

AGREEMENT

THIS AGREEMENT made this _____ day of _____ in the year Two Thousand and _____, between _____, with a usual place of business at _____, hereinafter called the CONTRACTOR, and the Franklin Regional Transit Authority (FRTA), acting by its Administrator, with a usual place of business at 12 Olive Street, Greenfield, MA 01301, hereinafter called the OWNER.

The CONTRACTOR and the OWNER, for the consideration hereinafter named, agree as follows:

1. Scope of Work

The Contractor shall furnish all labor, materials, equipment and insurance to perform all work required for the project known as the **FRTA IFB #2019-0301 Construction Services for Vestibule/Door Replacement Project**, in strict accordance with the Contract Documents and all related Drawings and Specifications. The Contract Documents (Section 11, herein), Specifications, Drawings and any GENERAL SUPPLEMENTARY CONDITIONS are incorporated herein by reference and are made a part of this Agreement.

2. Contract Price

The Owner shall pay the Contractor for the performance of this Agreement, subject to additions and deductions provided herein, in current funds, the sum of _____.

3. Commencement and Completion of Work

It is agreed that time is of the essence of this Agreement. The Contractor shall commence and prosecute the work under this Agreement upon execution hereof and shall complete the work on or before _____.

- A. Definition of Term: The Term "Substantial completion" shall mean the date certified by the Owner when construction is sufficiently complete, in accordance with the Contract Documents, so the Owner may occupy the project, or designated portion(s) thereof, for the use for which it is intended.
- B. Time as Essential Condition: It is understood and agreed that the commencement of and substantial completion of the work are essential conditions of this Agreement. It is further agreed that time is of the essence for each and every portion of the Contract

Documents wherein a definite and certain length of time is fixed for the performance of any act whatsoever; and where under the Contract Documents any additional time is allowed for the completion of any work, the new time fixed by such extension shall be of the essence of this Agreement. It is understood and agreed that the times for the completion of the work are reasonable, taking into consideration the average climatic range and usual industrial conditions prevailing in this locality.

- C. Progress and Completion: Contractor shall commence work promptly upon execution of this Agreement and shall prosecute and complete the work regularly, diligently and uninterruptedly at such a rate of progress as will insure Substantial Completion within the stipulated number of calendar days.

4. Performance of the Work

- A. Direction of the Work: The Contractor shall supervise and direct the Work, using his best skills and attention which shall not be less than such state of skill and attention generally rendered by the contracting profession for projects similar to the Project in scope, difficulty and location. The Contractor shall maintain adequate supervisory personnel at the project site during the performance of the Work. He shall be solely responsible for all construction means, methods, techniques, sequences and procedures and for coordinating all portions of the Work under the Agreement.
- B. Responsibility for the Work: (1) The Contractor shall be responsible to the Owner for the acts and omissions of his employees, Subcontractors and their agents and employees, and other persons performing any of the Work under a contract with the Contractor. This obligation shall also extend to the presence on the Site of suppliers of materials or equipment, their employees, contractors, and agents engaged in the work.

(2) The Contractor shall not be relieved from his obligations to perform the Work in accordance with the Contract Documents either by the activities or duties of the Owner in its administration of the Agreement, or by inspections, tests or approvals required or performed by persons other than the Contractor. Approval or review of any documents plans specifications or drawings by the Owner shall not relieve the Contractor of its duties and obligations hereunder.
- C. Permits and Fees: Unless otherwise expressly provided, the Contractor shall secure and pay for all permits and fees, licenses and inspections necessary for the proper execution and completion of the Work which are customarily secured after execution of the Agreement and which are legally required at the time the bids are received, and the same shall at all times be the property of the Owner and shall be delivered to the Owner upon completion of the Project.
- D. Notices, Compliance With Laws: (1) The Contractor shall give all notices and comply with all federal, state and local laws, ordinances, rules, regulations and lawful orders of any public authority bearing on the performance of the Work. The Contractor shall provide the Owner with reproductions of all permits, licenses and receipts for any fees

paid. The Owner represents that it has disclosed to the Contractor all orders and requirements known to the Owner of any public authority particular to this Agreement.

(2) If the Contractor observes that any of the Contract Documents are at variance with applicable laws, statutes, codes and regulations in any respect, he shall promptly notify the Owner in writing, and any necessary changes shall be accomplished by appropriate modification.

(3) If the Contractor performs any Work which he knows or should know is contrary to such laws, ordinances, rules and regulations, and without such notice to the Owner, he shall assume full responsibility therefor and shall bear all costs attributable thereto.

(4) In the performance of the Work, the Contractor shall comply with all applicable federal, state and local laws and regulations including those relating to workplace and employee safety. The Contractor shall notify the Owner immediately of any conditions at the place of the work which violate said laws and regulations and shall take prompt action to correct and eliminate any such violations.

- E. Project Superintendent: The Contractor shall employ a competent superintendent and necessary assistants who shall be in attendance at the Project site at all times during the progress of the Work. The superintendent shall represent the Contractor and all communications given to the superintendent shall be as binding as if given to the Contractor. Important communications shall be confirmed in writing. Other communications shall be so confirmed on written request in each case.
- F. Progress Schedule: The Contractor, immediately after being awarded the Contract, shall prepare and submit for the Owner's information an estimated progress schedule for the Work. The progress schedule shall be related to the entire Project to the extent required by the Contract Documents, and shall provide for expeditious and practicable execution of the Work.
- G. Drawings, Specifications and Submittals:
- (1) The Contractor shall maintain at the site for the Owner one record copy of all Drawings, Specifications, Addenda, Change Orders and other Modifications, and "As-Built" Drawings and Specifications in good order and marked currently to record all changes made during construction, and approved Shop Drawings, Product Data and Samples. These shall be delivered to the Owner upon completion of the Work.
- (2) By approving and submitting Shop Drawings, Product Data and Samples, the Contractor represents that he has determined and verified all materials, field measurements, and field construction criteria related thereto, or will do so, and that he has checked and coordinated the information contained within such submittals with the requirements of the Work and of the Contract Documents.

(3) The Contractor shall not be relieved of responsibility for any deviation from the requirements of the Contract Documents by the Owner's approval of Shop Drawings, Product Data or Samples unless the Contractor has specifically informed the Owner in writing of such deviation at the time of submission and the Owner has given written approval to the specific deviation. The Contractor shall not be relieved from responsibility for errors or omissions in the Shop Drawings, Product Data or Samples by the Owner's approval thereof.

(4) The Contractor shall direct specific attention, in writing or on resubmitted Shop Drawings, Product Data or Samples, to revisions other than those requested by the Owner on previous submittals.

(5) No portion of the Work requiring submission of a Shop Drawing, Product Data or Sample shall be commenced until the submittal has been approved by the Owner. All such portions of the Work shall be in accordance with approved submittals.

- H. Protection of the Work and Owner's Property: The Contractor shall at all times safely guard the Owner's property from injury or loss in connection with this Agreement. He shall at all times safely guard and protect his own work, and that of adjacent property from damage. The Contractor shall replace or make good any such damage, loss or injury. The Contractor shall clean the work area and restore it to its original condition upon completion of the work.
- I. Quality of the Work: The Contractor shall perform the work in a good, workmanlike manner. The Contractor hereby guarantees that the entire work constructed by him under the Agreement will meet fully all requirements thereof as to quality of workmanship and materials. The Contractor hereby agrees to make at his own expense any repairs or replacements made necessary by defects in materials or workmanship supplied to him that become evident within one (1) year after the date of the final payment, and to restore to full compliance with the requirements set forth herein any part of the work constructed hereunder, which during said one (1) year period is found to be deficient with respect to any provisions of the Contract Documents. The Contractor also agrees to hold the Owner harmless from claims of any kind arising from damage due to said defects. The Contractor shall make all repairs and replacements promptly upon receipt of written orders for same from the Owner. If the Contractor fails to make the repairs and replacements promptly, the Owner may do the work and the Contractor shall be liable to the Owner for the cost thereof.
- J. Warranty: The Contractor guarantees to Owner that all materials incorporated into the work will be new unless otherwise specified or agreed. Prior to final payment, the Contractor shall deliver to the Owner all manufacturers' warranties, together with such endorsements or assignments as are necessary to ensure to the Owner the full rights and benefits of such warranties.

5. Affirmative Action/Equal Employment Opportunity

The Contractor is directed to comply with all applicable Federal and State Laws, Ordinances, Bylaws, and rules and regulations regarding affirmative action/equal employment opportunity requirements. Failure of the Contractor to comply with any such law, rule or regulation shall constitute grounds for the Owner to terminate the Agreement.

6. Site Information Not Guaranteed; Contractor's Investigation

All information given in the Contract Documents relating to subsurface and other conditions, natural phenomena, existing pipes, and other structures is from the best sources at present available to the Owner. All such information is furnished only for the information and convenience of the Contractor and is not guaranteed.

It is agreed and understood that the Owner does not warrant or guarantee that the subsurface or other conditions, natural phenomena, existing pipes, or other structures encountered during construction will be the same as those indicated in the Contract Documents.

Contractor has familiarized himself with the nature and extent of the Contract Documents, work, locality, and with all local conditions and federal, state, and local laws, rules, ordinances, and regulations that in any manner may affect costs, progress, or performance of the work. Contractor has made, or has caused to be made, examinations, investigations, and tests and studies of such reports and related data in addition to those referred to in the paragraph above as he deems necessary for the performance of the work at the Contract Price, within the Contract Time, and in accordance with the other Terms and Conditions of the Contract Documents; and no additional examinations, tests, investigations, reports, and similar data are or will be required by the Contractor for such purposes.

Contractor has correlated the results of all such observations, examinations, investigations, tests, reports, and data with the Contract Documents. Contractor has given the Owner written notice of all conflicts, errors, or discrepancies that he has discovered in the Contract Documents, and the resolution thereof by the Owner is acceptable to the Contractor.

It is further agreed and understood that the Contractor shall not use or be entitled to use any of the information made available to him or obtained in any examination made by him in any manner as a basis of or ground for any claim or demand against the Owner, arising from or by reason of any variance which may exist between the information made available and the actual subsurface conditions or other conditions or structures actually encountered during the construction work, except as may otherwise be expressly provided for in the Contract Documents.

7. Project Architect or Engineer

There X is ___ is not a project architect-engineer for this project who is **J. Harwood Architects**. Except as otherwise indicated in the Contract Documents, the Architect/Engineer shall be a representative of the Owner and the Contractor shall direct all communications, questions and comments on the work and the performance thereof to the Architect/Engineer. Except as otherwise provided, the Architect/Engineer shall have all the authority of the Owner

set forth in the Contract Documents. In general, the Architect/Engineer shall have the authority to review the performance of the work, reject work which is defective or otherwise does not comply with the Contract Documents and to order the Contractor to remedy defective work and take such actions which are necessary to make the work conform to the Contract Documents.

8. Wage Rates

Prevailing Wage Rates as determined by the Commissioner of the Department of Labor and Workforce Development under the provisions of Massachusetts General Laws, Chapter 149, Section 26 to 27G, as amended, apply to this project. It is the responsibility of the Contractor to provide FRTA with certified payrolls and to comply with all requirements of the above-cited statutes.

The schedules of prevailing wage rates are included in the Contract Documents.

9. Payments to the Contractor

Within thirty (30) days after receipt from the Contractor of a proper and satisfactory periodic estimate requesting payment of the amount due for the preceding month, the Owner shall have thirty (30) days to make payment for:

- A. The work performed during the preceding month.
- B. The materials not incorporated in the Work but delivered and suitably stored at the site (or at some location agreed upon in writing) to which the Contractor has title, or to which a Subcontractor has title and has authorized the Contractor to transfer title to the Owner.
- C. Less the following retention items:
 - 1. A retention based on an estimate of the fair value of the Owner's claims against the Contractor.
 - 2. A retention for direct payments to Subcontractors, if any, based on demands for same in accordance with the provisions of Section 39F of Chapter 30 of the General Laws.
 - 3. A retention not exceeding five percent (5%) of the approved amount of the periodic payment.
- D. After the receipt of a periodic estimate requesting final payment and within sixty-five (65) days after the Contractor fully completes the Work, or substantially completes the Work so that the value of the Work remaining to be done is, on the estimate of the Owner, less than 1% of the original Contract Price, or substantially completes the Work and the Owner takes possession or occupancy, whichever occurs first, the Owner shall pay the Contractor the entire balance due on the Contract less:

1. A retention based on an estimate of the fair value of the Owner's claims against the Contractor and of the cost of completing the incomplete and unsatisfactory items of work.
2. A retention for direct payments to Subcontractors, if any, based on demands of same in accordance with the provisions of Section 39F of Chapter 30 of the General Laws, or based on the record of payments by the Contractor to the Subcontractors under this Contract if such record of payment indicates that the Contractor has not paid Subcontractors as provided in Section 39F of Chapter 30 of the General Laws.

The Owner may make changes in any periodic estimate submitted by the Contractor and the payment due on said periodic estimate shall be computed in accordance with the changes so made, and such changes and any requirements for a corrected periodic estimate shall not affect the due date for the periodic payment or the date for the commencement of interest charges on the amount of the periodic payment computed in accordance with the changes made, as provided herein; provided further, that the Owner may, within fourteen (14) days after receipt, return to the Contractor for correction, any periodic estimate which is not in acceptable form or which contains computations not arithmetically correct, and in that event, the date of receipt of such periodic estimate shall be the date of receipt of the corrected periodic estimate in proper form and with arithmetically correct computations. The date of receipt of a periodic estimate received on a Saturday shall be the first working day thereafter.

- E. Changes in the Work: No changes in the work covered by the approved Contract Documents shall be made without prior written approval of the Owner. Charges or credits for the work covered by the approved change shall be determined by one or more, or a combination of the following methods:
- (a) Unit bid prices previously approved.
 - (b) An agreed lump sum.
 - (c) The actual cost of:
 - (1) Labor.
 - (2) Materials entering permanently into the work.
 - (3) The ownership or rental cost of construction equipment during the time of use on the extra work.
 - (4) Power and consumable supplies for the operation of power equipment.
 - (5) Wages to be paid.

To the cost under (c) there shall be added a fixed fee to be agreed upon but not to exceed fifteen percent (15%) of the actual cost of work. The fee shall be compensation to cover the cost of supervision, overhead, bond, profit and any other general expenses.

- F. Claims for Additional Costs: If the Contractor wishes to make a claim for an increase in the Contract Sum, he shall give the Owner written notice thereof within twenty days after the occurrence of the event giving rise to such claim. This notice shall be given by the Contractor before proceeding to execute the Work, except in an emergency endangering life or property. No such claim shall be valid unless so made. Any change in the Contract Sum resulting from such claim shall be authorized by Change Order.

The Contractor hereby agrees that the Contractor shall have no claim for damages of any kind against the Owner on account of any delay in the commencement or performance of the work and/or any hindrance, delay or suspension of any portion of the work including, but not limited to, any claims or damages on account of having to perform out of sequence work, claims for damages on account of loss of production or other interference with the work whether such delay is caused by the Owner or otherwise, except as and to the extent expressly provided under G.L. c.30, §390 in the case of written orders by the Owner. The Contractor acknowledges that the Contractor's sole remedy for any such claim will be an extension of time as provided herein.

10. Final Payment, Effect

The acceptance of final payment by the Contractor shall constitute a waiver of all claims by the Contractor arising under the Agreement.

11. Contract Documents

The Contract Documents consist of the following, together with this Agreement:

- Invitation to Bid
- Instructions to Bidders
- This Contract Form
- Bid Form
- Performance Bond
- Labor & Materials Payment Bond
- Non-Collusion Certificate
- Tax Compliance Certificate
- Clerk's Certificate of Corporate Vote
- Certificate of Insurance
- General Conditions
- Drug Free Workplace Policy
- Supplementary General Conditions, if any

General Requirements
Specifications and Addenda
Contract Drawings
Schedule of Prevailing Wages
(Strike out any inapplicable item)

12. Terms Required By Law

12.1 This contract will be construed and governed by the provisions of applicable federal, state and local laws and regulations; and wherever any provision of the contract or contract documents shall conflict with any provision or requirement of federal, state or local law or regulation, then the provisions of law and regulation shall control. Where applicable to the contract, the provisions of General Laws are incorporated by reference into this contract, including but not limited to the following:

General Laws Chapter 30B - Procurement of Goods and Services

General Laws Chapter 30, section 39 et. seq. - Public Works Contracts

General Laws Chapter 149, section 44A et. seq. - Public Buildings Contracts

General Laws Chapter 25A - Division of Energy Resources

12.2 Wherever applicable law mandates the inclusion of any term and/or provision into a municipal contract, this section shall be understood to import such term or provision into this contract. To whatever extent any provision of this contract shall be inconsistent with any law or regulation limiting the power or liability of cities and towns, such law or regulation shall control.

12.3 The Contractor shall give all notices and comply with all laws and regulations bearing on the performance of the contract. If the Contractor performs the contract in violation of any applicable law or regulation, the Contractor shall bear all costs arising therefrom.

12.4 The Contractor shall keep itself fully informed of all existing and future State and Federal Laws and Municipal By-laws and regulations and of all orders and decrees of any bodies or tribunals having jurisdiction in any manner affecting those engaged or employed in the work, of the materials used in the work or in any way affecting the conduct of the work, if any discrepancy or inconsistency is discovered in the Drawings, Specifications or Contract for this work in violation of any such law, by-law, regulation, order or decree, it shall forthwith report the same in writing to the Owner. It shall, at all times, itself observe and comply with and shall cause all its agents, employees and subcontractors to observe and comply with all such existing and future laws, by-laws, regulations, orders and decrees; and shall protect and indemnify the Owner and its duly appointed agents against any claim or liability arising from or based on any violation whether by Contractor, its agents, employees or Subcontractors or any such law, by-law, regulation or decree.

13. Indemnification

a. To the fullest extent permitted by law, the Contractor shall defend, indemnify, and save harmless the Owner, and its respective duly elected or appointed officials, agents and employees (referred to collectively as “Owners”) from and against all demands, claims, damages, liabilities, losses, costs, and expenses (including, but not limited to, reasonable attorney fees) (referred to collectively as “demands”) arising out of or resulting from any work performed pursuant to this Agreement including but not limited to any negligent acts, errors, or omissions of the Contractor, any subcontractor of the Contractor, or any person directly or indirectly employed by any of them, or by a defect of a product or design supplied by the Contractor or subcontractor. Such obligation shall not negate, abridge, or reduce in any way any additional indemnification rights of the Owner, that otherwise may exist under statute or in law or equity.

b. Contractor assumes full responsibility for relations with any subcontractors employed directly or indirectly by the Contractor and the Contractor shall defend, indemnify, and save harmless the Owner from all demands made against the Owner by such subcontractor, such subcontractor’s agent or employee, or any person, as the result of such subcontractor’s work performed pursuant to this Agreement including but not limited to negligent acts, errors, or omissions that arise out of, result from, or are connected with the performance of this Agreement or any subsequent Agreement and is not otherwise subject to indemnifications under subparagraph “a” above.

c. The Contractor shall defend, indemnify, and hold harmless the Owner from any and all demands relating to wages, overtime compensation, or other employee benefits by employees employed directly or indirectly by the Contractor for work performed in connection with the work hereunder or required by state or federal law, including but not limited to **Fair Labor Standards Act and Massachusetts Prevailing Wage Law**.

d. The indemnification obligations of the Contractor and subcontractor shall not be limited in any way by any limitations on the amount or type of damages, compensations, or benefits payable by or for the Contractor or subcontractor under any federal or state law.

e. In the event of a breach of this Agreement by the Contractor, the Contractor shall pay the Owner all reasonable attorney fees, costs and other litigation expenses incurred by the Owner in enforcing its rights as a result of said breach in addition to any damages for said breach.

14. Insurance

The Contractor shall purchase and maintain such insurance as will protect both the Owner and the Contractor from claims which may arise under the Agreement, including operations performed for the named insured by independent contractors and general inspection thereof by the named insured. In addition, the Contractor shall require its subcontractors to maintain such insurance. Coverage shall be provided for:

- .1 claims under workers' or workmen's compensation, disability benefit and other applicable employee benefit acts;
- .2 claims for damages because of bodily injury, occupational sickness or disease, or death of Contractor's employees;

- .3 claims for damages because of bodily injury, sickness or disease, or death of any person other than Contractor's employees;
- .4 claims for damages insured by usual personal injury liability coverage which are sustained (1) by any person as a result of an offense directly or indirectly related to the employment of such person by the Contractor, or (2) by any other person;
- .5 claims for damages, including damages to the Work itself, because of injury to or destruction of tangible property, including loss of use resulting therefrom; and
- .6 claims for damages because of bodily injury or death of any person or property damage arising out of the ownership, maintenance or use of any motor vehicle.
- .7 claims involving contractual liability applicable to the Contractor's obligations under Article 13.

The Contractor shall, at all times during the Contract, maintain in full force and effect: Employer's Liability, Workers' Compensation, Public Liability and Property Damage Insurance, including contractual liability coverage for the provisions of Section 13.00 (INDEMNITY). All insurance shall be by insurers and for policy limits acceptable to Owner and, before commencement of work hereunder, the Contractor agrees to furnish Owner with certificates of insurance or other evidence satisfactory to Owner to the effect that such insurance has been procured and is in force. The certificates shall contain the following express obligation:

"This is to certify that the policies of insurance described herein have been issued to the insured for whom this certificate is executed and are in force at this time. In the event of cancellation of material change in a policy affecting the certificate holder, thirty (30) days prior written notice will be given the certificate holder."

For the purpose of the Contract, the Contractor shall carry the following types of insurance in at least the limits specified below:

COVERAGELIMITS OF LIABILITY

| | |
|--|--|
| Workers' Compensation | Statutory |
| Commercial General Liability Including Products and Completed Operations | \$1,000,000 each occurrence \$2,000,000 aggregate |
| Excess Umbrella Liability | \$2,000,000 each occurrence |
| Automobile Liability | \$1,000,000 combined single limit |

Any sub-contractors shall provide same coverage as described above except for the excess umbrella liability.

Franklin Regional Transit Authority shall be named as an additional insured under the commercial general liability, excess umbrella liability, and automobile liability insurance. The general liability insurance policy should contain a broad form general liability endorsement.

Except for Workmen's Compensation, all liability coverage shall name the Owner as an additional insured and shall provide for 30 days prior written notice to the Owner of any modification or termination of coverage provided thereby. The Contractor shall provide the Owner with appropriate certificate(s) of insurance evidencing compliance with this provision prior to the commencement of any work under this Agreement.

15. Notice

All notices required to be given hereunder shall be in writing and delivered to, or mailed first class to, the parties' respective addresses stated above. In the event that immediate notice is required, it may be given by telephone or facsimile, but shall, to the extent possible, be followed by notice in writing in the manner set forth above.

16. Termination

- A. Each party shall have the right to terminate this Agreement in the event of a failure of the other party to comply with the terms of the Agreement. Such termination shall be effective upon seven days' notice to the party in default and the failure within that time of said party to cure its default.
- B. The Owner shall have the right to terminate the Agreement without cause, upon ten (10) days' written notice to the Contractor. In the event that the Agreement is terminated pursuant to this subparagraph, the Contractor shall be reimbursed in accordance with the Contract Documents for all satisfactory Work performed up to the termination date, and for all materials or equipment not incorporated in the Work, but delivered and suitably stored at the site. Payment for material or equipment stored at the site shall be conditioned upon submission by the Contractor of bills of sale or such other evidence as is satisfactory to Owner to establish the Owner's title to such material or equipment or otherwise protect the Owner's interests.

17. Miscellaneous

- A. **Royalties and Patents:** The Contractor shall pay all royalties and license fees. He shall defend all suits or claims for infringement of any patent rights and shall save the Owner harmless from loss on account thereof, except that the Owner shall be responsible for all such loss when a particular design, process or the product of a particular manufacturer or manufacturers is specified; but if the Contractor believes or has reason to believe that the design, process or product specified is an infringement of a patent, he shall be responsible for such loss unless he promptly gives such information to the Owner, and thereafter the Owner insists on the use of the design, process or products specified.

B. **ACCESS TO RECORDS**

Contractor will make all books, accounts, data, records, reports, files and other papers, things or property, that relate to its activities under this Contract, available at all reasonable times for inspection, review and audit by the Owner, its authorized representative, the Inspector General of the Commonwealth, or the Auditor of the Commonwealth. The Commonwealth reserves the right of the Governor or his designee, the Secretary of Administration and Finance and the State Auditor or his designee, at reasonable times and upon reasonable notice to examine the books, records, and other compilative data of the Contractor which pertain to the performance of the provisions and requirements of this Contract as provided by Executive Order 195.

C. RIGHTS AND REMEDIES

Owner's rights and remedies provided in this Contract are in addition to any other rights and remedies provided by law.

D. CONFLICT OF INTEREST

Each party shall adhere to the provisions of Massachusetts General Laws, Chapter 268A, with respect to the Conduct of Public Employees. In addition, no member, officer, or employee of either party, or its designee, or agents, no member of the governing body of the locality in which the program is situated, and no other public official of such locality or localities who exercises any functions or responsibilities with respect to the program during his tenure or for one (1) year thereafter (or such longer period as may be provided in Chapter 268A of the Massachusetts General Laws), shall have any interest in any contract or subcontract, or the proceeds thereof, for work to be performed in connection with the program assisted under this Contract. Each party shall incorporate, or cause to be incorporated, in all such contracts or subcontracts a provision prohibiting such interest, pursuant to the purposes of this subsection.

E. JURISDICTION

This Contract shall be interpreted by the laws of the Commonwealth of Massachusetts and any suit brought pursuant to this Contract shall be commenced only within the County of Franklin, Massachusetts.

F. MODIFICATION, WAIVER OR CHANGE

No modifications, waiver or change shall be made in the terms and conditions of this Contract except as may be mutually agreed upon in writing by all parties hereto.

G. ASSIGNMENT

Owner and Contractor recognize that each has a substantial interest in having the other perform or control the acts required of it by this Contract. Neither party shall perform its duties through a delegate nor assign its interest under this Contract without the written

consent of the other. Nothing herein shall be construed to prevent an assignor's due performance of its entire obligation.

H. SUCCESSORS AND ASSIGNS

Owner and Contractor each binds itself, its partners, successors, assigns, and legal representatives to the other party to this Contract and to the partners, successors, assigns and legal representatives of such other party with respect to all covenants of this Contract.

I. ENTIRE UNDERSTANDING

This Contract, together with the attachments hereto, represent the entire understanding of the parties, and neither party is relying upon any representation not contained herein.

J. SEVERABILITY/INTERPRETATION

In the event that any provision of this Contract shall be deemed invalid, unreasonable, or unenforceable by any court of competent jurisdiction, such provision shall be stricken from the Contract or modified so as to render it reasonable, and the remaining provisions of this Contract or the modified provision as provided above, shall continue in full force and effect and be binding upon the parties so long as such remaining or modified provisions reflect the intent of the parties as of the date of this Contract. Further, should this Contract omit any statutory or regulatory requirements which would otherwise render this Contract illegal, then this Contract shall be deemed amended to the minimum extent necessary to comply with said statutes or regulations.

For purposes of interpreting this Agreement in the context of a dispute over its terms or otherwise neither party shall be considered the drafter of this Agreement and neither party shall have any provision of this Agreement construed in its favor as a result of its role in drafting this Agreement or its bargaining power with respect to this Agreement, Consultant's Services, the Project, or otherwise.

K. OWNERSHIP OF DOCUMENTS

The parties agree that all documents created for the project by the Contractor shall belong to the Owner.

L. By its signature hereon, the Contractor certifies, under the pains and penalties of perjury, that it has complied with all laws of the Commonwealth of Massachusetts relating to taxes, reporting of employees and contractors, and withholding and remitting child support.

M. The compensation provided by this Contract is subject to the continued availability of funds for the services provided for herein.

N. The Contractor by its signature certifies that it has a drug free workplace and policy.

[Remainder of page intentionally blank.]

AGREED:

FRANKLIN REGIONAL TRANSIT AUTHORITY
(Owner)

By its Administrator

CONTRACTOR: _____

By its _____

(Name)

(Title)

(Address)

(City and State)

Approved as to Form:

By _____

(Owner's Counsel)

This is to certify that the funding in the amount of this contract is available therefor and that the Administrator has been authorized to execute the contract and approve all requisitions and change orders.

By _____

(Owner's Accountant)

(Name)

CERTIFICATE OF VOTE
(to be filed if Contractor is a Corporation)

I, _____, hereby certify that I am the duly qualified
(Secretary of the Corporation)

and acting Secretary of _____ and I further certify that a meeting of the
(Name of Corporation)

Directors of said Company, duly called and held on _____, at which
(Date of Meeting)

all Directors were present and voting, the following vote was unanimously passed:

VOTED: To authorize and empower

Anyone acting singly, to execute Forms of General Bid, Contracts or Bonds on behalf of the Corporation.

I further certify that the above vote is still in effect and has not been changed or modified in any respect.

By: _____
(Secretary of Corporation)

A True Copy:

Attest: _____
(Notary Public)

My Commission Expires: _____
(Date)

**CERTIFICATIONS REQUIRED BY LAW
FOR PUBLIC CONSTRUCTION CONTRACTS**

You must COMPLETE and SIGN the following certifications. You must also print, at the bottom of this page, the name of the contractor for whom these certifications are submitted.

TAX COMPLIANCE

Pursuant to Chapter 62C of the Massachusetts General Laws, Section 49A(b), I, the undersigned, authorized signatory for the below named contractor, do 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.

NON-COLLUSION

The undersigned certifies under the penalties of perjury that this bid is in all respects bona fide, fair and made without collusion or fraud with any other person. As used in this subsection the word "person" shall mean any natural person, joint venture, partnership, corporation or other business or legal entity.

PUBLIC CONTRACTOR DEBARMENT

The undersigned certifies under penalty of perjury that the below named contractor is not presently debarred from doing public construction work in the commonwealth under the provisions of section twenty-nine F of chapter twenty-nine, or any other applicable debarment provisions of any other chapter of the General Laws or any rule or regulation promulgated thereunder.

OSHA TRAINING

Pursuant to G.L. c. 30, §39S, the Contractor hereby certifies under penalties of perjury as follows:

- (1) Contractor is able to furnish labor that can work in harmony with all other elements of labor employed or to be employed in the work;
- (2) All employees to be employed at the worksite will have successfully completed a course in construction safety and health approved by the United States Occupational Safety and Health Administration that is at least 10 hours in duration at the time the employee begins work and they shall furnish documentation of successful completion of said course with the first certified payroll report for each employee; and
- (3) All employees to be employed in the work subject to this contract have successfully completed a course in construction safety and health approved by the United States Occupational Safety and Health Administration that is at least 10 hours in duration.

COMPLETE AND SIGN BELOW:

Authorized Person's Signature

Date

Print Name & Title of Signatory

Name of Contractor

PERFORMANCE BOND

KNOW ALL MEN BY THESE PRESENTS: That we _____
(Name of Contractor)

a _____ hereinafter called "Principal" and
(Corporation, Partnership, Joint Venture or Individual)

_____ of _____, State of _____
(Surety) (City & State)

_____ hereinafter called the "Surety" and licensed by the State
Division of Insurance to do business under the laws of the Commonwealth of Massachusetts, are
held and firmly bound to the Franklin Regional Transit Authority, Greenfield, Massachusetts,
hereinafter called "Owner", in the penal sum of

_____ Dollars
(\$ _____) in lawful money of the United States, for the payment of which
sum well and truly to be made, we bind ourselves, our heirs, executors, administrators and
successors, jointly and severally, firmly by these presents.

THE CONDITION OF THIS OBLIGATION is such that Whereas, the Principal entered
into a certain contract with the Owner, dated the _____ day of _____,
20__ (the "Construction Contract"), for the construction described as follows: _____
_____.

NOW, THEREFORE, if the Principal shall well, truly and faithfully perform its duties,
all the undertakings, covenants, terms, conditions, and agreements of the Construction Contract
during the original term thereof, and any extensions thereof which may be granted by the Owner,
with or without notice to the Surety, and if he shall satisfy all claims and demands incurred under
the Construction Contract, and shall fully indemnify and save harmless the Owner from all costs
and damages which it may suffer by reason of failure to do so, and shall reimburse and repay the
Owner all outlay and expense which the Owner may incur in making good any default, then this
obligation shall be void; otherwise to remain in full force and effect.

PROVIDED, FURTHER, that the Surety's obligation under this Bond shall arise after (1)
the Owner has declared the Principal in default of the Construction Contract or any provision
thereof or (2) has declared that the Principal has failed, or is otherwise unable or unwilling, to
execute the work consistent with, and in conformance to, the Construction Contract (collectively
referred to as a "Contractor Default"). The determination of a Contractor Default shall be made
solely by the Owner. The Owner need not terminate the Construction Contract to declare a
Contractor Default or to invoke its rights under this Bond.

When the Surety's obligation under this Bond arises, the Surety, at its sole expense and at the consent and election of the Owner, shall promptly take one of the following steps: (1) arrange for the Principal to perform and complete the work of the Construction Contract; (2) arrange for a contractor other than the Principal to perform and complete the work of the Construction Contract; (3) reimburse the Owner, in a manner and at such time as the Owner shall decide, for all costs and expenses incurred by the Owner in performing and completing the work of the Construction Contract. Surety will keep Owner reasonably informed of the progress, status and results of any investigation of any claim of the Owner.

If the Surety does not proceed as provided in this Bond with due diligence and all deliberate speed, the Surety shall be deemed to be in default of this Bond, and the Owner shall be entitled to enforce any remedy available to the Owner.

After the Surety's obligation under this Bond arises, the Surety is obligated, to the limit of the amounts of this Bond, for (1) the correction of defective work and completion of the Construction Contract; (2) additional design, professional services, and legal costs, including attorneys' fees, resulting from the Contractor Default or from the default of the Surety under this Bond; (3) any additional work beyond the Construction Contract made necessary by the Contractor Default or default of the Surety under this Bond; (4) indemnification obligation of the Principal, if any, as provided in the Construction Contract; and (5) liquidated damages as provided in the Construction Contract, or if none are so specified, actual and foreseeable consequential damages resulting from the Contractor Default or default of the Surety under this Bond.

Any proceeding, legal or equitable, under this Bond shall be instituted in any court of competent jurisdiction in the Commonwealth of Massachusetts.

The Surety, for value received, hereby stipulates and agrees that no change, extension of time, alteration or addition to the terms of the Construction Contract or to the work to be performed thereunder or the specifications accompanying the same shall in any way affect its obligation on this Bond, and it does hereby waive notice of any such change, extension of time, alteration or addition to the terms of the Construction Contract or to the work or to the specifications.

PAYMENT BOND

KNOW ALL MEN BY THESE PRESENTS: That we _____

_____ a _____
(Name of Contractor) (Corporation, Partnership, Joint Venture or Individual)

hereinafter called "Principal" and _____ of _____,
(Surety)

State of _____ hereinafter called the "Surety" and licensed by the State
(City and State)

Division of Insurance to do business under the laws of the Commonwealth of Massachusetts, are held and firmly bound to the Franklin Regional Transit Authority of Greenfield, Massachusetts, hereinafter called "Owner", in the penal sum of

_____ Dollars
(\$ _____) in lawful money of the United States, for the payment of which sum well and truly to be made, we bind ourselves, our heirs, executors, administrators and successors, jointly and severally, firmly by these presents.

THE CONDITION OF THIS OBLIGATION is such that Whereas, the Principal entered into a certain contract with the Owner, dated the _____ day of _____, 20____, for the construction described as follows:

NOW, THEREFORE, if the Principal shall promptly make payment to all persons, firms, subcontractors, and corporations furnishing materials for or performing labor in the prosecution of the work provided for in such contract, and any authorized extension or modification thereof, including all amounts due for materials, lubricants, oil, gasoline, coal and coke, repairs on machinery, equipment and tools, consumed or used in connection with the construction of such work, and all insurance premiums on said work, and for all labor, performed in such work whether by subcontractor or otherwise, then this obligation shall be void; otherwise to remain in full force and effect.

PROVIDED, FURTHER, that the said Surety, for value received hereby stipulates and agrees that no change, extension of time, alteration or addition to the terms of the contract or to the work to be performed thereunder or the specifications accompanying the same shall in any way affect its obligation on this bond, and it does hereby waive notice of any such change, extension of time, alteration or addition to the terms of this contract or to the work or to the specifications.

When the Surety's obligation under this Bond arises, the Surety, at its sole expense and at the consent and election of the Owner, shall promptly take one of the following steps: (1) arrange for the Principal to make payment to subcontractors and suppliers; (2) make payments to all subcontractors and suppliers; or (3) reimburse the Owner, in a manner and at such time as the Owner shall decide, for all costs and expenses incurred by the Owner in reimbursing the subcontractors and suppliers. Surety will keep Owner reasonably informed of the progress, status and results of any investigation of any claim of the Owner.

If the Surety does not proceed as provided in this Bond with due diligence and all deliberate speed, the Surety shall be deemed to be in default of this Bond, and the Owner shall be entitled to enforce any remedy available to the Owner.

After the Surety's obligation under this Bond arises, the Surety is obligated, to the limit of the amounts of this Bond for all payments to subcontractors and suppliers.

Any proceeding, legal or equitable, under this Bond shall be instituted in any court of competent jurisdiction in the Commonwealth of Massachusetts.

The Surety, for value received, hereby stipulates and agrees that no change, extension of time, alteration or addition to the terms of the Construction Contract or to the work to be performed thereunder or the specifications accompanying the same shall in any way affect its obligation on this Bond, and it does hereby waive notice of any such change, extension of time, alteration or addition to the terms of the Construction Contract or to the work or to the specifications.

PROVIDED, FURTHER, that no final settlement between the Owner and the Contractor shall abridge the right of any beneficiary hereunder, whose claim may be unsatisfied.

IN WITNESS WHEREOF, this instrument is executed in ____ () counterparts, each one of which shall be deemed an original, this the _____ day of _____, 20__.

ATTEST:

| | | |
|----------------------|----|--------------------|
| _____ | | _____ |
| | | Surety |
| _____ | By | _____ |
| | | (Attorney-in-Fact) |
| | | _____ |
| | | _____ |
| | | (Address-Zip Code) |
| _____ (SEAL) | | |
| Witness as to Surety | | |
| _____ | | |
| _____ | | |
| (Address-Zip Code) | | |

NOTE: Date of Bond must not be prior to date of Contract. If Contractor is a Partnership, all partners should execute Bond.