources. Describe the services to be performed by subcontractors and the past experience of the offeror in working with such subcontractors. Include the information included in the “*Firm Experience and Expertise*” and “*Individual Experience and Expertise*” sections above for each subcontractor listed.
- Work Plan. Provide a narrative, which addresses the *Scope of Work* and shows the offeror’s understanding of WRTA’s needs and requirements. Include:
  - Description of the process for responding to Task Orders. Include a workflow chart detailing the process. Task order deliverables are described in the *Scope of Work*
  - Outline sequentially the activities that would be undertaken in completing the design of construction support services for assigned Task Orders. Specify who will perform each activity.
  - Identify methods that will be used to ensure quality control, as well as budget and schedule management of each Task Order.
  - Identify policies and procedures that will be used to ensure safety requirements are met.
  - List any special issues or problems that are likely to be encountered for this work and how offeror will address them.

- Work Sample. Include a minimum of two, and not more than four, sample projects, similar to the work described in the *Scope of Work*. If offeror worked for another firm on the sample project(s), provide a description of offeror’s role in the project(s).

Fee Schedule – Provide a Fee Schedule(s) indicating billable labor, service, and material classification and unit rates for a three-year base contract term. Labor rates must include fringe benefits, direct and indirect costs, and any other administrative fees. The Fee Schedule must include the requisite labor, service and material classification and unit rates for **all personnel** (including subcontractors) working on potential projects listed in the *Scope of Work*.

## 2.4 Submittal Contents, Location, & Deadline

Contents: Offeror shall submit one package with three envelopes in sealed packaging plainly marked on the exterior with the name of the firm and the following: **“On-Call A&E Services RFQ.”** Electronic submissions are required as detailed below. The submittal package shall contain the following items:

- Envelope 1: WRTA Forms. In an envelope labeled “WRTA Forms” include the fully completed *Prospective Proposer Fact Sheet, Customer References, Government-Wide Debarment and Suspension Certificate, Lobbying Restrictions Certification, Non-Collusion Declaration* and *Certification as to Payment of State Taxes*. Envelope shall include one set marked as original. An electronic submission, in Adobe PDF, must be sent to the email address listed below via a link to Google Drive, Dropbox or similar file hosting service.
- Envelope 2: Fee Schedule. In an envelope marked “Fee Schedule” include all of the requested information in the “Fee Schedule” section above. Envelope shall include one set marked as original.
- Envelope 3: Statement of Qualifications. In an envelope labeled “Statement of Qualifications” include all the requested information in the “Statement of Qualifications” section above. Envelope shall include a total of four (4) complete sets. This shall include one set marked as original and three complete copies. An electronic submission, in Adobe PDF, must be sent to the email address listed below via a link to Google Drive, Dropbox or similar file hosting service.

Location – Submittals shall be mailed to:

Worcester Regional Transit Authority  
 On-Call A&E Services  
 60 Foster Street  
 Worcester, MA 01608  
 Attention: Nick Burnham, Grants & Compliance Manager  
 Electronic Submission: email to: [nburnham@therta.com](mailto:nburnham@therta.com)

Deadline - Proposals shall be submitted no later than 2:00 PM Eastern Standard Time (EST) on March 24, 2023. 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

An offeror may withdraw a submittal any time prior to the submittal deadline by a submitting written request executed by the offeror'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 offeror 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 Offerors 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 Offeror.
- 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 Offeror, interview any Offerors to more fully understand their responses to this RFQ, and require any Offeror 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 Offeror's interest, nor the submission of any Offeror'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 Offeror and the WRTA, nor a determination by the WRTA that the Offeror is qualified hereunder, shall: (i) impose any obligation on the WRTA to include the Offeror in any such further procedures which the WRTA may utilize prior to the final selection of a Offeror, (ii) be deemed to impose any obligation whatsoever on the WRTA to select the Offeror, or to enter into negotiations with the Offeror, or (iii) entitle the Offeror's to any compensation or reimbursement for any costs or expenses incurred by the Offeror in connection with the Offeror'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 Offeror regarding the Offeror'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 a Proposal 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, Offerors 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 Offeror 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 an Offeror 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 form 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 Offeror has failed to disclose (x) any matter that materially relates to the fitness or ability of the Offeror to perform the work and services associated with this development opportunity, or (y) a conflict of interest; or (iii) a determination that such disqualification would serve the public interest.

- The WRTA reserves the unqualified right to: (1) disqualify any prospective Offeror or reject any response at any time solely on the grounds that a real or perceived legal or policy conflict of interest is presented; (2) require any prospective Offeror 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 (3) 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 architectural / engineering / environmental 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/RFP's/RFQ's, for an undermined period of time, the name of any offeror for failure to accept a contract and/or unsatisfactory performance.

#### 2.8 Pre-Proposal Meeting

A virtual pre-proposal meeting will be held via Zoom on March 10, 2023 at 10:00 AM. All potential Offerors to this RFQ are encouraged to attend and must register using the following link:

[Click here to register for WRTA Pre-Proposal Meeting](#)

#### 2.9 Questions / Clarifications

Questions or clarifications must be received by the WRTA in writing no later than March 14, 2023 at 5:00 PM.

#### 2.10 Bid Bond

A bid bond is not required for this RFQ.

#### 2.11 Performance Bond

A performance bond is not required for this RFQ.

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 Nick Burnham or his designee.

Offerors shall be responsible for continually checking the WRTA's website at [www.therta.com](http://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 March 17, 2023 at 5:00 p.m. EST.

2.14 Point of Contact

All questions regarding this RFQ shall be directed in writing to Nick Burnham who may be reached by email at [nburnham@therta.com](mailto:nburnham@therta.com). No other individual has the authority to respond to any questions submitted unless specifically authorized by Nick Burnham. Failure to adhere to this process may disqualify the offeror.

2.15 Interpretation

Should any discrepancies or omissions be found in the RFQ specifications / requirements, or doubt as to their meaning, the offeror shall notify the WRTA in writing at once (email is acceptable). The WRTA will post updates or addenda on its website ([www.therta.com](http://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 offeror 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 offeror is making an exception. If no exception or deviation is shown, the offeror 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 offeror. 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 offeror. 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 offeror 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 offeror(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 offeror; or (2) recommend establishment of a competitive range.

Category	Description	Scoring Criteria
Technical Qualifications and Experience of the Firm	Experience in performing work similar in nature and/or related to the work described in the <i>Scope of Work</i> ; experience working with transit or other public agencies; strength and stability of the firm, including consultant team. A local office within 75 miles of the project site.	30
Qualifications of Key Personnel	Qualifications and previous experience of personnel; key personnel’s level of involvement in performing related work cited in the <i>Scope of Work</i>	25
Work Plan	Provides sufficient detail to demonstrate understanding of the work; provides clear and logical outline of how offeror will execute the work; and provides sufficient information to demonstrate that there are mechanisms in place for each project to properly manage work safety, quality control, schedule adherence, and the budget.	25
Record of Past Performance	Proven track record of completing work to client’s satisfaction; length of time firm has been established; complexity of work performed; and satisfaction of key references.	20
<b>Total</b>		<b>100</b>

#### 3.3 Competitive Range

If WRTA staff determines that a competitive range should be established, offerors within the competitive range will be identified and notified promptly. The competitive range may include all or a portion of the offerors. Offerors determined to be within the competitive range may be invited for an interview and/or asked to submit a Best and Final Offer (BAFO)

#### 3.4 Offeror Responsibility

When WRTA determines the highest ranked offeror or offerors within a competitive range, WRTA will assess their responsibility, which in this solicitation is defined as satisfactory performance in previous contracts and having the financial capacity to undertake the project.

WRTA will use the reference information provided in the submittal and other information, as needed, for this determination. If the highest ranked offeror, or an offeror within the competitive range, is not determined to be responsible, it will no longer be considered.

### 3.5 Interviews

As part of the evaluation process, WRTA may conduct interview with the highest ranked offeror or offerors 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 offeror 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 offeror with a fair and reasonable Fee Schedule.

### 3.6 Best and Final Offer (BAFO)

WRTA may require offerors in the competitive range to submit BAFO's, which include any modifications to their "Statement of Qualifications" and written responses to any issues, concerns and questions that were raised during interviews and/or WRTA's written request for BAFO's. WRTA reserves the right to require a second round of BAFO's after the initial round is concluded.

### 3.7 Final Evaluation

If WRTA chooses to conduct interviews and/or request BAFO submittals, the Evaluation Committee will conduct a final round of scoring that takes into consideration information gleaned from interviews and/or BAFO's. Based upon the final scores, WRTA will determine the highest ranked offeror.

### 3.8 Pre-Award Deliverables

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

- Insurance Certificate – A certificate of insurance showing the coverage types and dollar limits stipulated in paragraph 10 of the *WRTA Agreement for Services*
- System for Award Management – A .pdf copy showing the offeror 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 offeror's proposal.

The option for two one-year contract extension may be exercised if mutually agreed to by WRTA and offeror. To exercise the option, WRTA will request an updated Fee Schedule 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 offeror shall provide architectural, design and engineering services to WRTA on an as-needed, project by project basis (on-call). The contract award will for a term of three years with two one-year options to extend the term. During the term of the contract, WRTA may issue one or more Task Order(s) The types of projects that may generate a Task Order include, but are not limited to, facility maintenance, facility remodels, electrical infrastructure upgrades, and bus shelter site and pad review. Offerors should note that the execution of a contract as a result of this solicitation does not guarantee WRTA will issue any Task Orders during the term of the contract.

WRTA has active transit related facilities at two locations within the city limits of Worcester for which A&E services may be required. Below is a brief description of each:

- In June 2013 the WRTA opened its new Union Station Bus Transfer Center. The new facility has an 8 slip covered bus transfer platform with a rooftop 50kw photovoltaic system and a three-story building containing an estimated 2,000+ square foot public waiting area with customer amenities, and 10,000+ square feet of administrative, customer service, and brokerage offices.
- In October of 2016 the WRTA opened its new Maintenance and Operations Center. The new two-story 150,000-square-foot facility includes 48,000+ square feet of space for bus maintenance activities, 2,900+ square feet of space for bus servicing lanes, 86,000+ square feet of interior bus and van storage, 6,000+ square feet of administrative offices and 7,300+ square feet for operations and dispatching activities. The facility also provides for a Commercial Driver's License (CDL) training course, exterior gasoline fueling station, storm water management system, Bio-retention / Rain Garden, and is designed for future rooftop 500KW photovoltaic system and the inclusion of compressed natural gas (CNG) infrastructure.

### **5.2 Potential Projects**

Although specific projects are not determined with certainty nor guaranteed, it is anticipated that such projects will include or be similar to the following:

- Union Station Bus Transfer Center Lobby Renovation: As indicated in the description above, the public waiting area contains 2,000+ square feet of public waiting area along with two single stall bathrooms and until June 2020 approximately 400 square feet of retail space. Since opening in 2013, the two single stall bathrooms have proven to be maintenance and security problems. With the retail space vacant, and the WRTA no

longer wishing to lease the space an opportunity has presented itself to re-think the use of this entire space. The reuse may or may not include bathrooms but should include space for a security office along with a redesigned passenger waiting area.

- Decommission Electric Bus Charger and Equipment: WRTA is winding down its pilot with 6 Proterra Battery Electric Buses. This is a fast charge system accomplished using an overhead 500kw charging unit with docking control box, related switchgear and battery storage. WRTA would like to safely decommission and remove the charger and all its related equipment.
- Energy Storage and Photovoltaic System: WRTA desires to implement an energy storage and photovoltaic system at its Maintenance and Operations facility to generate and store electricity for either onsite usage or sale to a public utility. Such a system would make use of the nearly 3 acres of available flat roof. This initiative supports WRTA's goal of operating an all-electric bus fleet by 2035.
- Electrical Infrastructure Upgrades: WRTA intends to install new electrical infrastructure at its Maintenance and Operations facility to support charging of battery electric buses. The WRTA's current fixed route active fleet is made up of both diesel and hybrid/diesel heavy-duty Gillig buses. The WRTA's goal is to transition all future bus purchases, beginning in 2023, to battery electric.
- Facility Condition Assessments: Per FTA Transit Asset Management (TAM) guidelines, WRTA must measure and report facility conditions to the National Transit Database (NTD). On a three-year basis, WRTA seeks condition assessments to be completed for its Administrative/Passenger Facility (WRTA Hub), and its Maintenance & Operations Facility. The Facility Condition Assessments are completed based on a [guidebook](#) developed by the FTA.

### 5.3 A&E Service Requirements

Offeror shall provide, administer or arrange the following professional design and A&E services as required to carry out the scope of work for a particular project:

- A. Preliminary or Concept Design Phase
  1. Review existing concepts or plans to assess project objective opportunities and limitations.
  2. Develop conceptual designs
  3. Provide preliminary construction cost estimate
- B. Construction Document & Bid Assistance Phase
  1. Develop A&E Plans and specifications, including revisions
  2. Aid WRTA in developing construction bid package
  3. Provide revised construction cost estimate based on final plans
  4. Assist in assessing construction bids or proposals
- C. Construction Administration Phase

1. Review construction work for conformance with approved construction documents.
2. Provide information and/or clarification to contractor on approved construction documents.
3. Assist WRTA in assessing any proposed or necessary construction change orders.
4. Develop and administer “punch list” for determining compliance with construction documents.
5. Assist WRTA in determining final acceptance of construction work.

D. Additional Requirements

1. Review contractor requests for payment
2. Respond to requests for information (RFIs)
3. Provide value engineering recommendations as applicable

5.4 Procedures to Order Services (Task Orders) – As services are required, WRTA will issue a Task Order to the contractor. At a minimum, the Task Order will set forth the proposed scope of work and the time within which the Task Order must be completed. The Task Order will stipulate that the quote will be on a fixed price or not to exceed. In response, the contractor shall provide WRTA a quote for the Task Order using prices included in the On-Call A&E Services agreement between WRTA and the contractor. The contractor shall also include a detailed schedule highlighting major milestones of the A&E services for the project. Unless otherwise stated, the quote will include a breakdown of A&E professional labor by category and hours. The price of any services or materials included in the quote that are not priced in the On-Call A&E Services agreement may be subject to negotiation. Additional information may be requested by WRTA to help review the quote. Whenever a Task Order is issued by WRTA, priced by the contractor, and accepted by WRTA, the scope of work for such Task Order, the Task Order price, and the schedule for the work covered by the Task Order shall be set forth as an amendment to the On-Call A&E Services agreement between WRTA and the contractor.

5.5 Changes – Any proposed changes or modifications to a Task Order, initiated by WRTA or the contractor, that will result in a change to the scope of work, price, schedule, or any other element of the Task Order shall require a change order. Such change order shall include a detailed description of the rationale for the change.

A. Bilateral Change Orders: WRTA and the contractor may agree to change or modify a Task Order to correct errors, omissions, or discrepancies; to cover acceptable overruns; to expand or reduce the scope of work; or to direct the changes in contract execution. WRTA and the contractor will negotiate such changes and modify the Task Order and/or other provisions and exhibits of the On-Call A&E Services agreement between WRTA and the contractor through a written amendment executed by the contractor and WRTA.

B. Unilateral Change Orders: WRTA has the right to issue an immediate, unilateral change order to a Task Order and then negotiate cost after the issuance of the change order. The change order must be in writing and signed by WRTA’s Administrator. The contractor shall immediately commence performing the changed work as directed in the written change order. Within 10 calendar days after receipt of a unilateral change order from WRTA, the contractor shall assess and describe the impact of the change on both

time and compensation and provide information, in writing, on the proposed cost and schedule changes to WRTA. Once WRTA and the contractor agree as to the extent of such impacts on time and compensation, an amendment to the Task Order and/or other appropriate provisions and exhibits of the On-Call A&E Services agreement shall be executed by the contractor and WRTA.

- C. Responsibility for Costs: Contractor shall be solely responsible and liable for all costs resulting from any change to the work undertaken by the contractor that is not part of a written amendment to the On-Call A&E Services agreement.

5.6 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 A&E 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 RFQ 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 Offeror either in whole or in part.

6.6 Compliance with Statute

Offeror 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, Offeror acknowledges that it has read and understands the insurance requirement for this proposal as described in paragraph 10 of the *Agreement for Services – Exhibit H*. Offeror 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 Offerors proposal.

6.8 Warranty

Offeror 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 Offeror 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 Offeror. Defective goods rejected by WRTA may without prejudice to any other legal remedy be held at Offeror's risk and returned to Offeror at Offeror's expense. Defects are not waived by acceptance of goods or by failure to notify Offeror thereof.

6.9 Federal Contract Clauses

The goods and / or services covered by this RFQ 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 RFQ 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 Offeror in the performance of the contract or Task order should fail to conform to specifications therefore, or to the sample submitted by the Offeror with his bid, the WRTA may reject the same, and it shall thereupon become the duty of the Offeror 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 Offeror 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 Offeror 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 Offeror 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 Offeror.

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 Compliance 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](http://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://www.therta.com/business-with-wrta/contracting-opportunities/>

**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 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 RFQ 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 ay 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

- End Exhibit E -

**EXHIBIT F**

**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

## **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

49 C.F.R. part 633

**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 RFQ 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 RFQ 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/offeror will be required to report its DBE participation obtained through race-neutral means throughout the period of performance.

d. **PROMPT PAYMENT** - The contractor is required to pay its subcontractors performing work related to this contract for satisfactory performance of that work no later than 30 days after the contractor's receipt of payment for that work from the 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, is made and entered into this \_\_\_ day of \_\_\_, 2023, 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, with a usual place of business at 60 Foster Street, Worcester, Massachusetts and CONSULTANT, a \_\_\_\_\_ corporation, with a usual place of business at \_\_\_\_\_.

**WITNESSETH**

WHEREAS, the WRTA operates mass transportation services in thirty-seven (37) communities within the authority area, including all fixed route and paratransit services provided subcontractors; and

WHEREAS, CONSULTANT is a corporation with a specialty for Architectural and Engineering Services; and

WHEREAS, the WRTA issued a Request for Qualifications for Architectural and Engineering Services; and

WHEREAS, CONSULTANT submitted a proposal in response to said Request for Qualifications and has been designated by the WRTA to perform said services; and

WHEREAS, the WRTA deems it in the public interest to execute this agreement with CONSULTANT to conduct the Architectural and Engineering Services in conformance with the Request for Qualifications; and

WHEREAS, CONSULTANT represents that it is fully able and qualified to supply those services as set forth herein;

NOW, THEREFORE, in consideration of the mutual covenants contained herein, the parties hereto mutually agree as follows:

1. The Agreement. This Agreement for services, together with the Request for Qualifications, CONSULTANT’S Proposal, and the Federal Contract Clauses, which are acknowledged herein and incorporated by reference as if attached hereto; and the CONSULTANT Project Scope

dated MM/DD/YYYY, which is attached hereto and marked as “Exhibit A”; constitute the entire agreement between the WRTA and CONSULTANT. The terms and conditions specifically set forth in the Request for Qualifications, the Response of CONSULTANT, and the Federal Contract Clauses are herein incorporated by reference.

2. Scope of Services.  
On-Call A&E Services will be provided on an as needed basis and based upon rates provided in the CONSULTANTS proposal and subject to issuance of an appropriate Task Order amendment to this agreement.
3. Term of the Agreement. This agreement will become effective on MM/DD/YYYY and terminate on MM/DD/YYYY. The WRTA reserves the right to extend the agreement term through no more than two (2) additional one (1) year extensions. During any extension hereof, the terms and conditions of this agreement will remain in full force and effect.
4. Professional Responsibility.
  - A. CONSULTANT shall be responsible for the professional and technical accuracy and the coordination of all designs, drawings, specifications, estimates and other work furnished by it or its consultants and subcontractors. CONSULTANT shall staff its office with sufficient personnel to complete the services required under this contract in a prompt and continuous manner, and shall meet the approved schedule and submittal dates established during the course of this Agreement. The standard of care for all professional consulting and related services performed or furnished by CONSULTANT under this Agreement shall be the care and skill ordinarily used by member of CONSULTANT’ profession practicing under the same circumstances at the same time and in the same locality as this Project.
  - B. CONSULTANT shall furnish appropriate competent professional services for each of the phases to the point where detail checking and reviewing by the WRTA will not be necessary. Any changes, corrections, additions or deletions made by the WRTA shall be incorporated in the design of the Project unless detailed objections thereto are received from CONSULTANT and approved by the WRTA.
  - C. CONSULTANT shall complete the services required under this Agreement in a prompt and continuous manner, and to meet such time limits as are established during the course of the Agreement. If the completion of the scope of work is delayed through no fault of CONSULTANT, the time limit may be extended upon written approval of the WRTA.
  - D. Neither the WRTA’s review, approval or acceptance of, nor payment for any of the services furnished shall be construed to operate as a waiver of any rights under the Agreement or any cause of action arising out of the performance of the Agreement.
5. Personnel.

- A. The parties hereby acknowledge that the WRTA’s decision to enter into this agreement with CONSULTANT was based, in part, upon CONSULTANT representation that certain specified individuals as set forth in its Response to the Request for Qualifications would be employed by CONSULTANT to perform services provided by this agreement. Such individuals shall collectively be deemed to be “key personnel” in the meaning of this agreement. Their names and respective duties are attached hereto as part of “Exhibit B.”
- B. CONSULTANT represents that it shall not make any change in the identity, position, or responsibility of any key personnel without the prior written approval of the WRTA, which approval shall not unreasonably be withheld or delayed. If CONSULTANT undertakes to make such change without prior written approval by the WRTA, it shall be an event of default as the term is herein defined.
- C. CONSULTANT shall thoroughly acquaint its and personnel with all provisions of the General Laws governing the conduct of public construction projects, including but not limited to M.G.L. c.149, and c.30, and in particular, M.G.L. c.30, §39M, wherein the description of material specifications and proprietary items in construction bid documents is governed.

6. Consultants, Subcontracting, Successors and Assigns.

- A. CONSULTANT shall not employ additional consultants, not named in the CONSULTANT Proposal, nor sublet, assign or transfer any part of its services or obligations under this Agreement without the prior approval and written consent of the WRTA. The WRTA shall not unreasonably withhold such approval. Written consent shall not in any way relieve CONSULTANT from its responsibility for the professional and technical accuracy and the coordination of all data, designs, drawings, specifications, estimates and other work or materials furnished.
- B. When CONSULTANT receives payment from the WRTA, CONSULTANT shall promptly make payment to each consultant whose work was included in the work for which payment was made by the WRTA. The WRTA shall have the contractual right, but not the obligation, to require corrective measures necessary for the best interests of the WRTA.
- C. All consultants employed by CONSULTANT must be registered in their respective disciplines if registration is required under the applicable General Laws.

7. Compensation and Method of Payment. The WRTA agrees to pay CONSULTANT as compensation for the services performed under Section 2 of this agreement the sum of \_\_\_\_\_ (\$\_\_\_\_\_). The lump sum set forth shall be allocated as follows:

WRTA will remit payment to CONSULTANT within thirty (30) days upon approval of invoice.

8. Responsibility for Modifications, Change Orders

- A. CONSULTANT shall not be compensated for any services involved in preparing change orders required to make lump sum price adjustments due to existing conditions. Changes for which the CONSULTANT receives no compensation under this Article shall be “no fee modifications” or “no fee change orders.” The fact that CONSULTANT receives no fee shall not limit the WRTA’s legal remedies regarding such changes.
- B. Any design services in connection with change orders and change directives which are necessitated by a lack of reasonable clarity, deficiencies or conflicts in the deliverables or other errors or omissions of CONSULTANT, or which result from existing conditions encountered in the building which should have been anticipated by CONSULTANT based on reasonable investigation of said building as required herein, shall not qualify as additional services and shall be performed within the scope of Basic Services.
- C. Payments for modifications to this agreement shall be added to the lump sum agreement and invoiced in accordance with completion of design change order.

9. Indemnification

- A. General Liability: CONSULTANT shall indemnify and hold harmless the WRTA from and against any and all claims, damages, losses, and expenses, including attorney’s fees, to the extent arising out of the performance of this Agreement and to the extent the same relate to matters of general commercial liability, when such claims, damages, losses, and expenses are caused, in whole or in part, by the negligent or wrongful acts or omissions of CONSULTANT or its employees, agents, subcontractors or representatives.
- B. Professional Liability: CONSULTANT shall indemnify and hold harmless the WRTA from and against any and all claims, damages, losses, and expenses, including attorney’s fees, arising out of the performance of this Agreement and to the extent the same relate to the professional competence of CONSULTANT’s services, when such claims, damages, losses, and expenses are caused, in whole or in part, by the negligent acts, negligent errors or omissions of CONSULTANT or its employees, agents, subcontractors or representatives.

10. Insurance

- A. CONSULTANT shall at its own expense obtain and maintain a Professional Liability Insurance policy for errors, omissions or negligent acts arising out of the performance

of this Agreement with a minimum amount of \$1,000,000.00 per occurrence / \$3,000,000 Aggregate.

- B. CONSULTANT shall at its own expense obtain and maintain a General Liability Insurance policy with a minimum amount of \$1,000,000.00 per occurrence / \$2,000,000 Aggregate for bodily injury, personal injury, and property damage. If aggregate is used, either a separate aggregate limit shall apply or aggregate limit shall be twice the required occurrence limit.
- C. CONSULTANT shall at its own expense obtain and maintain an Automobile Insurance policy with a minimum amount of \$1,000,000.00 combined single limit per accident for bodily injury and property damage.
- D. CONSULTANT shall at its own expense obtain and maintain an Errors / Omission Liability Insurance policy with a minimum amount of \$1,000,000 per occurrence / \$3,000,000 Aggregate.
- E. CONSULTANT shall at its own expense obtain and maintain an Excess Liability Insurance policy with a minimum of \$1,000,000 per occurrence.
- F. CONSULTANT shall procure and maintain for the duration of the contract and for a period of three years thereafter or the period of any contract warranties, whichever is longer, insurance against claims for the injuries to persons or damages for property which may arise from or in connection with the performance of the work hereunder by the CONSULTANT, CONSULTANT'S agents, representatives, employees or subcontractors.
- G. General Liability, Automotive Liability and Excess Liability policies are to contain the following provisions:
  - a. The WRTA, its officers, officials, Advisory Board and employees are to be covered as additional insureds as respects: liability arising out of activities performed by or on behalf of the CONSULTANT; products and completed operations of the CONSULTANT; premises owned, occupied or used by the CONSULTANT; automobiles owned, leased, hired or borrowed by the CONSULTANT. The coverage shall contain no special limitation on the scope of protection afforded he WRTA, its officers, Advisory Board, officials, or employees.
  - b. For any claims related to this agreement, the CONSULTANT'S insurance coverage shall be primary insurance with respect to the WRTA, its officers, Advisory Board, officials, and employees. Any insurance or self-insurance maintained by the WRTA, its officers, Advisory Board, officials, or employees shall be excess of CONSULTANT'S insurance and shall not contribute with it.
  - c. The insurer shall agree to waive all rights of subrogation against WRTA, Advisory Board, its officers, officials, and employees for losses arising from work performed by the CONSULTANT for the WRTA.

- H. Each policy required shall be endorsed to state that the coverage shall not be suspended, voided, canceled by either party, reduced in coverage or limits except after 30 days prior written notice by certified mail, return receipt requested.
  - I. CONSULTANT shall, before commencing performance of this Agreement, provide by insurance for the payment of compensation and the furnishing of other benefits in accordance with M.G.L. c.152, as amended, to all its employees and shall continue such insurance in full force and effect during the term of the Agreement.
  - J. CONSULTANT shall carry insurance in a sufficient amount to assure the restoration of any plans, drawings, computations, field notes or other similar data relating to the work covered by this Agreement in the event of loss or destruction until the final fee payment is made or all data are turned over to the WRTA.
  - K. CONSULTANT shall also maintain public liability insurance, including property damage, bodily injury or death, and personal injury and motor vehicle liability insurance against claims for damages because of bodily injury or death of any person or damage to property.
  - L. Certificates and any and all renewals substantiating that required insurance coverage is in effect shall be filed with the Agreement. Any cancellation of insurance, whether by the insurers or by the insured, shall not be valid unless written notice thereof is given by the party proposing cancellation to the other party and to the WRTA at least thirty days prior to the intended effective date thereof, which date shall be expressed in said notice.
  - M. Should any work under this agreement be sublet, CONSULTANT shall require each subcontractor of any tier to comply with all of the agreement's insurance provisions and provide the proof of such compliance to the WRTA.
  - N. Upon request of CONSULTANT, the WRTA reserves the right to modify any conditions of this Article.
11. Events of Default. An event of default shall mean a material default of CONSULTANT obligations under this agreement, which continues uncured after the expiration of any applicable cure period. Without limiting the generality of the foregoing, an event of default shall include:
- (a) CONSULTANT failure to comply with any provision of this agreement;
  - (b) CONSULTANT has become insolvent, filed bankruptcy, or made an assignment for the benefit of its creditors or has taken advantage of any insolvency statute or debtor/creditor law or its property affairs have voluntarily been put in the hands of a receiver;
  - (c) Any case, proceeding or other action against CONSULTANT is commenced in bankruptcy, or seeking reorganization, liquidation or any relief under any bankruptcy,

insolvency, reorganization, liquidation, dissolution or other similar act or law of any jurisdiction, which case, proceeding or other action remains undismissed, undischarged, or unbonded for a period of sixty (60) days; and/or

(d) CONSULTANT is in violation of any law, regulation or rule applicable to it.

12. Notice of Default. If CONSULTANT shall default in its obligations under this agreement, the WRTA will notify CONSULTANT, specifying the nature of such default. The default notice shall state that unless the default is cured to the reasonable satisfaction of the WRTA within thirty (30) days, or any other applicable cure period, or such longer period as may be reasonably necessary to cure the default provided CONSULTANT diligently works to cure such default, an event of default shall have occurred and the WRTA will be entitled to exercise any or all of the applicable remedies.

13. Termination Provisions.

A. The WRTA may terminate this agreement without cause, but with no fewer than thirty (30) days prior notice, at any time for its convenience upon written notice to CONSULTANT, effective upon the termination date stated therein.

B. In the event of such termination, WRTA may order CONSULTANT to cease performing services or may complete the agreement with other service provided.

C. If this agreement should be terminated by the WRTA in the exercise of the rights conferred upon it in accordance with this agreement, neither party shall be under any further obligation to the other, except for WRTA's duty to pay all obligations due hereunder and the obligation of CONSULTANT to refund the WRTA payments received by it in excess of any compensation and is entitled to receive hereunder, all as the case may be.

D. Notwithstanding any other provision of this agreement, the WRTA reserves the right to recover from CONSULTANT any actual damage it may sustain as a result of CONSULTANT failure to cure any default by it in the performance of this agreement. CONSULTANT shall be liable for all actual damages resulting from an event of default.

E. Unless otherwise inconsistent with any other provision hereof, any and all rights and remedies which either party may have under the terms of this agreement, or by operation of law, either at law or in equity, upon any breach of the terms hereof, shall be distinct, separate and cumulative, and shall not be deemed inconsistent with each other; and no one of them, whether exercised by either Party or not, shall be deemed to be in exclusion of any other; and any two or more of all rights and remedies may be exercised at the same time to the extent permitted by applicable law.

F. The WRTA may bring any suit or proceeding against CONSULTANT for specific performance or for an injunction or to recover damages or to obtain any other relief or for any other proper purpose hereunder.

14. Conduct by CONSULTANT upon Termination. After receipt by CONSULTANT of a notice of termination of this Agreement issued to it by the WRTA, CONSULTANT shall stop the performance of the services required hereunder on the date and to the extent specified in said notice of termination.

15. Waiver. Failure of either party hereto to complain of any act or failure to act, or other condition, which constitutes a breach of the other party's duties hereunder, no matter how long the same may continue, shall not be deemed to constitute a waiver of either party of any of its rights hereunder. No waiver by either party at any time, express or implied, of any breach of any provision of this agreement shall be deemed to constitute a waiver of a breach of any other provision of this agreement, nor a consent to the continued, or any subsequent, breach of the same duty. If any action by either party shall require the other party's consent or approval, the first party's consent or approval to any such action on any one occasion shall not be deemed to constitute a consent or approval to any such action on any one occasion shall not be deemed to constitute a consent to or approval of said action on any separate, subsequent occasion, nor a consent to or approval of any other action on the same or subsequent occasion.

16. Compliance with Laws.

A. CONSULTANT shall perform the work required under this Agreement in conformity with all requirements of the WRTA as stated in this Agreement and the Request for Qualifications, all applicable laws, statutes, ordinances, by-laws, codes, rules and regulations, and executive orders of the Commonwealth and its political subdivisions, and the Federal Government. The construction documents shall comply with all such applicable laws, statutes, ordinances, by-laws, codes, rules and regulations, and executive orders. CONSULTANT, including all approved consultants and subcontractors, shall comply with all applicable provisions of the rules and regulations as seen in "Exhibit C" and Procedures promulgated by the Governor of Massachusetts or its designees, insuring equal opportunity for employees and minority and women-owned business enterprises.

B. CONSULTANT shall take into consideration the fact that the Project will be funded in part by the U.S. Federal Transit Administration, and that all project design and construction contracts will be required to conform to and include the Federal Contract Clauses set out in "Exhibit C" which is attached hereto and incorporated herein.

17. Supplemental Contract Data; Legal Requirements.

A. CONSULTANT certifies:

1. if an individual, the individual is a registered architect;

2. if a partnership, a majority of all the partners are persons who are registered architects;
  3. if a corporation, sole proprietorship, joint stock company or other entity, the majority of the directors or a majority of the stock ownership and the chief executive officer are persons who are licensed engineers, landscape architects and surveyors, architects, and the person to have the project in his or her charge is a professional engineer; or
  4. if a joint venture, each joint venturer satisfies the requirements of this section. (Statutory reference: M.G.L. c.7, §38A½)
- B. CONSULTANT hereby certifies that it has not given, offered or agreed to give any person, corporation or other entity any gift, contribution or offer of employment as an inducement for, or in connection with the award of this Agreement. (Statutory reference: M.G.L. c.7, §38H(e)(i)).
- C. CONSULTANT hereby certifies that no consultant to or subcontractor for CONSULTANT has given, offered or agreed to give any gift, contribution or offer of employment to CONSULTANT, or to any other person, corporation, or entity as an inducement for, or in connection with, the award to the consultant or subcontractor of a contract by CONSULTANT. (Statutory reference: M.G.L. c.7, §38H(e)(ii)).
- D. CONSULTANT hereby certifies that no person, corporation or other entity, other than a bona fide full-time employee of CONSULTANT, has been retained or hired by CONSULTANT to solicit for or in any way assist CONSULTANT in obtaining this Agreement upon an agreement or understanding that such person, corporation or other entity be paid a fee or other consideration contingent upon the award of this Agreement to CONSULTANT. (Statutory reference: M.G.L. c.7 §38H(e)(iii)).
- E. CONSULTANT hereby certifies that it has internal accounting controls as required by subsection (c) of section thirty-nine R of chapter thirty and that CONSULTANT filed and will continue to file an audited financial statement as required by subsection (d) of said section thirty-nine R. (Statutory reference: M.G.L. c.7, §38H(e)(iv)).
- F. CONSULTANT shall maintain all books, records, and accounts related to the Project in compliance with the following:
1. CONSULTANT shall make, and keep for at least six years after final payment, books, records, and accounts which in reasonable detail accurately and fairly reflect the transactions and dispositions of CONSULTANT.
  2. Until the expiration of six years after final payment, the WRTA, the Secretary of the Massachusetts Department of Transportation or his designee, the office of the inspector general and the Office of the Attorney General shall have the right

to examine any books, documents, papers or records of CONSULTANT or of its consultants that directly pertain to, and involve transactions relating to, the CONSULTANT or its consultants and this project.

3. CONSULTANT shall describe any change in the method of maintaining records or recording transactions which materially affects any statements filed with the WRTA, including in the CONSULTANT' description the date of the change and reasons therefor, and shall accompany said description with a letter from the CONSULTANT' independent certified public accountant approving or otherwise commenting on the changes.
4. CONSULTANT has filed a statement of management on internal accounting controls as set forth in Paragraph (6) below prior to the execution of this Agreement.
5. CONSULTANT retains the services of an independent certified public accounting firm that annually provides a financial statement. The fiscal year for CONSULTANT ends MM/DD. Statements are generally available by the end of each calendar year. Financial statements include a management letter, balance sheet of assets, liabilities and net worth, as well as salient notes to the financial statement, and a comparison to the previous year on all assets and liabilities.

CONSULTANT here-by agrees to provide one confidential copy each year for the duration of this contract.

6. CONSULTANT shall file with the WRTA a statement of management as to whether the system of internal accounting controls of CONSULTANT and its subsidiaries reasonably assures that:
  - (a) transactions are executed in accordance with management's general and specific authorization;
  - (b) transactions are recorded as necessary:
    - (i) to permit preparation of financial statements in conformity with generally accepted accounting principles; and
    - (ii) to maintain accountability for assets;
  - (c) access to assets is permitted only in accordance with management's general or specific authorization; and
  - (d) the recorded accountability for assets is compared with existing assets at reasonable intervals and appropriate action is taken with respect to any difference.

7. CONSULTANT shall also file annually with the WRTA a statement prepared and signed by an independent certified public accountant, stating that such accountant has examined the statement of management on internal accounting controls, and expressing an opinion as to:
  - (a) whether the representations of management in response to this Article are consistent with the result of management's evaluation of the System of internal accounting controls; and
  - (b) whether such representations of management are, in addition, reasonable with respect to transactions and assets in amounts which would be material when measured in relation to the CONSULTANT' financial statements.
8. CONSULTANT shall annually file with the WRTA during the term of this Agreement a financial statement prepared by an independent certified public accountant on the basis of a review by such accountant. The final statement filed shall include the date of final payment. All statements shall be accompanied by accountant's report.
9. Records and statements required to be made, kept or filed in compliance with the provisions of this Article shall not be public records and shall not be open to public inspection, except as provided above. (Statutory reference: M.G.L. c.30, §39R).
- G. CONSULTANT and its consultants shall not be compensated for any services involved in preparing changes that are required for additional work that should have been anticipated by CONSULTANT in the preparation of bid documents, as reasonably determined by the WRTA. (Statutory reference: M.G.L. c.7, §38H(J)).
- H. This paragraph purposely omitted.
- I. CONSULTANT hereby certifies under penalties of perjury that CONSULTANT has complied with all laws of the Commonwealth of Massachusetts relating to taxes, reporting of employees and contractors, and withholding and remitting child support. (Statutory reference: M.G.L. c.62C, §49A).
18. Prohibition on Use of Funds. None of the funds or services provided directly or indirectly under this Agreement shall be used in the performance of this Agreement for any political activity, or to further the election or defeat of any candidate for public office. None of the funds provided under this Agreement shall be used for publicity or propaganda purposes designed to support or defeat legislation pending before the legislative branches of the Federal, State, and/or Municipal government.
19. Plans, Drawings, Specifications, etc. One (1) reproducible copy of all Plans, Drawings, Specifications, cost estimates and data of whatever nature and in what ever form furnished by

CONSULTANT and all other documents prepared by CONSULTANT shall become the property of the WRTA. Ownership of any stamped drawings and specifications shall not include the CONSULTANT' certification or stamp. Any re-use of such drawings and/or specifications without CONSULTANT' written verification of suitability for the specific purpose intended shall be without liability or legal exposure to CONSULTANT or to the CONSULTANT' independent professional associates, subcontractors or consultants. Distribution or submission to meet official regulatory requirements or for other purposes in connection with the project is not to be construed as an act in derogation of the CONSULTANT' rights under this Agreement.

20. Copyright. No reports, maps, or other documents produced in whole or in part pursuant to the provisions of this Agreement shall be the subject of an application for copyright by or on behalf of CONSULTANT or any of the agents or employees thereof.
21. Assignment and Sub-Agreementing.
  - A. Non-Assignment. Except as expressly permitted herein, CONSULTANT shall not assign, sublet or subagreement, in whole or in part, any of its rights, interests, or obligations under the provisions of this Agreement without the prior written consent of the Administrator, which consent may be withheld in the Administrator's sole and absolute discretion.
  - B. Consent. If the Administrator should give his written consent to any requested assignment, subletting, or subagreementing by CONSULTANT of any rights, interests, or obligations hereunder, then, unless provided in an agreement of amendment signed by the Parties, or the Administrator's written notice of approval, all of the terms and conditions contained herein shall apply to any such agreement of assignment or subagreement.
22. Power of Administrator. Except as otherwise specifically reserved herein, or as may be subsequently specified in an appropriate instrument in writing delivered by the Administrator to CONSULTANT, the Administrator shall be empowered to exercise the general and specific powers of the WRTA in regard to all aspects of the performance of this Agreement. CONSULTANT shall perform its services under the general direction and control of the General Manager, as provided herein, and/or any member of his staff to whom he/she may delegate any of his/her powers hereunder, provided that such direction and control does not conflict with applicable law.
23. Communications between the Parties. Unless otherwise expressly required hereunder, or by subsequent written notice sent by the WRTA or CONSULTANT to the other, all communications to the WRTA shall be directed to the Administrator, or her designee; all communications directed to CONSULTANT shall be to the "Officer's Title" or its designee.
24. Interest of Public Officials. No member, officer or employee of any public body, during his tenure, or for one year thereafter, shall have any interest direct or indirect in this Agreement or the benefits thereof.

25. Interest of Members of Congress. No member of or delegate to the Congress of the United States shall be admitted to any share or part of this Agreement or to any benefit arising therefrom.
26. Non-Discrimination.
- A. In connection with the carrying out of this Agreement, CONSULTANT shall not discriminate against any employee or applicant for employment because of race, creed, color, sex, age, sexual preference, disability or national origin. CONSULTANT will take affirmative action to promote employment and treatment during employment, without regard to race, creed, color, sex, age, sexual preference, disability or national origin. Such action shall include, but not be limited to the following: employment and promotion; demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay, other forms of compensation; selection for training including apprenticeship. The applicable provisions of the Presidential Executive Order 11246, as amended, relating to Equal Employment Opportunity are incorporated by reference herein.
- B. In the event CONSULTANT, its agents, servants or employees are charged with or sued for any alleged discriminatory or sexual harassment practices, the WRTA will not indemnify, defend or hold CONSULTANT harmless from and against any liability or expenses associated with such claims or lawsuits.
27. Severability and Intent. Should any part of this Agreement be declared to be unconstitutional, invalid, or beyond the WRTA of either party to enter into or carry out, such decision will not affect the validity of the remainder of this Agreement, which will continue in full force and effect.
28. Assignment. Except as provided herein, this Agreement shall not be assigned, transferred, hypothecated or pledged by either party without the prior written consent of the other party. However, this Agreement shall be binding upon the successors or assigns of the respective parties.
29. Notice. Notice to CONSULTANT means notice in writing addressed to: \_\_\_\_\_. Notice to the WRTA means notice in writing addressed to Dennis J Lipka, Administrator, at 60 Foster Street, Worcester, Massachusetts 01608.
30. Applicable Law. This Agreement shall be governed by the laws of the Commonwealth of Massachusetts.
31. Miscellaneous Provisions.
- A. No provision of this Agreement may be waived except by a writing signed by the party to be charged, nor may this Agreement be amended except by a writing executed by both parties. If any provisions, or portion thereof, of this Agreement is or becomes

invalid under any applicable statute or rule of law, it is to be deemed stricken and the rest of this Agreement shall remain in full force and effect.

B. CONSULTANT agrees that no WRTA officer or employee assumes any personal liability under this Agreement.

C. In the event any provision of this Agreement shall be held to be invalid or unenforceable for any reason, such invalidity or unenforceability shall attach only to such provision and shall not affect or render invalid or unenforceable any other provision of this Agreement.

32. Entire Agreement. This Agreement constitutes the entire agreement between the parties, with respect to the subject matter, and supersedes any previous understandings, representations, commitments or agreements, oral or written.

(Remainder of this Page is intentionally blank – signature page follows)

SIGNATURES

IN WITNESS WHEREOF, on the day and year hereinabove first written, CONSULTANT has caused this Agreement to be signed and sealed in its name and behalf, and its corporate seal to be hereto affixed by the signatory below authorized to do so, and the Administrator has signed this Agreement on behalf of the WRTA.

WORCESTER REGIONAL TRANSIT  
AUTHORITY

By: \_\_\_\_\_

Title: Administrator

Date: \_\_\_\_\_

CONSULTANT

By: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Approved as to Appropriation:

\_\_\_\_\_  
WRTA Deputy Administrator