

Contract Routing Form

ROUTING: Routine

printed on: 01/31/2018

Contract between: Maly Roofing Company Inc  
 and Dept. or Division: Engineering Division  
 Name/Phone Number:

Project: Madison Metro Bus Garage - Roof Replacement

Contract No.: 8064  
 Enactment No.: RES-18-00051  
 Dollar Amount: 1,097,626.00

File No.: 49936  
 Enactment Date: 01/22/2018

(Please DATE before routing)

Signatures Required	Date Received	Date Signed
City Clerk	1-31-2018	1-31-2018
Director of Civil Rights	2.2.18	2.5.18 <i>FNJ</i>
Risk Manager	2.6.18	2/6/18 <i>REN</i>
Finance Director	2.6.18	2/7/18 <i>MCR</i>
City Attorney <i>138</i>	2-7-18	2-8-18
Mayor	02.08.18	02.09.18

Please return signed Contracts to the City Clerk's Office  
 Room 103, City-County Building for filing.

Original + 2 Copies

01/31/2018 10:08:47 enjls - Paul Stauffer 266-4366

**Dis Rights:** OK / N/A / Problem - Hold  
**Prev Wage:** AA / Agency / No  
**Contract Value:** 1,097,626.00  
**AA Plan:** approved  
**Amendment / Addendum #** \_\_\_\_\_  
**Type:** POS / Dvp / Sbdv / Gov't /  
 Grant / PW / Goal / Loan / Agrmt

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File #:	49936	Version: 1	Name:	Awarding Public Works Contract No. 8064, Madison Metro Bus Garage - Roof Replacement.
Type:	Resolution		Status:	Passed
File created:	12/22/2017		In control:	<u>BOARD OF PUBLIC WORKS</u>
On agenda:	1/16/2018		Final action:	1/16/2018
Enactment date:	1/22/2018		Enactment #:	RES-18-00051
Title:	Awarding Public Works Contract No. 8064, Madison Metro Bus Garage - Roof Replacement.			
Sponsors:	<u>BOARD OF PUBLIC WORKS</u>			
Attachments:	1. <u>Contract 8064.pdf</u>			

[History \(3\)](#)   
 [Text](#)

**Fiscal Note**

The proposed resolution awards the contract for the Metro Bus Garage Roof Replacement project at a total estimated cost of \$1,185,440. Funding is provided at an 80% Federal and 20% Local split by reauthorized appropriation from the 2017 adopted budget. The reauthorized project budget includes \$1,072,000 of federal funds and \$268,000 of GO Borrowing for a total project budget of \$1,340,000 (MUNIS 11226).

**Title**

Awarding Public Works Contract No. 8064, Madison Metro Bus Garage - Roof Replacement.

**Body**

BE IT RESOLVED, that the following low bids for miscellaneous improvements be accepted and that the Mayor and City Clerk be and are hereby authorized and directed to enter into a contract with the low bidders contained herein, subject to the Contractor's compliance with Section 39.02 of the Madison General Ordinances concerning compliance with the Affirmative Action provisions **and subject to the Contractor's compliance with Section 33.07 of the Madison General Ordinances regarding Best Value Contracting:**

BE IT FURTHER RESOLVED, that the funds be encumbered to cover the cost of the projects contained herein.

See attached document (Contract No. 8064) for itemization of bids.

PROJECT \_\_\_\_\_ CONTRACTOR \_\_\_\_\_ AMOUNT OF BID \_\_\_\_\_

CONTRACT NO. 8064  
MADISON METRO BUS GARAGE – ROOF REPLACEMENT

MALY ROOFING COMPANY, INC.

\$1,097,626.00

Acct. No. 11226-85-140-114403  
Contingency 8%±

\$1,097,626.00  
87,814.00

GRAND TOTAL

\$1,185,440.00

Jurisdiction: Wisconsin

Demographics

**Company Name:** United Fire & Casualty Company  
**Short Name:**  
**SBS Company Number:** 54219459  
**NAIC CoCode:** 13021  
**FEIN:** 42-0644327  
**Domicile Type:** Foreign  
**State of Domicile:** Iowa  
**Country of Domicile:** United States  
**NAIC Group Number:** 248 - UNITED FIRE & CAS GRP  
**Organization Type:** Stock  
**Date of Incorporation:** 01/02/1946  
**Merger Flag:** No

Address

**Business Address**

Not Available  
 Not Available, UN 99999  
 United States

**Mailing Address**

PO BOX 73909  
 CEDAR RAPIDS, IA 52407  
 United States

**Statutory Home Office Address**

118 Second Ave SE  
 Cedar Rapids, IA 52401  
 United States

**Main Administrative Office Address**

118 Second Ave SE  
 Cedar Rapids, IA 52401  
 United States

Phone, E-mail, Website

**Phone**

Type	Number
Mailing Primary Phone	(319) 399-5700
Mailing Fax Phone	(888) 726-9737
Statutory Home Office Primary Phone	(319) 399-5700
Main Admin Office Primary Phone	(319) 399-5700

**Email**

No results found.

**Website**

No results found.



Company Type

**Company Type:** Property and Casualty  
**Status:** Active  
**Status Reason:**  
**Status Date:** 06/18/1956  
**Effective Date:** 06/18/1956  
**Legacy State ID:** 111525  
**Issue Date:** 06/18/1956  
**Approval Date:**  
**File Date:**  
**Articles of Incorporation Received:** No  
**Article No:**  
**COA Number:**

Appointments

Q connie

Licensee Name	License Number	NPN	License Type	Line of Authority	Appointment Date	Effective Date	Expiration Date
CONNIE SMITH	16492915	16492915	Intermediary (Agent) Individual	Casualty	01/16/2012	03/01/2017	02/28/2018
CONNIE EASLAND	6504657	6504657	Intermediary (Agent) Individual	Casualty	09/21/1998	03/01/2017	02/28/2018
CONNIE SMITH	16492915	16492915	Intermediary (Agent) Individual	Property	01/16/2012	03/01/2017	02/28/2018
CONNIE EASLAND	6504657	6504657	Intermediary (Agent) Individual	Property	09/21/1998	03/01/2017	02/28/2018

First Previous 1 Next Last

Line Of Business

Q Filter

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Line of Business	Citation Type	Effective Date
Aircraft	Aircraft	06/18/1956
Automobile	Automobile	06/18/1956
Fidelity Insurance	Fidelity Insurance	06/18/1956
Workers Compensation Insurance	Workers Compensation Insurance	06/18/1956
Liability and Incidental Medical Expense Insurance (other than automobile)	Liability and Incidental Medical Expense Insurance (other than automobile)	06/18/1956
Miscellaneous	Miscellaneous	06/18/1956
Surety Insurance	Surety Insurance	06/18/1956
Fire, Inland Marine and Other Property Insurance	Fire, Inland Marine and Other Property Insurance	06/18/1956

Contact

Contact Type	Preferred Name	Name	E-mail	Phone	Address
Registered Agent for Service of Process		*			<b>Other</b> CT CORPORATION SYSTEM 301 S BEDFORD ST STE 1 MADISON, WI 53703 United States

Company Merger

No results found.

Name Change History

Previous Name	New Name	Effective Date
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First	Previous	1	Next	Last
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\$1,097,626.00  
CONTRACTOR'S OFFICE COPY

BID OF MALY ROOFING COMPANY, INC.

2017

PROPOSAL, CONTRACT, BOND AND SPECIFICATIONS

FOR

MADISON METRO BUS GARAGE - ROOF REPLACEMENT

CONTRACT NO. 8064

PROJECT NO. 11226

IN

MADISON, DANE COUNTY, WISCONSIN

AWARDED BY THE COMMON COUNCIL  
MADISON, WISCONSIN ON JANUARY 16, 2018

CITY ENGINEERING DIVISION  
1600 EMIL STREET  
MADISON, WISCONSIN 53713

<https://bidexpress.com/login>

**MADISON METRO BUS GARAGE - ROOF REPLACEMENT  
CONTRACT NO. 8064**

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**DISPLAYS AVAILABLE IN BID EXPRESS:**

- APPENDIX C: COMMITTED COST STATUS REPORT
- APPENDIX D: DBE PROGRAM SPECIAL PREQUALIFICATION REPORT/COVER SHEET
- PROJECT MANUAL MADISON METRO BUS GARAGE ROOF REPLACEMENT
- DAVIS-BACON RATES

This Proposal, and Agreement have  
been prepared by:

**CITY ENGINEERING DIVISION  
CITY OF MADISON  
MADISON, DANE COUNTY, WISCONSIN**



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Robert F. Phillips, P.E., City Engineer

# SECTION A: ADVERTISEMENT FOR BIDS AND INSTRUCTIONS TO BIDDERS

## REQUEST FOR BID FOR PUBLIC WORKS CONSTRUCTION CITY OF MADISON, WISCONSIN

### A BEST VALUE CONTRACTING MUNICIPALITY

PROJECT NAME:	MADISON METRO BUS GARAGE - ROOF REPLACEMENT
CONTRACT NO.:	8064
DBE GOAL	15%
BID BOND	5%
PRE-BID WALK THROUGH MEETING (1:00 P.M.)	NOVEMBER 29, 2017
DBE PRE BID MEETING (1:00 P.M.)	DECEMBER 8, 2017
PREQUALIFICATION APPLICATION DUE (1:00 P.M.)	DECEMBER 8, 2017
BID SUBMISSION (1:00 P.M.)	DECEMBER 15, 2017
BID OPEN (1:30 P.M.)	DECEMBER 15, 2017
PUBLISHED IN WSJ	NOVEMBER 3, 10, 17, 24 & DECEMBER 1 & 8, 2017

#### Pre-bid Walk Through Meeting:

A single pre-bid conference will be conducted to familiarize contractors with on site conditions. All bidding contractors are encouraged to attend.

1. The meeting will be held at **1:00 pm on Wednesday, November 29<sup>th</sup>, 2017.**
2. This meeting will take place on site at the Madison Metro Bus Garage located at 1101 E. Washington Ave., Madison, Wisconsin.
3. A representative from the City will be on hand to conduct the building walk through, discuss the plans, specifications and expectations of the contract.
4. Questions, clarifications will be answered per addendum.

#### Substitution Request Deadline:

Substitution request deadline for Section 01 25 13 is November 24<sup>th</sup> at 1:00pm substitution requests after this date shall not be accepted.

DBE PRE BID MEETING: Representatives of the Affirmative Action Division will be present to discuss the Disadvantaged Business Enterprise requirements at 1600 Emil Street, Madison Wisconsin.

PREQUALIFICATION APPLICATION: Forms are available on our website, [www.cityofmadison.com/business/pw/forms.cfm](http://www.cityofmadison.com/business/pw/forms.cfm). If not currently prequalified in the categories listed in Section A, an amendment to your Prequalification will need to be submitted prior to the same due date. Postmark is not applicable.

DUNS NUMBER REQUIRED: Prior to bid award, all bidders for this project must submit a DUNS number to the City for all proposed prime and subcontractors listed in the bid.

BIDS TO BE SUBMITTED by hand to 1600 EMIL ST., MADISON, WI 53713 or online at [www.bidexpress.com](http://www.bidexpress.com).

THE BID OPENING is at 1600 EMIL ST., MADISON, WI 53713.

#### STANDARD SPECIFICATIONS

The City of Madison's Standard Specifications for Public Works Construction - 2017 Edition, as supplemented and amended from time to time, forms a part of these contract documents as if attached hereto.

These standard specifications are available on the City of Madison Public Works website, [www.cityofmadison.com/Business/PW/specs.cfm](http://www.cityofmadison.com/Business/PW/specs.cfm).

The Contractor shall review these Specifications prior to preparation of proposals for the work to be done under this contract, with specific attention to Article 102, "BIDDING REQUIREMENTS AND CONDITIONS" and Article 103, "AWARD AND EXECUTION OF THE CONTRACT." For the convenience of the bidder, below are highlights of three subsections of the specifications.

#### SECTION 102.1: PRE-QUALIFICATION OF BIDDERS

In accordance with Wisconsin State Statutes 66.0901 (2) and (3), all bidders must submit to the Board of Public Works proof of responsibility on forms furnished by the City. The City requires that all bidders be qualified on a biennial basis.

Bidders must present satisfactory evidence that they have been regularly engaged in the type of work specified herein and they are fully prepared with necessary capital, materials, machinery and supervisory personnel to conduct the work to be contracted for to the satisfaction of the City. All bidders must be pre-qualified by the Board of Public Works for the type of construction on which they are bidding prior to the opening of the bid.

In accordance with Section 39.02(9)(a)l. of the General Ordinances, all bidders shall submit in writing to the Affirmative Action Division Manager of the City of Madison, a Certificate of Compliance or an Affirmative Action Plan at the same time or prior to the submission of the proof of responsibility forms.

The bidder shall be disqualified if the bidder fails to or refuses to, prior to opening of the bid, submit a Certificate of compliance, Affirmative Action Plan or Affirmative Action Data Update, as applicable, as defined by Section 39.02 of the General Ordinances (entitled Affirmative Action) and as required by Section 102.11 of the Standard Specifications.

#### SECTION 102.4 PROPOSAL

No bid will be accepted that does not contain an adequate or reasonable price for each and every item named in the Schedule of Unit Prices.

A lump sum bid for the work in accordance with the plans and specifications is required. The lump sum bid must be the same as the total amounts bid for the various items and it shall be inserted in the space provided.

All papers bound with or attached to the proposal form are considered a part thereof and must not be detached or altered when the proposal is submitted. The plans, specifications and other documents designated in the proposal form will be considered a part of the proposal whether attached or not.

A proposal submitted by an individual shall be signed by the bidder or by a duly authorized agent. A proposal submitted by a partnership shall be signed by a member/partner or by a duly authorized agent thereof. A proposal submitted by a corporation shall be signed by an authorized officer or duly authorized registered agent of such corporation, and the proposal shall show the name of the State under the laws of which such corporation was chartered. The required signatures shall in all cases appear in the space provided thereof on the proposal.

Each proposal shall be placed, together with the proposal guaranty, in a sealed envelope, so marked as to indicate name of project, the contract number or option to which it applies; and the name and address of the Contractor or submitted electronically through Bid Express ([www.bidexpress.com](http://www.bidexpress.com)). Proposals will be accepted at the location, the time and the date designated in the advertisement. Proposals received after the time and date designated will be returned to the bidder unopened.

SECTION 102.5: BID DEPOSIT (PROPOSAL GUARANTY)

All bids, sealed or electronic, must be accompanied with a Bid Bond equal to at least 5% of the bid or a Certificate of Annual/Biennial Bid Bond or certified check, payable to the City Treasurer. Bid deposit of the successful bidders shall be returned within forty-eight (48) hours following execution of the contract and bond as required.

MINOR DISCREPENCIES

Bidder is responsible for submitting all forms necessary for the City to determine compliance with State and City bidding requirements. Notwithstanding any language to the contrary contained herein, the City may exercise its discretion to allow bidders to correct or supplement submissions after bid opening, if the minor discrepancy, bid irregularity or omission is insignificant and not one related to price, quality, quantity, time of completion or performance of the contract.



**Bidders for this Contract(s) must be Pre-Qualified for at least one of the following type(s) of construction denoted by an**

Building Demolition

- 101  Asbestos Removal  
120  House Mover

- 110  Building Demolition

Street, Utility and Site Construction

- 201  Asphalt Paving  
205  Blasting  
210  Boring/Pipe Jacking  
215  Concrete Paving  
220  Con. Sidewalk/Curb & Gutter/Misc. Flat Work  
221  Concrete Bases and Other Concrete Work  
222  Concrete Removal  
225  Dredging  
230  Fencing  
235  Fiber Optic Cable/Conduit Installation  
240  Grading and Earthwork  
241  Horizontal Saw Cutting of Sidewalk  
242  Infrared Seamless Patching  
245  Landscaping, Maintenance  
246  Ecological Restoration  
250  Landscaping, Site and Street  
251  Parking Ramp Maintenance  
252  Pavement Marking  
255  Pavement Sealcoating and Crack Sealing  
260  Petroleum Above/Below Ground Storage Tank Removal/Installation  
262  Playground Installer

- 265  Retaining Walls, Precast Modular Units  
270  Retaining Walls, Reinforced Concrete  
275  Sanitary, Storm Sewer and Water Main Construction  
276  Sawcutting  
280  Sewer Lateral Drain Cleaning/Internal TV Insp.  
285  Sewer Lining  
290  Sewer Pipe Bursting  
295  Soil Borings  
300  Soil Nailing  
305  Storm & Sanitary Sewer Laterals & Water Svc.  
310  Street Construction  
315  Street Lighting  
318  Tennis Court Resurfacing  
320  Traffic Signals  
325  Traffic Signing & Marking  
332  Tree pruning/removal  
333  Tree, pesticide treatment of  
335  Trucking  
340  Utility Transmission Lines including Natural Gas, Electrical & Communications  
399  Other \_\_\_\_\_

Bridge Construction

- 501  Bridge Construction and/or Repair

Building Construction

- 401  Floor Covering (including carpet, ceramic tile installation, rubber, VCT)  
402  Building Automation Systems  
403  Concrete  
404  Doors and Windows  
405  Electrical - Power, Lighting & Communications  
410  Elevator - Lifts  
412  Fire Suppression  
413  Furnishings - Furniture and Window Treatments  
415  General Building Construction, Equal or Less than \$250,000  
420  General Building Construction, \$250,000 to \$1,500,000  
425  General Building Construction, Over \$1,500,000  
428  Glass and/or Glazing  
429  Hazardous Material Removal  
430  Heating, Ventilating and Air Conditioning (HVAC)  
433  Insulation - Thermal  
435  Masonry/Tuck pointing

- 437  Metals  
440  Painting and Wallcovering  
445  Plumbing  
450  Pump Repair  
455  Pump Systems  
460  Roofing and Moisture Protection  
464  Tower Crane Operator  
461  Solar Photovoltaic/Hot Water Systems  
465  Soil/Groundwater Remediation  
466  Warning Sirens  
470  Water Supply Elevated Tanks  
475  Water Supply Wells  
480  Wood, Plastics & Composites - Structural & Architectural  
499  Other \_\_\_\_\_

State of Wisconsin Certifications

- 1  Class 5 Blaster - Blasting Operations and Activities 2500 feet and closer to inhabited buildings for quarries, open pits and road cuts.  
2  Class 6 Blaster - Blasting Operations and Activities 2500 feet and closer to inhabited buildings for trenches, site excavations, basements, underwater demolition, underground excavations, or structures 15 feet or less in height.  
3  Class 7 Blaster - Blasting Operations and Activities for structures greater than 15 ' in height, bridges, towers, and any of the objects or purposes listed as "Class 5 Blaster or Class 6 Blaster".  
4  Petroleum Above/Below Ground Storage Tank Removal and Installation (Attach copies of State Certifications.)  
5  Hazardous Material Removal (Contractor to be certified for asbestos and lead abatement per the Wisconsin Department of Health Services, Asbestos and Lead Section (A&LS).) See the following link for application: [www.dhs.wisconsin.gov/Asbestos/Cert](http://www.dhs.wisconsin.gov/Asbestos/Cert). State of Wisconsin Performance of Asbestos Abatement Certificate must be attached.  
6  Certification number as a Certified Arborist or Certified Tree Worker as administered by the International Society of Arboriculture  
7  Pesticide application (Certification for Commercial Applicator For Hire with the certification in the category of turf and landscape (3.0) and possess a current license issued by the DATCP)  
8  State of Wisconsin Master Plumbers License.

SECTION B: PROPOSAL SECTION

Please refer to the  
Bid Express Website  
at <https://bidexpress.com>  
look up contract number  
and go to  
Section B: Proposal Page

You can access all City of Madison bid solicitations for FREE at [www.bidexpress.com](http://www.bidexpress.com)

Click on the "Register for Free" button and follow the instructions to register your company and yourself. You will be asked for a payment subscription preference, since you may wish to bid online someday. Simply choose the method to pay on a 'per bid' basis. This requires no payment until / unless you actually bid online. You can also choose the monthly subscription plan at this time. You will, however, be asked to provide payment information. Remember, you can change your preference at anytime. You will then be able to complete your free registration and have full access to the site. Your free access does not require completion of the 'Digital ID' process, so you will have instant access for viewing and downloading. To be prepared in case you ever do wish to bid online, you may wish to establish your digital ID also, since you cannot bid without a Digital ID.

If you have any problems with the free registration process, you can call the bidexpress help team, toll free at 1-888-352-2439 (option 1, option1).

## SECTION C: SPECIAL PROVISIONS

### MADISON METRO BUS GARAGE - ROOF REPLACEMENT CONTRACT NO. 8064

It is the intent of these Special Provisions to set forth the final contractual intent as to the matter involved and shall prevail over the Standard Specifications and plans whenever in conflict therewith. In order that comparisons between the Special Provisions can be readily made, the numbering system for the Special Provisions is equivalent to that of the Specifications.

Whenever in these Specifications the term "Standard Specifications" appears, it shall be taken to refer to the City of Madison Standard Specifications for Public Works Construction and Supplements thereto.

#### **SECTION 102.10: PREVAILING WAGE**

**IN ADDITION TO THE REQUIREMENTS IN SEC. 102.10 OF THE STANDARD SPECIFICATIONS, DURING THE PERFORMANCE OF THIS AGREEMENT, THE CONTRACTOR AGREES TO COMPLY WITH ALL APPLICABLE PROVISIONS OF THE DAVIS-BACON ACT (29 C.F.R. PART 5).**

#### **SECTION 102.12: BEST VALUE CONTRACTING AND FTA FAIR COST/PRICE ANALYSIS**

This Contract shall be considered a Best Value Contract if the Contractor's bid is equal to or greater than \$59,000 for a single trade contract; or equal to or greater than \$288,000 for a multi-trade contract pursuant to MGO 33.07(7).

In addition, Bidder acknowledges that federal requirements pursuant FAR Subpart 15.300 et. seq. may require the City to conduct a price and/or cost analysis of a best value contract in order to determine if the bid is fair and reasonable. Bidder agrees to cooperate with the City's efforts to perform such an analysis and acknowledges that the lowest bid best value contract may not be selected if federal standards determine that it is not a fair price or cost.

#### **104.7 EXTRA WORK**

Sec. 104.7 applies in full except that when calculating the prices for Extra Work to be completed by subcontractors federal requirements prohibit the addition of a percentage of cost as a mechanism for recovering indirect costs such as overhead or administrative costs. Contractors wishing to account for indirect costs must provide specific indirect cost rates at the time of submitting its costs that have been accepted by a Federal or State government agency in compliance with FAR Part 31 cost principles. These must be submitted in conjunction calculating the overall price for Extra Work.

#### **SECTION 107.4(i): INSURANCE FOR THE CONSTRUCTION OF BUILDINGS AND STRUCTURES**

Delete the standard specification and replace with the following:

The Contractor shall purchase and maintain, property insurance written on a builder's risk "all-risk" policy form in the amount of the initial Contract sum, plus the value of subsequent Contract modifications and cost of materials supplied or installed by others, comprising total value for the entire project at the site on a replacement cost basis less the cost of sitework and demolition. Such insurance shall be maintained until the date in time that the City takes occupancy of the building or possession of the structure, unless otherwise agreed to in writing by Contractor and City. This insurance shall include interests of the City, the Contractor and subcontractors. This insurance does not include Contractor's or subcontractor's property which is not intended to be incorporated into the work such as tools, sheds, hoists, canvasses, tarpaulins, mixers, scaffolding, staging towers owned or rented, or similar property not expended in the completion of, or to become a permanent part of the installation of the work. This insurance shall apply to new buildings, structures, additions, remodeling, alterations and renovations of existing buildings.

Such insurance shall include, without limitation, insurance against the perils of fire (with extended coverage) and physical loss or damage including, without duplication of coverage, theft, vandalism, malicious mischief, collapse, earthquake, flood, windstorm, falsework, testing and startup, temporary buildings and debris removal including demolition occasioned by enforcement of any applicable legal requirements, and soft costs, including but not limited to additional interest costs, insurance, architect fees, engineering fees, contractor fees, legal and accounting fees, city staff costs, bond and permit fees, rental/lease costs and other administrative costs required as a result of such insured loss.

If the property insurance requires deductibles, the Contractor shall pay costs not covered because of such deductibles.

This insurance shall cover portions of the work stored off-site, and also portions of the work in transit. The Contractor shall carry sufficient all risk insurance on both the owned and leased equipment at the site of work and enroute to and from the site of work to fully protect Contractor. The Contractor shall require the same coverage of subcontractors. It is expressly understood and agreed that the City shall bear no responsibility for any loss or damage to such equipment.

Partial occupancy or use shall not commence until the insurance company or companies providing insurance have consented to such partial occupancy or use by endorsement or otherwise. The City and Contractor shall take reasonable steps to obtain consent of the insurance company or companies and shall, without mutual written consent, take no action with respect to partial occupancy or use that would cause cancellation, lapse or reduction of insurance.

## **SECTION 109.2 PROSECUTION OF THE WORK**

Work shall begin only after the contract is completely executed. The Contractor shall begin work within seven (7) days after receiving the start work letter. The contractor shall have the option to start work any time after April 1 as long as the work is completed by the Construction Closeout Date. The Contractor shall provide a schedule to the City Project Manager by April 1, 2018. Once the schedule is mutually agreed by both parties the start work letter shall be issued.

## **SECTION 109.7 TIME OF COMPLETION**

**Construction Closeout.** The point in the contract where all contractual requirements associated the execution of the work as described in the plans, specifications, and other documents have been successfully met.

**Contract Closeout.** The point in the contract where all contractual requirements associated with the City of Madison, Board of Public Works contract has been successfully met.

Construction Closeout shall occur on or before November 30<sup>th</sup>, 2018.

Contract Closeout shall occur within 60 calendar days from construction closeout.

## **110.2 PARTIAL PAYMENT TO CONTRACTORS AND PROMPT PAYMENT TO SUBCONTRACTORS.**

- I. Partial Payments to Contractor. Partial payments based on the value of the work satisfactorily performed or satisfactory materials furnished, at contract or agreed unit or lump sum prices, will be made to the Contractor as the work progresses, except that partial payments will not be made if the Contractor is in noncompliance with any order given to the Contractor by the Engineer pursuant to the contract.

Twice each month (provided that a payment of \$1,000 or more becomes due, which amount may at the Engineer's discretion be reduced for contracts of \$25,000 or less) the Contractor will prepare an estimate of the quantities of work performed and the value thereof at contract or agreed unit or

lump sum prices. The estimate will be prepared on forms provided by the Engineer. After review and acceptance of the estimate by the Engineer, the City shall issue a partial payment. Workforce Profiles shall be approved prior to the first partial payment.

The quantities included shall be computed to reflect the approximate amount of work completed, or substantially completed under each of the pertinent contract items to the date of the estimate less, in each case, an allowance adequate to cover contingencies and costs still to be incurred incident to finishing, maintaining, repairing and restoring of the work, and to cover possible variations between the contract and final quantities in instances where contract quantities are used as a basis for the estimate.

The Engineer may, upon presentation by the Contractor of receipted bills, freight bills or other satisfactory evidence of payment, include in the estimate prepared for partial payment the value of nonperishable materials which are to form a part of the completed work, produced or purchased, and delivered and stored in the vicinity of the work at such location where they will be available for ready incorporation into the work. The amounts paid for such materials shall go to reduce the amount of other partial or final payments due to the Contractor for the work performed as the materials are incorporated into the completed work.

The payment of any current estimate prior to final acceptance of the work by the City shall in no way constitute acceptance of the work, nor in any way prejudice or affect the obligation of the Contractor, to repair, restore, correct, renew or replace any defects or imperfections in the construction or in the strength or quality of the materials used in or about the construction of the work under contract and its appurtenances, or any damage due or attributable to such defects, which defects, imperfections or damage shall have been discovered on or before the final inspection or acceptance of the work. The Engineer shall be the sole judge of such defects, imperfections or damage and the Contractor shall be liable to the City for failure to correct the same as provided herein.

- ii. Prompt Payment to Subcontractors. The Contractor is required pursuant to 49 CFR §26.29 and Wis. Stat. § 66.0135 to pay all Subcontractors for all work that the Subcontractor has satisfactorily completed, no later than seven (7) days from the receipt of each payment that the City makes to the Contractor under sub. I above. Contractor must pay subcontractors in full and may not withhold any amount in retainage. Any delay in or postponement of payment to the Subcontractor requires good cause and prior written approval of the Engineer. Failure to comply with this prompt payment requirement is a breach of contract, which may result in the City withholding payment under sub. I above or pursuing any remedies permitted under law, including, but not limited to, Contractor Debarment. In addition, Contractor's failure to promptly pay its Subcontractors is subject to the provisions of Wis. Stat. §66.0135(3).
- iii. Prior to all payments, including those under this Section and Special Provision, Contractor or Subcontractor shall submit:
  1. Weekly payroll reports must be submitted within **twenty-one (21)** days of the end of the pay period. Prevailing wage reference document and requirements for weekly payrolls are available at:  
<http://www.cityofmadison.com/dcr/documents/WeeklyPayrollRptTruckInstr.pdf>  
Sample Certified Payroll report is available at  
<http://www.cityofmadison.com/dcr/documents/WeeklyPayrollRpt.doc>
  2. Monthly Employment Utilization Report to be submitted monthly:  
<http://www.cityofmadison.com/dcr/documents/CC-257.xls>
  3. Committed Cost Status Sheet to be submitted monthly:

Please reference Appendix C.

## SECTION D: DISADVANTAGED BUSINESS ENTERPRISE

### Instructions to Bidders City of Madison DBE Program Information

#### 2. Disadvantaged Business Enterprise (DBE) Program

Any questions about the DBE Program provisions of this project, including filling out the Special Prequalification Report, should be directed to Felicia Jones, Affirmative Action Division Manager, City Civil Rights Department, at 608-266-6510, e-mail [fjones@cityofmadison.com](mailto:fjones@cityofmadison.com).

A copy of the complete City of Madison Disadvantaged Business Enterprise (DBE) Program and/or DBE Directory may be obtained by calling the City Civil Rights Department at 608-267-8759 or online at: <http://wisconsindot.gov/Pages/doing-bus/civil-rights/dbe/certified-firms.aspx>.

#### 2.1 Prequalification Requirements

##### A. Purpose

It is the policy of the U. S. Department of Transportation/Federal Transit Administration (USDOT/FTA) that disadvantaged business enterprises (DBE) as defined in 49 CFR Part 26 shall have the maximum feasible opportunity to participate in the performance of contracts financed in whole or in part with Federal funds. Consequently, the DBE requirements of 49 CFR Part 26 applies to this contract.

##### B. DBE Obligation

The Contractor agrees to ensure that DBEs as defined in 49 CFR Part 26 have the maximum feasible opportunity to participate in the performance of contracts and subcontracts financed under this project. In this regard, all bidders shall take all necessary and reasonable steps in accordance with 49 CFR Part 26 to insure that DBEs have the maximum feasible opportunity to compete for and perform contracts. The Contractor or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of USDOT/FTA-assigned contracts.

##### C. DBE Utilization Goal

**For this contract Madison Metro has assigned a DBE goal of fifteen percent (15%).**

Each bidder shall meet or show adequate good faith efforts to meet the DBE project goal. DBE firms may participate as subcontractors, suppliers or in joint ventures. **The bidder shall meet or exceed or demonstrate that it could not meet the goal despite its best efforts or the bid will be considered non-responsive.**

##### D. DBE Certification

In order to be considered a DBE firm, the firm must be certified by the Wisconsin Unified Certification Program at the time of bid submittal. The DBE Directory is available at the following link:

<http://wisconsindot.gov/Pages/doing-bus/civil-rights/dbe/certified-firms.aspx>

##### E. Definitions and Certification Requirements

For the purposes of this program, a Disadvantaged Business Enterprise (DBE) is a small business concern:

Which is at least fifty-one (51) percent owned by one or more socially and economically disadvantaged individuals, or, in the case of any publicly owned business, at least fifty-one (51) percent of the stock of which is owned by one or more socially and economically disadvantaged individuals; and

Whose management and daily business operations are controlled by one or more of the socially and economically disadvantaged individuals who own it.

The Contract Compliance Officer has a list of DBE firms who are certified as meeting these definitions.

F. Good Faith Efforts/Waiver of DBE Goal

If a bidder finds it impossible to fully meet the DBE goal of a contract, the bid shall include a signed petition on the bidder's letterhead, for grant of relief from the DBE goal requirements, **accompanied by documentation demonstrating that all reasonable good faith efforts were made toward fulfilling the goal. See Appendix D.5 which must be completed for all Good Faith Efforts Waiver Requests.**

To demonstrate sufficient reasonable efforts to meet the DBE contract goal, a bidder shall document as stated in Appendix D.5 the steps it has taken to obtain DBE participation, including but not limited to the following:

1. Obtaining information about DBEs in specific subcontracting areas by:
  - a. Developing and maintaining the Contractor's own file of certified DBEs;
  - b. Consulting the list of certified DBEs from the Wisconsin Unified Certification Program Directory.
  - c. If necessary, assisting an uncertified firm to obtain certification by the City of Madison Department of Civil Rights. The Civil Rights Department will provide the necessary forms at the bidder's request.
2. Contacting DBEs sufficiently in advance of the bid deadline so that they can prepare a bid and engage in negotiations:
  - a. Advertising in general circulation media, trade association publications, and minority-focus media for at least twenty (20) calendar days before bids are due. If twenty (20) days are not available, publication for a shorter reasonable time is acceptable, and
  - b. Written notification to DBEs that their interest in the contract is solicited.
3. Selecting portions of the work, to be performed by DBEs to increase the likelihood of achieving the DBE project goal.
4. Negotiating directly with DBEs, including DBEs who contact the bidder to volunteer a quote for participating as a subcontractor/subconsultant.
5. Outlining efforts to negotiate with DBEs for specific sub-bids including at a minimum the names, addresses, and telephone numbers of DBEs that were contacted; a description of the information provided to DBEs regarding the plans and specifications for portions of the work to be performed; and a statement of why additional agreements with DBEs were not reached:
  - a. If the DBE is unavailable, a detailed statement from the bidder of the reasons for that conclusion;
  - b. If the bidder considers the DBE to be unqualified, a detailed statement of the reasons for that conclusion;
  - c. If the DBE refused to or was unable to offer a price which the bidder could reasonably agree to pay, a detailed statement of the reasons for that decision; and
  - d. Any other reasons why agreements with DBEs could not be reached.
6. Efforts made to assist the DBEs contacted with needed assistance in obtaining bonding or insurance required by the bidder or the City.
7. Attendance at the pre-bid conference is not mandatory, but it is recommended.

Bidders that fail to meet DBE goals and fail to demonstrate sufficient reasonable efforts shall not be eligible to be awarded the contract.

A bidder will not be considered to have made a good faith effort to meet the DBE project goal if he or she rejects the bid of an otherwise qualified and competent DBE on the basis of price alone, unless it is shown that no reasonable price can be obtained from a DBE. A DBE's bid for the subcontract will be presumed to be unreasonable if the DBE's price exceeds the average price quoted by more than five (5) percent.

8. If a bidder's Good Faith Efforts Waiver is denied by the Department of Civil Rights, the bidder may exercise its appeal rights and submit a written request to the Department of Civil Rights for a reconsideration hearing as provided in Appendix D.6.

#### G. Counting DBE Participation

A bidder may count towards his or her attainment of the DBE goal only those expenditures to DBEs that perform a commercially useful function. For purposes of evaluating a bidder's responsiveness to the attainment of the DBE goal, the contract participation by a DBE is based on the percentage of the total base bid proposed by the Contractor. The total base bid price is inclusive of all amendments, modifications and change orders.

Work performed by a DBE firm in a particular transaction can be counted toward the goal only if it involves a commercially useful function. As provided in Section 26.55(c)(1) a DBE performs a commercially useful function if the DBE firm in accordance with industry practices performs a useful role in the transaction. Under Section 26.55(c)(2) a DBE does not perform a commercially useful function if its role is limited to that of an extra participant in a transaction, contract, or project to enable a prime contractor to pass through funds in order to obtain the appearance of DBE participation. If, in Metro's judgment, the firm does not perform a commercially useful function in the transaction, no credit towards goals may be awarded, and the firm's participation cannot be counted towards the attainment of the DBE Goal.

It should be noted that the question of whether a firm is performing a commercially useful function is completely separate from the question of whether the firm is an eligible DBE. A firm is eligible if it meets the definitional criteria and ownership and control requirements, as set forth in the City of Madison's DBE Program.

The City of Madison (Metro Transit) will determine whether or not a firm is performing a commercially useful function on a project. If the commercially useful function is that of a dealer, then the City of Madison (Metro Transit), in accordance with Section 26.55(e)(2)(i) may count 60% of the value of the product supplied towards the DBE goal.

As provided in Section 26.55(e)(2)(ii) a regular dealer must be engaged in selling the product in question to the public and must be in regular trade with a variety of customers. This is an important distinguishing characteristic which defines whether or not a firm is acting as a regular dealer. If a firm performs supplier-like functions on an ad-hoc basis or for only one or two contractors with whom it has a special relationship, the firm will not be performing commercially useful function since it is not considered a regular dealer.

Section 26.55(e)(2)(ii)(A) allows a supplier of bulk goods to qualify as a regular dealer without owning, operating or maintaining a place of business if the supplier both owns and operates distribution equipment for the products. With respect to the distribution equipment; e.g., a fleet of trucks, the term "and operates" is intended to cover a situation in which the supplier leases the equipment on a regular basis for its entire business through a long-term lease agreement and not on an ad-hoc basis by simply providing drivers for trucks owned or leased by another party; e.g., a prime contractor, or leases such a party's trucks on an ad-hoc basis for a specific job.

If the commercially useful function being performed is not that of a regular dealer, but rather that of delivery of products, for example, a business that simply transfers title of a product from manufacturer to ultimate purchaser; e.g., a sales representative who re-invoices a steel product from the steel company to the City of Madison (Metro Transit), or a firm that puts a product into a container for delivery, or a firm that expedites transactions would not be considered a regular dealer under provisions of Section 26.55(e)(2)(ii)(C).

Section 26.55(e)(3) concerns the use of services that help the City of Madison (Metro Transit) obtain needed supplies, personnel, materials or equipment to perform a portion of the contract. If a DBE is acting as a broker or manufacturer's representative in the procurement of supplies, facilities, or materials, etc., only the fee received by the service provider could be counted toward goals. For example, use of a minority sales representative or distributor for a steel company, if performing a commercially useful function at all,



would entitle the City of Madison (Metro Transit) receiving the steel to count only the fee paid to the representative or distributor toward the goal.

A similar provision contained in Section 26.55(a)(2) would also govern fees for professional, technical, managerial and other services obtained expressly and solely to perform work relating to a specific contract or program function such as procurement of personnel. The counting rules of 49 CFR Part 26.55(a)(2) would apply and only the commission will be counted towards the DBE goal.

Section 26.55(a)(2) requires the application of the same principle to bonding and insurance matters. Contractors often are required to obtain bonding and insurance concerning their work in USDOT-assisted contracts. When a contractor obtains a bond or an insurance policy from a DBE agent, the amount allowable toward goals is not any portion of the face value of the policy or bond or the total premium, but rather the fee received by the agent for selling the bond or insurance policy.

Section 26.55(d) concerns credit for participation by trucking firms and management of transportation services. If a DBE trucking company picks up a product from a manufacturer or regular dealer and delivers the product to the City of Madison (Metro Transit), the commercially useful function it is performing is not that of a supplier, but simply that of a transporter of goods. Unless the trucking company is itself the manufacturer or a regular dealer in the product, credit cannot be given based on a percentage of the cost of the product. Rather, credit would be allowed for the cost of the transportation service.

The City is aware that the rule's language does not explicitly mention every kind of business that works in USDOT/FTA financially assisted programs. In administering 49 CFR Part 26, the City will, on a case-by-case basis, determine the appropriate regulatory provision to apply in a particular situation.

#### H. The Special Prequalification Report

The Special Prequalification Report is located in Appendix D and consists of the following:

- D.1 Cover page
- D.2 DBE Utilization Report (Please prepare one report for each DBE utilized)
- D.3 Letter of intent to subcontract with a DBE
- D.4 Certification of lower tier participants.
- D.5 Good Faith Efforts Waiver Request
- D.6 Good Faith Efforts Denial Reconsideration Request

#### Information to be provided in Appendix D.

- D.1 Cover Page the Bidder should affirm whether or not the assigned DBE Goal will be met.
- D.2 DBE Utilization Report the bidder should list **for each DBE firm**, the information provided to the DBE, the type of work, and the percentage of the bid that will be performed by the DBE.
- D.3. Letter of Intent to Subcontract with a DBE. This form should contain information on the value of the work to be performed by each DBE.
- D.4. Certification of lower tier participants. Complete this form if using lower tier Participants.
- D.5. Good Faith Efforts Waiver. Complete this form to request a good faith efforts waiver request if (1) you have partially met the goal or (2) if you have not met the goal. At a minimum the bidder should include the following as provided in Appendix D.5.:
  - 1. A description of the information provided to each DBE regarding the plans and specifications for portions of the work to be performed;
  - 2. If the DBE is unavailable, a detailed statement from the bidder for the reasons for that conclusion;
  - 3. If the bidder considers the DBE to be unqualified, a detailed statement of the reasons for that conclusion;
  - 4. If the DBE refused to or was unable to offer a price which the bidder could reasonably agree to pay, a statement of reasons for that decision. Be specific.
  - 5. Any other reasons why agreements with DBEs could not be reached; and
  - 6. Other good faith efforts.

D.6 Appeal Procedure for denial of Good Faith Efforts Waiver.

In accordance with Section 26.53 (f) a Bidder whose request for a Good Faiths Efforts Waiver is denied may appeal the City's decision to the Department of Civil Rights, Affirmative Action Division Manager, Madison City County Building, Room 523, Madison, WI 53701. All appeals shall be filed, in writing, during normal working hours. See Appendix D.6.

I. DBE Award Notification

Whenever a prime Contractor is awarded a contract by the City of Madison (Metro Transit), the DBE subcontractor will be notified in writing by the DBE Liaison Officer that a contract has been awarded in which they were identified as a DBE subcontractor. A copy of the Letter of Notification will also be sent to the prime Contractor and the Transit General Manager.

**2.2 Requirements of a Successful Bidder**

A. DBE Substitutions

Arbitrary changes by the Contractor of DBEs identified in his or her bid is strictly prohibited. Further, without prior approval by the DBE Liaison Officer, the Contractor may not terminate a subcontract agreement, reduce the scope of work nor decrease the proposed price to the DBE.

In instances where the Contractor finds it necessary to request substitution of a DBE for reasons such as default on the part of the DBE or poor work performance, the Contractor shall submit, in writing, to the DBE Liaison Officer, the reasons justifying release of prior approved DBEs and receive approval from the City of such change prior to subcontracting with another certified DBE.

The Contractor's notification shall, follow prior notice to the DBE proposed for termination (with a copy to the DBE Liaison Officer) including the specific reasons for the proposed substitution and in accordance with 49 CFR § 26.53(f). Stated reasons which would be acceptable include any of the following examples:

1. A previously committed DBE was found not to be able to perform;
2. A committed DBE was found not to be able to produce acceptable work;
3. A committed DBE was later discovered not to be bona fide; and
4. A DBE previously committed to a given price later demands an unreasonable escalation of price.

The Contractor's position in these cases shall be fully explained and supported with adequate documentation. Stated reasons which will not be acceptable include:

1. A replacement firm has been recruited to perform the same work under terms more advantageous to the Contractor;
2. Issues about performance by the committed DBE were disputed (unless every reasonable effort has already been taken to have the issues resolved or mediated satisfactorily); and
3. DBE has requested reasonable price escalation which may be justified due to unforeseen circumstances; i.e., change in scope of DBE's work.

The Contractor's notification should include the name, address, and principal official of any proposed substitute DBE and the dollar value and scope of work of the proposed subcontractor. The same DBE affidavits, documents, and Letter of Intent which are required of bidders should be attached.

The DBE Liaison Officer will evaluate the submitted documentation and respond within fifteen (15) working days to the request for approval of a substitution. The response may be in the form of requesting more information, or requesting an interview to clarify or mediate the problem. The response may also be in the form of a rejection of the proposed DBE substitution with the reasons therefore included in the City's response. In the case of an expressed emergency need to receive the necessary decision for the sake of job progress, the City will instead respond as soon as practicable.

Actual substitution of a DBE to fulfill contract requirements should not be made prior to City approval. Once notified of City approval, the substitute DBE subcontract shall be executed within five (5) working days, and

a copy of the DBE subcontract, with signatures of both parties to the agreement, should be submitted to the DBE Liaison Officer.

The City will not approve extra payment for escalated costs incurred by the Contractor when a substitution of subcontractors becomes necessary in order to comply with DBE contract requirements.

In the case where an enterprise under contract was previously considered to be a DBE but is later found not to be, or whose work is found not to be creditable toward the DBE goals fully as planned, the City will consider the following criteria in evaluating a waiver request:

1. Whether the Contractor was reasonable in believing the enterprise was a DBE or that eligibility or "counting" standards were not being violated, and
2. The adequacy of unsuccessful efforts taken to obtain a substitute DBE.

B. Contract Monitoring

To ensure DBE compliance on all contracts regardless of dollar amount, the DBE Liaison Officer will contact the Contractor and the DBE subcontractor when the project reaches the 50% mark of completion. The Contractor will receive a request for status of DBE subcontractor payment. The request will identify the names of DBEs proposed by the Contractor, the proposed goods or services the DBE subcontractor was to provide and the proposed subcontracted DBE dollar amount. The Contractor will be requested to supply, within ten (10) working days, proof of payment for each of the DBEs listed in order to verify the year-to-day DBE participation.

The DBE subcontractor will be requested to provide an affidavit for DBE subcontractor participation/payment attesting to the work performed and the amount paid to date to the subcontractor.

C. Non-Compliance and Liquidated Damages

The City shall have the discretion to apply suitable sanctions to the Contractor if the Contractor is found to be in non-compliance with the DBE requirements. Failure to comply with the DBE terms of a contract or failure to use DBEs as stated in the Contractor's bid constitutes a material breach of this contract, and may lead to the suspension or termination of this contract in whole or in part; furthermore, continued eligibility to enter into future contracting arrangements with the City of Madison (Metro Transit) may be jeopardized as a result of non-compliance. In some cases, monthly progress payments may be withheld until corrective action is taken.

Therefore, in such cases of non-compliance, the City will deduct as liquidated damages cumulative amounts computed as follows: for each one (1) percent (or fraction thereof) of shortfall toward the DBE goal, one (1) percent of the base bid for this contract shall be surrendered by the Contractor to the City in payment as liquidated damages, if such damages are assessed.

When work is completed, in the event that the City has determined that the Contractor was not in compliance in the fulfillment of the required DBE goals, and a grant of relief of the requirements was not obtained, the City will thereby be damaged in the failure to provide the benefit of participation to DBEs to the degree set forth in the contract.

D. Opportunities for the Use of Banks Owned and Controlled by DBEs

The City of Madison encourages its prime contractors to use banks owned and controlled by minorities and women in Wisconsin whenever feasible.



Department of Public Works  
**Engineering Division**  
Robert F. Phillips, P.E., City Engineer

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**Assistant City Engineer**  
Gregory T. Fries, P.E.  
Kathleen M. Cryan  
**Principal Engineer 2**  
Christopher J. Petykowski, P.E.  
John S. Fahrney, P.E.  
**Principal Engineer 1**  
Christina M. Bachmann, P.E.  
**Facilities & Sustainability**  
Jeanne E. Hoffman, Manager  
**Mapping Section Manager**  
Eric T. Pederson, P.S.  
**Financial Manager**  
Steven B. Danner-Rivers

December 8, 2017

**NOTICE OF ADDENDUM**  
**ADDENDUM NO. 1**

**CONTRACT NO. 8064, PROJECT NO. 11225**  
**MADISON METRO BUS GARAGE – ROOF REPLACEMENT**

Revise and amend the contract document(s) for the above project as stated in this addendum, otherwise, the original document shall remain in effect.

This addendum consists of the following documents:

1. **GENERAL CONTRACT CONDITIONS**  
No Change

2. **GENERAL QUESTIONS AND ANSWERS**

What are the requirements for replacing the wood stairs?

- *This should be eliminated from the scope. Metro will replace the stairs (per Jim Fink).*

Where can we stage equipment and supplies?

- *Equipment can be staged along the east Washington ave. side of the building (see next question), and in select areas on the parking lot side of the building. These areas are indicated in Appendix E*

Can East Washington Ave side of the building be used as a staging area?

- *Yes, the Metro grounds along E Washington can be used as a staging area. The sidewalk and parking lane may also potentially be used as a staging area. Use of any/all of these areas will require a street occupancy permit. Permit information can be found here: <https://www.cityofmadison.com/development-services-center/land-development/public-right-of-way/street-occupancy>*

Are there better times for coming and going so as to avoid bus traffic?

- *Yes, between 9am and 3pm is relatively quiet for bus traffic.*

How big is the roof (sf)?

- *165,000 sf including the main roof and outbuilding. Contractor is responsible for field verifying dimensions.*

December 8, 2017

Page 2

Is this project subject to prevailing wage?

- Yes, this is a partially federally funded project, and is subject to **Davis-Bacon** rules.

From bid items, what is the difference between install new blocking and remove and replace wood blocking?

- *New Blocking: There may be some areas where new blocking is required where no existing blocking is present.*
- *Remove and Replace: This is to account for any wood blocking that may have deteriorated and need to be replaced.*

Can we arrange additional walk-throughs?

- Yes. Contact Jim Fink ph# 608-267-4951

Some of the cores show 7" of insulation. Are you really going to remove it and replace it with 3" insulation?

- *These areas are just along the office area and extend into the field of the office area roof, which is 1 ½" thick. This is tapered and filler material and is being removed in order to provide a greater distance to the wall flashing along the parapet at this roof edge. It is an unknown condition at this time.*

Can you supply the photos of the cores?

- Yes, see Appendix F for all core sample images.

How accessible are the roof drains from the interior?

- *Roof drains should be accessible without removing any existing construction.*

Who is disconnecting the mechanical units?

- *Owner will disconnect mechanical units.*

How do the openings for the removed exhaust fans need to be capped for protection during construction? Is plywood OK?

- *Contractor's option to provide a weather proof cap. Plywood should be fine if constructed and secured properly.*

As detailed, the transition from the flat wall to the sawtooth roof will not be covered by warranty and will leak, is this the direction you want to proceed?

- *After discussion with the Firestone rep, the detail provided seems to be the best option. Other options would require cutting into the metal panels and flashing through them. Contractors should bid the project with this detail, but would have the option to submit a change order for another detail. This detail has also been used as a repair to leaking wall panels on other city projects with positive results.*

### 3. SUBSTITUTION REQUESTS

No Change

December 8, 2017

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4. **SPECIFICATIONS**

No Change

5. **DRAWINGS**

Minor formatting changes, clarification of stair replacement responsibility, see AD-1 markings on sheets: AD100, A100

6. **PROPOSAL**

No Change

Please attach these Addendum documents to the Drawings and Project manual in your possession.

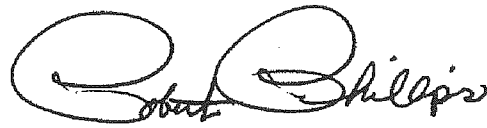
Please acknowledge this addendum on page E1 of the contract documents and/or in Section E: Bidder's Acknowledgement on Bid Express.

Electronic version of these documents can be found on the Bid Express web site at:

<http://www.bidexpress.com>

If you are unable to download plan revisions associated with the addendum, please contact the Engineering office at 608-266-4751 receive the material by another route.

Sincerely,

A handwritten signature in black ink, appearing to read "Robert Phillips". The signature is stylized with large, rounded loops for the letters.

Robert F. Phillips, P.E., City Engineer

Cc: Greg Fries

**SECTION E: BIDDER'S ACKNOWLEDGEMENT**

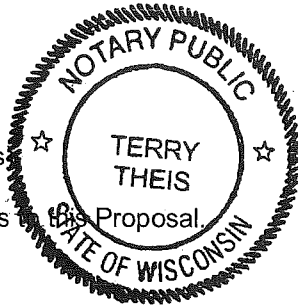
Bidder must state a Unit Price and Total Bid for each item. The Total Bid for each item must be the product of quantity, by Unit Price. The Grand Total must be the sum of the Total Bids for the various items. In case of multiplication errors or addition errors, the Grand Total with corrected multiplication and/or addition shall determine the Grand Total bid for each contract. The Unit Price and Total Bid must be entered numerically in the spaces provided. All words and numbers shall be written in ink.

1. The undersigned having familiarized himself/herself with the Contract documents, including Advertisement for Bids, Instructions to Bidders, Form of Proposal, City of Madison Standard Specifications for Public Works Construction - 2017 Edition thereto, Form of Agreement, Form of Bond, and Addenda issued and attached to the plans and specifications on file in the office of the City Engineer, hereby proposes to provide and furnish all the labor, materials, tools, and expendable equipment necessary to perform and complete in a workmanlike manner the specified construction on this project for the City of Madison; all in accordance with the plans and specifications as prepared by the City Engineer, including Addenda Nos. 1 through 2 to the Contract, at the prices for said work as contained in this proposal. (Electronic bids submittals shall acknowledge addendum under Section E and shall not acknowledge here)
2. If awarded the Contract, we will initiate action within seven (7) days after notification or in accordance with the date specified in the contract to begin work and will proceed with diligence to bring the project to full completion within the number of work days allowed in the Contract or by the calendar date stated in the Contract.
3. The undersigned Bidder or Contractor certifies that he/she is not a party to any contract, combination in form of trust or otherwise, or conspiracy in restraint of trade or commerce or any other violation of the anti-trust laws of the State of Wisconsin or of the United States, with respect to this bid or contract or otherwise.
4. I hereby certify that I have met the Bid Bond Requirements as specified in Section 102.5. (IF BID BOND IS USED, IT SHALL BE SUBMITTED ON THE FORMS PROVIDED BY THE CITY. FAILURE TO DO SO MAY RESULT IN REJECTION OF THE BID).
5. I hereby certify that all statements herein are made on behalf of MALY ROOFING (name of corporation, partnership, or person submitting bid) a corporation organized and existing under the laws of the State of WISCONSIN a partnership consisting of \_\_\_\_\_; an individual trading as \_\_\_\_\_; of the City of Madison State of WI; that I have examined and carefully prepared this Proposal, from the plans and specifications and have checked the same in detail before submitting this Proposal; that I have fully authority to make such statements and submit this Proposal in (its, their) behalf; and that the said statements are true and correct.

J. K.  
 SIGNATURE  
President  
 TITLE, IF ANY

Sworn and subscribed to before me this 14 day of DECEMBER, 2017.

Terry This  
 (Notary Public or other officer authorized to administer oaths)  
 My Commission Expires Nov. 8, 2019  
 Bidders shall not add any conditions or qualifying statements



## SECTION F: BEST VALUE CONTRACTING

### MADISON METRO BUS GARAGE - ROOF REPLACEMENT CONTRACT NO. 8064

1. The Contractor shall indicate the non-apprenticeable trades used on this contract.

none

2. Madison General Ordinance (M.G.O.), 33.07(7), does provide for some exemptions from the active apprentice requirement. Apprenticeable trades are those trades considered apprenticeable by the State of Wisconsin. Please check applicable box if you are seeking an exemption.

- Contractor has a total skilled workforce of four or less individuals in all apprenticeable trades combined.
- No available trade training program; The Contractor has been rejected by the only available trade training program, or there is no trade training program within 90 miles.
- Contractor is not using an apprentice due to having a journey worker on layoff status, provided the journey worker was employed by the contractor in the past six months.
- First-time Contractor on City of Madison Public Works contract requests a onetime exemption but intends to comply on all future contracts and is taking steps typical of a "good faith" effort.
- Contractor has been in business less than one year.
- Contractor doesn't have enough journeyman trade workers to qualify for a trade training program in that respective trade.
- An exemption is granted in accordance with a time period of a "Documented Depression" as defined by the State of Wisconsin.

3. The Contractor shall indicate on the following section which apprenticeable trades are to be used on this contract. Compliance with active apprenticeship, to the extent required by M.G.O. 33.07(7), shall be satisfied by documentation from an applicable trade training body; an apprenticeship contract with the Wisconsin Department of Workforce Development or a similar agency in another state; or the U.S Department of Labor. This documentation is required prior to the Contractor beginning work on the project site.

- The Contractor has reviewed the list and shall ~~not~~ use any apprenticeable trades on this project.

\* see pg. 2



**LIST APPRENTICABLE TRADES** (check all that apply to your work to be performed on this contract)

- BRICKLAYER
- CARPENTER
- CEMENT MASON / CONCRETE FINISHER
- CEMENT MASON (HEAVY HIGHWAY)
- CONSTRUCTION CRAFT LABORER
- DATA COMMUNICATION INSTALLER
- ELECTRICIAN
- ENVIRONMENTAL SYSTEMS TECHNICIAN / HVAC SERVICE TECH/HVAC INSTALL / SERVICE
- GLAZIER
- HEAVY EQUIPMENT OPERATOR / OPERATING ENGINEER
- INSULATION WORKER (HEAT & FROST)
- IRON WORKER
- IRON WORKER (ASSEMBLER, METAL BLDGS)
- PAINTER & DECORATOR
- PLASTERER
- PLUMBER
- RESIDENTIAL ELECTRICIAN
- ROOFER & WATER PROOFER
- SHEET METAL WORKER
- SPRINKLER FITTER
- STEAMFITTER
- STEAMFITTER (REFRIGERATION)
- STEAMFITTER (SERVICE)
- TAPER & FINISHER
- TELECOMMUNICATIONS (VOICE, DATA & VIDEO) INSTALLER-TECHNICIAN
- TILE SETTER

THIS INFORMATION MUST BE SUBMITTED, ALONG WITH THE FTA CERTIFICATIONS, IN A SEPARATE SEALED ENVELOPE MARKED "ENVELOPE NO. 2--DBE REPORT/FTA CERTIFICATES." (To be completed by prime contractor)

D1. DBE PROGRAM SPECIAL PREQUALIFICATION REPORT/COVER SHEET

Project Name: MADISON METRO BUS GARAGE ROOF REPLACEMENT

Bidder's Name: MALY ROOFING COMPANY, INC.

Bidder's Contact Person: PAUL KEINER

Contact Person's Telephone Number: 608-249-7663

BIDDER CERTIFICATION

I, Pam Keiner, hereby declare and affirm that I am a duly authorized representative of MALY ROOFING COMPANY, INC. and that I have personally reviewed the material and facts set forth in and submitted in this DBE Utilization Plan and, to the best of my knowledge and belief, the information in this Plan is true and correct.

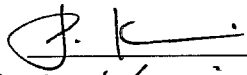
Furthermore, the undersigned shall enter into formal written agreements with all listed DBE firms for work as indicated in this Plan and shall enter into such agreements within five (5) working days after receipt of the contract executed by the City of Madison, Wisconsin.

I, further declare and affirm that:

We have met the 15% assigned DBE Goal

or

We request a Good Faith Efforts Waiver ( )

SIGNATURE   
NAME Pam Keiner  
TITLE President  
FIRM NAME Maly Roofing Company, Inc.  
DATE 12/14/17

D2. DBE PROGRAM SPECIAL PREQUALIFICATION DBE UTILIZATION REPORT  
(Prime contractor to complete a report for each DBE utilized)

Name of DBE Firm: BULLET TRANSIT CO.

Address DBE Firm: 22 MANOR HILL CIRCLE, MADISON, WI

DBE Firm Contact Person: LINDA BRUMM

Contact Person's Telephone Number: 608-836-3838

THIS DBE WILL BE A: (Check One)

Sub-contractor ( ) Supplier ( ) Joint Venture Partner

Type of work this DBE will perform: HAULING OF MATERIALS

List total value of commitment to this firm: \$ 7500.

List total percentage of commitment to this DBE: .7 %

FROM

(THU) DEC 14 2017 15:47/ST. 15:47/No. 6868511124 P 1

Appendix D

**D3. DBE PROGRAM SPECIAL PREQUALIFICATION REPORT/LETTER OF INTENT FROM DBE TO PERFORM AS SUBCONTRACTOR, SUPPLIER AND/OR CONSULTANT (To be completed by each DBE)**

To: MALY ROOFING CO., INC and the City of Madison  
(Name of Prime Contractor)

From: BULLET TRANSIT CO.  
(Name of DBE Firm)

The undersigned is prepared to provide the following described services or supply the following described goods in connection with the following project/contract.

Project Name: MADISON METRO BUS GARAGE ROOF REPLACEMENT

DBE Firm's Contact Person: LINDA BRUMM

Contact Person's Telephone Number: 608-836-3838

THIS DBE FIRM WILL BE A: (Check One)  Sub-contractor ( ) Supplier  
( ) Joint Venture Partner

This firm will perform the following type of work:

TRUCKING OF MATERIALS

List total value of commitment to this firm: \$ 7,500.00

If more space is needed to fully describe the DBE firm's proposed scope of work and/or payment schedule, attach additional sheets.

The undersigned will enter into a formal written agreement with the Prime Contractor, conditioned upon the Prime Contractor's execution of a contract with the City of Madison, Wisconsin, and will do so within five (5) working days of the Prime Contractor's knowledge of said contract award.

The DBE status of the undersigned has been certified by the City of Madison, Wisconsin, or the Wisconsin Unified Certification Program. A copy of said certification is attached to this Letter of Intent.

Notice: If the DBE firm is not certified by the City or the Wisconsin Unified Certification Program, by the bid submission date the firm's participation in accordance with 49 CFR Part 26 Section 26.55(f) cannot be counted towards the attainment of DBE Goals.

SIGNATURE [Signature]  
NAME Linda Brumm  
TITLE PKG  
FIRM NAME Bullet Transit  
DATE 12-14-2017

FROM

(THU) DEC 14 2017 15:47/ST. 15:47/No. 6868511124 P 2

Appendix D

**D4. DBE PROGRAM SPECIAL PREQUALIFICATION REPORT CERTIFICATION OF LOWER-TIER PARTICIPANTS (SUBCONTRACTOR/SUBCONSULTANT) REGARDING DEBARMENT, SUSPENSION, AND OTHER INELIGIBILITY AND VOLUNTARY EXCLUSION (To be completed by each DBE)**

The lower-tier participant (potential subcontractor), Bullet Transit Co. Inc., certifies, by submission of this proposal or bid, that neither it nor its principles are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency.

(If the lower-tier participant [potential subcontractor] is unable to certify to any of the statements in this certification, such participant shall attach an explanation to this certification.)

THE LOWER-TIER PARTICIPANT (POTENTIAL SUBCONTRACTOR) CERTIFIES OR AFFIRMS THE TRUTHFULNESS AND ACCURACY OF THE CONTENTS OF THE STATEMENTS SUBMITTED ON OR WITH THIS CERTIFICATION AND UNDERSTANDS THAT THE PROVISIONS OF 31 U.S.C. SUBSECTION 3801 ET SEQ. ARE APPLICABLE THERETO.

SIGNATURE [Signature]  
NAME Linda Brun  
TITLE Pres  
FIRM NAME Bullet Transit Co. Inc.  
DATE 12-14-2017

The undersigned official representative for Bullet Transit Co. Inc. (entity) hereby certifies that the Linda Brun (entity) has authority under State and local law to comply with the subject assurances and that the certification above has been legally made.

SIGNATURE [Signature]  
NAME LJ Brun  
TITLE Pres  
FIRM NAME Bullet Transit Co. Inc.  
DATE 12-14-2017

FROM

(THU) DEC 14 2017 15:47/ST. 15:47/No. 6868511124 P 3

Appendix D

**AFFIDAVIT**

STATE OF WISCONSIN )

) ss

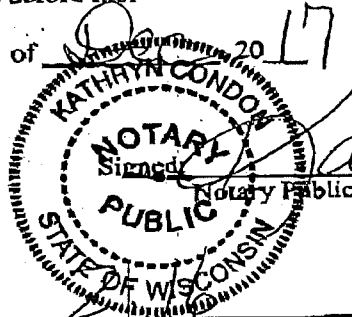
COUNTY OF DANE )

The undersigned, having been first duly sworn, says that the information given in the above certificate is true and correct to the best of his/her knowledge and belief.

Signed: [Signature]  
Authorized Representative

Subscribed and sworn to before me:

This 14th day of Dec, 2017



My commission expires [Signature], 2018.

D2. DBE PROGRAM SPECIAL PREQUALIFICATION DBE UTILIZATION REPORT  
(Prime contractor to complete a report for each DBE utilized)

Name of DBE Firm: TWO BUFFALO CONSTRUCTION SUPPLIES, INC.

Address DBE Firm: 6603 QUEEN AVE. SOUTH, RICHFIELD, MN 55423

DBE Firm Contact Person: LARRY KNUDSEN

Contact Person's Telephone Number: 612-432-0057

THIS DBE WILL BE A: (Check One)

( ) Sub-contractor  Supplier ( ) Joint Venture Partner

Type of work this DBE will perform:

List total value of commitment to this firm: \$ 265,000. -

List total percentage of commitment to this DBE: 14.5 %

D3. DBE PROGRAM SPECIAL PREQUALIFICATION REPORT/LETTER OF INTENT FROM DBE TO PERFORM AS SUBCONTRACTOR, SUPPLIER AND/OR CONSULTANT (To be completed by each DBE)

To: MALY ROOFING Co., INC. and the City of Madison  
(Name of Prime Contractor)

From: Two Buffalo Construction Supplies Inc.  
(Name of DBE Firm)

The undersigned is prepared to provide the following described services or supply the following described goods in connection with the following project/contract.

Project Name: MADISON METRO BUS GARAGE - ROOF REPLACEMENT

DBE Firm's Contact Person: Larry Knudsen

Contact Person's Telephone Number: 612.432.0057

THIS DBE FIRM WILL BE A: (Check One)  Sub-contractor  Supplier  
 Joint Venture Partner

This firm will perform the following type of work:

List total value of commitment to this firm: \$ 265,000.00

If more space is needed to fully describe the DBE firm's proposed scope of work and/or payment schedule, attach additional sheets.

The undersigned will enter into a formal written agreement with the Prime Contractor, conditioned upon the Prime Contractor's execution of a contract with the City of Madison, Wisconsin, and will do so within five (5) working days of the Prime Contractor's knowledge of said contract award.

The DBE status of the undersigned has been certified by the City of Madison, Wisconsin, or the Wisconsin Unified Certification Program. A copy of said certification is attached to this Letter of Intent.

Notice: If the DBE firm is not certified by the City or the Wisconsin Unified Certification Program, by the bid submission date the firm's participation in accordance with 49 CFR Part 26 Section 26.55(f) cannot be counted towards the attainment of DBE Goals.

SIGNATURE [Signature]

NAME Larry Knudsen

TITLE President

FIRM NAME Two Buffalo Construction Supplies

DATE 12/14/17



**D4. DBE PROGRAM SPECIAL PREQUALIFICATION REPORT CERTIFICATION OF LOWER-TIER PARTICIPANTS (SUBCONTRACTOR/SUBCONSULTANT) REGARDING DEBARMENT, SUSPENSION, AND OTHER INELIGIBILITY AND VOLUNTARY EXCLUSION (To be completed by each DBE)**

The lower-tier participant (potential subcontractor), Two Buffalo Construction Supplies, Inc. certifies, by submission of this proposal or bid, that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency.

(If the lower-tier participant (potential subcontractor) is unable to certify to any of the statements in this certification, such participant shall attach an explanation to this certification.)

THE LOWER-TIER PARTICIPANT (POTENTIAL SUBCONTRACTOR) CERTIFIES OR AFFIRMS THE TRUTHFULNESS AND ACCURACY OF THE CONTENTS OF THE STATEMENTS SUBMITTED ON OR WITH THIS CERTIFICATION AND UNDERSTANDS THAT THE PROVISIONS OF 31 U.S.C. SUBSECTION 3801 ET SEQ. ARE APPLICABLE THERETO.

SIGNATURE [Signature]  
 NAME Jerry Knudsen  
 TITLE President  
 FIRM NAME Two Buffalo Construction Supplies Inc  
 DATE 12/14/17

The undersigned official representative for the Two Buffalo Construction Supplies, Inc. (entity) hereby certifies that the Two Buffalo Construction Supplies, Inc. (entity) has authority under State and local law to comply with the subject assurances and that the certification above has been legally made.

SIGNATURE [Signature]  
 NAME Jerry Knudsen  
 TITLE President  
 FIRM NAME Two Buffalo Const. Supplies Inc.  
 DATE 12/14/17

**AFFIDAVIT**

STATE OF FL

COUNTY OF Manatee ) ss

The undersigned, having been first duly sworn, says that the information given in the above certificate is true and correct to the best of his/her knowledge and belief.

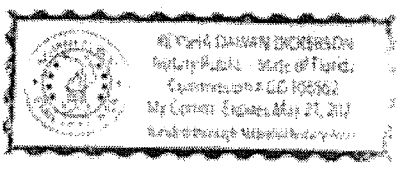
Signed: [Signature]  
Authorized Representative

Subscribed and sworn to before me:

This 14 day of Dec, 2017

[Signature]  
Notary Public

My commission expires May 21, 2021 2021.



PROPOSAL

MALY ROOFING COMPANY, INC.

NAME OF BIDDER

Project Name: Madison Metro Bus Garage- Roof Replacement

Contract No. 8064

ITEM	TYPE OF WORK	ESTIMATED QUANTITIES		UNIT PRICE BID	TOTAL BID
ACCOUNT NO. 11226-85-140-114403					
1	LUMP SUM BASE BID				976,036. <sup>00</sup>
2	Replace Steel Decking	8000	ft <sup>2</sup>	8.75	70,000. <sup>00</sup>
3	Install New Wood Blocking 2X4	1500	Linear ft	2.15	3,225. <sup>00</sup>
4	Remove & Replace Wood Blocking 2X4	1500	Linear ft	2.70	4,050. <sup>00</sup>
5	Install New Wood Blocking 2X6	1200	Linear ft	2.45	2,940. <sup>00</sup>
6	Remove & Replace Wood Blocking 2X6	1200	Linear ft	2.70	3,240. <sup>00</sup>
7	Install New Wood Blocking 2X8	800	Linear ft	2.60	2,080. <sup>00</sup>
8	Remove & Replace Wood Blocking 2X8	800	Linear ft	2.85	2,280. <sup>00</sup>
9	Install New Wood Blocking 2X10	500	Linear ft	2.90	1,450. <sup>00</sup>
10	Remove & Replace Wood Blocking 2X10	500	Linear ft	3.15	1,575. <sup>00</sup>
11	Replace Deteriorated Plywood 5/8"	800	ft <sup>2</sup>	3.75	3,000. <sup>00</sup>
12	Repoint Masonry Joints	2,500	Linear ft	11.10	27,750. <sup>00</sup>
Grand Total					1,097,626. <sup>00</sup>

Note: For Items 2 - 12, the Contractor must fill out a UNIT PRICE BID by the ESTIMATED QUANTITIES to obtain the TOTAL BID for these items. These quantities are stated for the purpose of bidding the project and are estimated quantities. Payment for these items will be made on actual work performed in the field. The contract shall be awarded based on the lowest GRAND TOTAL bid amount.

MALY ROOFING

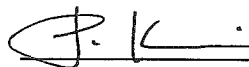
FIRM NAME

Pam Keiner

BIDDER'S PRINTED NAME

DEC. 15, 2017

DATE



BIDDER'S SIGNATURE

## **SECTION G: BID BOND**

KNOW ALL MEN BY THESE PRESENT, THAT Principal and Surety, as identified below, are held and firmly bound unto the City of Madison, (hereinafter referred to as the "Obligee"), in the sum of five per cent (5%) of the amount of the total bid or bids of the Principal herein accepted by the Obligee, for the payment of which the Principal and the Surety bind themselves, their heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

The conditions of this obligation are such that, whereas the Principal has submitted, to the City of Madison a certain bid, including the related alternate, and substitute bids attached hereto and hereby made a part hereof, to enter into a contract in writing for the construction of:

### **MADISON METRO BUS GARAGE – ROOF REPLACEMENT CONTRACT NO. 8064**

1. If said bid is rejected by the Obligee, then this obligation shall be void.
2. If said bid is accepted by the Obligee and the Principal shall execute and deliver a contract in the form specified by the Obligee (properly completed in accordance with said bid) and shall furnish a bond for his/her faithful performance of said contract, and for the payment of all persons performing labor or furnishing materials in connection therewith, and shall in all other respects perform the agreement created by the acceptance of said bid, then this obligation shall be void.

If said bid is accepted by the Obligee and the Principal shall fail to execute and deliver the contract and the performance and payment bond noted in 2. above executed by this Surety, or other Surety approved by the City of Madison, all within the time specified or any extension thereof, the Principal and Surety agree jointly and severally to forfeit to the Obligee as liquidated damages the sum mentioned above, it being understood that the liability of the Surety for any and all claims hereunder shall in no event exceed the sum of this obligation as stated, and it is further understood that the Principal and Surety reserve the right to recover from the Obligee that portion of the forfeited sum which exceed the actual liquidated damages incurred by the Obligee.

The Surety, for value received, hereby stipulates and agrees that the obligations of said Surety and its bond shall be in no way impaired or affected by an extension of the time within which the Obligee may accept such bid, and said Surety does hereby waive notice of any such extension.

IN WITNESS WHEREOF, the Principal and the Surety have hereunto set their hands and seals, and such of them as are corporations have caused their corporate seals to be hereto affixed and these presents to be signed by their proper officers, on the day and year set forth below.

Seal PRINCIPAL

Maly Roofing Company, Inc.

Name of Principal

Pamela C. Keener  
By

December 15, 2017  
Date

Pamela C. Keener  
Name and Title

Seal SURETY

United Fire & Casualty Company

Name of Surety

Connie Easland  
By

December 15, 2017  
Date

Connie Easland, Attorney In Fact  
Name and Title

This certifies that I have been duly licensed as an agent for the above company in Wisconsin under National Provider No. 6504657 for the year 2017, and appointed as attorney in fact with authority to execute this bid bond and the payment and performance bond referred to above, which power of attorney has not been revoked.

December 15, 2017

Date

Connie Easland  
Agent Signature

PO Box 45470  
Address

Madison, WI 53744-5470  
City, State and Zip Code

608-828-0232  
Telephone Number

#### NOTE TO SURETY & PRINCIPAL

The bid submitted which this bond guarantees shall be rejected if the following instrument is not attached to this bond:

Power of Attorney showing that the agent of Surety is currently authorized to execute bonds on behalf of the Surety, and in the amounts referenced above.



UNITED FIRE & INDEMNITY COMPANY, WEBSTER, TX  
FINANCIAL PACIFIC INSURANCE COMPANY, ROCKLIN, CA  
CERTIFIED COPY OF POWER OF ATTORNEY

118 Second Ave SE  
Cedar Rapids, IA 52401

(original on file at Home Office of Company - See Certification)

KNOW ALL PERSONS BY THESE PRESENTS, That UNITED FIRE & CASUALTY COMPANY, a corporation duly organized and existing under the laws of the State of Iowa; UNITED FIRE & INDEMNITY COMPANY, a corporation duly organized and existing under the laws of the State of Texas; and FINANCIAL PACIFIC INSURANCE COMPANY, a corporation duly organized and existing under the laws of the State of California (herein collectively called the Companies); and having their corporate headquarters in Cedar Rapids, State of Iowa, does make, constitute and appoint RICHARD A. HAGEN, OR SUSAN SIMONEAU, OR CONNIE EASLAND, OR TIMOTHY A. DRAXLER, ALL INDIVIDUALLY OF MADISON WI

their true and lawful Attorney(s)-in-Fact with power and authority hereby conferred to sign, seal and execute in its behalf all lawful bonds, undertakings and other obligatory instruments of similar nature provided that no single obligation shall exceed \$2,000,000.00 and to bind the Companies thereby as fully and to the same extent as if such instruments were signed by the duly authorized officers of the Companies and all of the acts of said Attorney, pursuant to the authority hereby given and hereby ratified and confirmed.

The Authority hereby granted shall expire the 3rd day of December, 2018 unless sooner revoked by UNITED FIRE & CASUALTY COMPANY, UNITED FIRE & INDEMNITY COMPANY, AND FINANCIAL PACIFIC INSURANCE COMPANY

This Power of Attorney is made and executed pursuant to and by authority of the following bylaw duly adopted on May 15, 2013, by the Boards of Directors of UNITED FIRE & CASUALTY COMPANY, UNITED FIRE & INDEMNITY COMPANY, and FINANCIAL PACIFIC INSURANCE COMPANY.

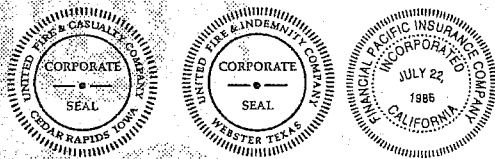
"Article VI - Surety Bonds and Undertakings"

Section 2, Appointment of Attorney-in-Fact. "The President or any Vice President, or any other officer of the Companies may from time to time appoint by written certificates attorneys-in-fact to act in behalf of the Companies in the execution of policies of insurance, bonds, undertakings and other obligatory instruments of like nature. The signature of any officer authorized hereby, and the Corporate seal, may be affixed by facsimile to any power of attorney or special power of attorney or certification of either authorized hereby, such signature and seal, when so used, being adopted by the Companies as the original signature of such officer and the original seal of the Companies, to be valid and binding upon the Companies with the same force and effect as though manually affixed. Such attorneys-in-fact, subject to the limitations set forth in their respective certificates of authority shall have full power to bind the Companies by their signature and execution of any such instruments and to attach the seal of the Companies thereto. The President or any Vice President, the Board of Directors or any other officer of the Companies may at any time revoke all power and authority previously given to any attorney-in-fact.

IN WITNESS WHEREOF, the COMPANIES have each caused these presents to be signed by its vice president and its corporate seal to be hereto affixed this 3rd day of December, 2016

UNITED FIRE & CASUALTY COMPANY  
UNITED FIRE & INDEMNITY COMPANY  
FINANCIAL PACIFIC INSURANCE COMPANY

By: *Dennis J. Richman* Vice President



State of Iowa, County of Linn, ss:

On 3rd day of December, 2016, before me personally came Dennis J. Richmann

to me known, who being by me duly sworn, did depose and say; that he resides in Cedar Rapids, State of Iowa; that he is a Vice President of UNITED FIRE & CASUALTY COMPANY, a Vice President of UNITED FIRE & INDEMNITY COMPANY, and a Vice President of FINANCIAL PACIFIC INSURANCE COMPANY the corporations described in and which executed the above instrument; that he knows the seal of said corporations; that the seal affixed to the said instrument is such corporate seal; that it was so affixed pursuant to authority given by the Board of Directors of said corporations and that he signed his name thereto pursuant to like authority, and acknowledges same to be the act and deed of said corporations.

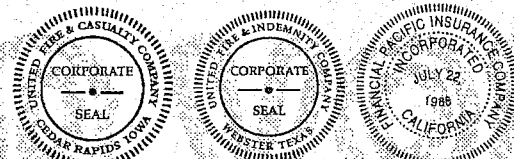


*Judith A. Davis* Notary Public  
My commission expires: 04/23/2018

I, David A. Lange, Secretary of UNITED FIRE & CASUALTY COMPANY and Assistant Secretary of UNITED FIRE & INDEMNITY COMPANY, and Assistant Secretary of FINANCIAL PACIFIC INSURANCE COMPANY, do hereby certify that I have compared the foregoing copy of the Power of Attorney and affidavit, and the copy of the Section of the bylaws and resolutions of said Corporations as set forth in said Power of Attorney, with the ORIGINALS ON FILE IN THE HOME OFFICE OF SAID CORPORATIONS, and that the same are correct transcripts thereof, and of the whole of the said originals, and that the said Power of Attorney has not been revoked and is now in full force and effect.

In testimony whereof I have hereunto subscribed my name and affixed the corporate seal of the said Corporations this 15th day of December, 2017

By: *David A. Lange*  
Secretary, UF&C  
Assistant Secretary, UF&I/FPIC



## SECTION H: USDOT/FTA Terms and Conditions

Federal Financial Assistance and Federal Changes: Up to 80% of the total cost of the deliverables described in the Contract will be financed with Federal monies from the Federal Transit Act of 1964, as amended.

**1. No Government Obligation to Third Parties:** The Contractor agrees that it will comply the U.S. Department of Transportation regulations relating to contractual liability of the Federal Government to third parties as follows:

The City 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 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 City, Contractor, or any other party (whether or not party to the Contract) pertaining to any matter resulting from the underlying Contract.

**2. Incorporation of FTA Terms:** The provisions in this section include, in part, certain standard terms and conditions required by USDOT/FTA, whether or not expressly set forth in these provisions. All contractual provisions required by USDOT/FTA, as set forth in FTA Circular 4220.1F are hereby incorporated by reference. Anything to the contrary herein notwithstanding, all USDOT/FTA mandated terms shall be deemed to control in the event of a conflict with other provisions contained in this Contract. The Contractor shall not perform any act, fail to perform any act, or refuse to comply with any City of Madison requests, which would cause the City of Madison to be in violation of the USDOT/FTA terms and conditions.

The Contractor agrees that it will comply at all times with 49 CFR Part 18; U. S. Department of Transportation regulations relating to applicable FTA regulations, policies, procedures and directives, including without limitation those listed directly or by reference in the Agreement Form FTA MA (23) dated October 2016, between the City and U. S. Department of Transportation/Federal Transit Administration (USDOT/FTA), as they may be amended or promulgated from time to time during the term of this contract. The Contractor's failure to so comply shall constitute a material breach of this contract.

These grant agreements and FTA Circular 4220.1F, "Third Party Contracting," are available for examination at the Office of the Transit Finance Manager, 1245 East Washington Avenue, Suite 201, Madison, WI 53703-3052, 608/267-8766 (voice), 608/267-8778 (fax) or [wblock@cityofmadison.com](mailto:wblock@cityofmadison.com).

**3. Procurement Protest Procedure:** In accordance with USDOT/FTA Circular 4220.1F, the City of Madison has a written procurement protest procedure, which is available upon request from the Office of the Transit Finance Manager. Protests against the City's responses to requests for approved equals and/or exceptions, unclear or restrictive specifications, the procurement process, alleged improprieties, etc. must be submitted in writing, in accordance with said procedure. - Note this is not needed for a contract only.

**4. Compliance with Local, State and Federal Laws:** The services and/or equipment provided shall be in compliance with all requirements of the laws and regulations of the City of Madison, the State of Wisconsin and the United States of America.

### **5. Ethics:**

a. Prohibited Interest: The Contractor guarantees that no employee, officer, or agent of the City during his or her

tenure or one (1) year thereafter has any interest, direct or indirect, in this contract or the proceeds thereof. Such a conflict would also arise when any employee, officer or agent's family member or partner or organization that employs, or is about to employ any of the above, has a financial or other interest in the Contractor selected for award.

b. Interest of Members of or Delegates to Congress: The Contractor guarantees that he or she has not offered or given to any member of, or delegate to the Congress of the United States, any share or part of this contract or to any benefit arising therefrom.

c. Covenant Against Gratuities: The Contractor guarantees that he or she has not offered or given gratuities (in the form of entertainment, gifts, or otherwise) to any employee, officer or agent of the City with a view toward securing favorable treatment in the awarding, amending, or evaluating performance of the proposal or proposed contract.

d. Collusive Agreements: The Contractor guarantees that the Contract submitted is not a product of collusion with any other Contractor and no effort has been made to fix any overhead, profit or cost element of any Contract price.

e. Program Fraud and False or Fraudulent Statements and Related Acts.:

1. Civil Fraud. 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.

2. Criminal Fraud. The Contractor also understands and 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. § 5307, the Government reserves the right to impose the penalties of 18 U.S.C. § 1001 and 49 U.S.C. § 5307(n)(1) on the Contractor, to the extent the Federal Government deems appropriate.

3. Subcontracts. Subrecipient 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.

**6. Civil Rights** - The Contractor shall comply with and ensures the compliance of all subcontractors with the following requirements:

a. Nondiscrimination - In accordance with Title VI of the Civil Rights Act, as amended, 42 U.S.C. § 2000d, section 303 of the Age Discrimination Act of 1975, as amended, 42 U.S.C. § 6102, section 202 of the Americans with Disabilities Act of 1990, 42 U.S.C. § 12132, and 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, creed, national origin, sex, age, or disability



or discriminate against or exclude someone from participation in a business opportunity or any federally assisted program or activity on such grounds. In addition, the Contractor agrees to comply with applicable Federal implementing regulations and other implementing requirements FTA may issue.

b. Equal Employment Opportunity - The following equal employment opportunity requirements apply to the underlying Contract:

1. Race, Color, Creed, National Origin, Sex - In accordance with Title VII of the Civil Rights Act, as amended, 42 U.S.C. § 2000e, 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. Parts 60 et seq., (which implement Executive Order No. 11246, "Equal Employment Opportunity," as amended by Executive Order No. 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," 42 U.S.C. § 2000e note), and with any applicable Federal statutes, executive orders, regulations, and Federal policies that may in the future affect activities undertaken in the course of the Project. 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, creed, national origin, or sex. Such action shall include, but not be limited to, the following: employment, upgrading, 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 and any other federal agency may issue.

2. Age - In accordance with section 4 of the Age Discrimination in Employment Act of 1967, as amended, 29 U.S.C. § § 621 through 634 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 and with implementing regulations of the U.S. Equal Opportunity Commission (U.S. EEOC), 29 CFR, Part 1625.

3. Disabilities - In accordance with section 102 of the Americans with Disabilities Act, as amended, 42 U.S.C. § 12112, the Contractor agrees that it will comply with the requirements of U.S. Equal Employment Opportunity Commission, "Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act," 29 C.F.R. Part 1630, pertaining to employment of persons with disabilities. In addition, the Contractor agrees to comply with any implementing requirements FTA or other federal agency may issue.

4. Solicitations for Subcontracts, Including Procurements of Materials and Equipment: In all solicitations, either by competitive bidding or negotiation made by the Contractor for work to be performed under a subcontract, including procurements of materials or leases of equipment, each potential subcontractor or supplier shall be notified by the Contractor of the Contractor's obligations under this Contract and the Regulations relative to non-discrimination on the grounds of race, color, creed, age, disability, sex or national origin.

5. Information and Reports: The Contractor shall provide all information and reports required by the Federal Regulations or directives issued pursuant thereto, and shall permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the City or the USDOT/FTA to be pertinent to ascertain compliance with such Regulations, orders, and instructions. Where any information required of a Contractor is in the exclusive possession of another who fails or refuses to furnish this information, the Contractor shall so certify to the City or to the

USDOT/FTA, as appropriate, and shall set forth what efforts it has made to obtain the information.

6. **Incorporation of Provisions:** The Contractor shall include the provisions of this entire section entitled "Civil Rights" in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Regulations, or directives issued pursuant thereto. The Contractor shall take such action with respect to any subcontract or procurement as the City or the USDOT/FTA may direct as a means of enforcing non-compliance. Provided, however, that in the event a Contractor becomes involved in, or is threatened with litigation with a subcontractor or supplier as a result of such direction, the Contractor may request the City to enter into such litigation to protect the interest of the United States.

7. **Penalties:** Failure by the Contractor to carry out these requirements is a material breach of the Contract, which may result in the withholding of payments to the Contractor under the contract until the Contractor complies; cancellation, termination or suspension of this Contract; ineligibility for future Contracts; or such other remedy as the City or USDOT/FTA deems appropriate in order to assure compliance with applicable civil rights standards as required by law.

#### **7. Disadvantaged Business Enterprise:**

The requirements of § 1101(b) of SAFETEA – LU < 23 U.S.C. § 101, note, 49 C.F.R. Part 26 and the City's USDOT/FTA approved Disadvantaged Business Enterprise (D.B.E.) Program are incorporated in this Contract by reference.

a. **Policy.** It is the policy of the U.S. Department of Transportation that disadvantaged business enterprises as defined in 49 CFR Part 26 shall have the opportunity to participate in the performance of Contracts financed in whole or in part with Federal funds under this Agreement. Consequently, the DBE requirements of 49 CFR § 18.36(e) Contracting with Small and Minority Firms, Women's Business Enterprise and Labor Surplus Area Firms apply to this Agreement.

b. **Obligation:** The Contractor and its subcontractors shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The Contractor shall carry out applicable requirements of 49 C.F.R. Part 26 in the award and administration of any subcontracts entered into in its performance of this contract.

c. **Penalty:** Failure by the Contractor or its subcontractor 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 City deems appropriate.

#### **8. Reservation of the Right to Inspect Work:**

At any time during normal business hours and as often as the City may deem necessary, the Contractor shall permit the authorized representatives of the City to review and inspect all materials and workmanship at anytime during the duration of this proposed contract, provided, however, the City is under no duty to make such inspections, and any inspection so made shall not relieve the Contractor from any obligation to furnish materials, workmanship or professional services strictly in accordance with the instructions, Contract requirements and specifications.

#### **9. Audit and Inspection of Records:**

a. The Contractor shall maintain intact and readily accessible all data, documents, reports, records, Contracts, and supporting materials relating to this proposed contract during the course of this contract and for three (3) years after City makes final payments and all other pending

matters are closed. The Contractor shall permit the authorized representations of the City and/or WisDOT or its designee, as required by USDOT/FTA, and the Comptroller General of the United States to inspect all project work, materials, payrolls, and other data, and to audit the books, records, and accounts pertaining to this Contract.

b. The Contractor further agrees to include in all his or her subcontracts hereunder a provision to the effect that the subcontractor agrees to the requirements of the above paragraph. The term "subcontractor" as used in this clause excludes subcontracts or purchase orders for public utility services at rates established for uniform applicability to the general public.

c. The periods of access and examination described above, for records which relate to (1) appeals under the disputes clause of this Contract, (2) litigation or the settlement of claims arising out of the performance of this Contract, and (3) costs and expenses of this Contract as to which exception has been taken by the Comptroller General or any of his/her duly authorized representatives, shall continue until such appeals, litigation, claims, or exceptions have been disposed of.

#### **10. Labor:**

The Contractor agrees to comply with and assures compliance with applicable employee protection requirements for non-construction employees of section 102 of the Contract Work Hours and Safety Standards Act, as amended, 40 U.S.C. §§ 3701 et seq; and implementing USDOL regulations, Labor Standards Provisions Applicable to Contracts Governing Federally Financed and Assisted Construction (also Labor Standards Provisions Applicable to Non-construction Contracts Subject to the Contract Work Hours and Safety Standards Act), 29 C.F.R. Part 5.

#### **11. Government-wide Debarment & Suspension Non-procurement:**

The Contractor agrees to comply with and shall assure subcontractor's compliance with the requirements of Executive Order 12549 and 12689, "Debarment and Suspension," 31 U.S.C. § 6101 note, and U.S. DOT regulations, "Government-wide Debarment and Suspension (Nonprocurement)," 49 C.F.R. Part 29, which prohibits FTA Contractors and Subcontractors from knowingly contracting for goods and services from organizations that have been suspended or debarred from receiving Federally-assisted contracts. The Contractor agrees to, and assures that its sub contractors will, review the "Excluded Parties Listing System" at <http://www.sam.gov> before entering into any third party contract or subagreement. The Contractor shall submit the certification prescribed in 49 CFR Part 29, Appendix A.

The Contractor is required to pass this requirement on to subcontractors seeking subcontracts over \$25,000 and, accordingly, shall require subcontractors at every tier to include the certification prescribed in 49 CFR Part 29, Appendix B in any proposal submitted in connection with such lower tier contract transactions.

Furthermore, the Contractor agrees, to provide and to require subcontractors at every tier to agree to provide, the Procuring Agency with immediate written notice if it learns that its submitted certification, which was not erroneous when submitted, has become erroneous by reasons of changed circumstances. Written notice shall be sent to Wayne Block, Transit Finance Manager, 1245 East Washington Avenue, Suite 201, Madison, WI 53703-3052.

#### **12. Environmental Requirements:**

a. Environmental Protection: The Contractor agrees to comply with and shall assure subcontractors compliance with any applicable standards, orders, and/or requirements of the National Environmental Policy Act of 1969, as amended, 42 U.S.C. §§ 4321 through 4335 (as restricted by 42 U.S.C. § 5159, if applicable); Executive Order No. 11514, as amended, "Protection and Enhancement of Environmental Quality," 42 U.S.C. § 4321 note; FTA statutory requirements at 49 U.S.C. § 5324(b); U.S. Council on Environmental Quality regulations pertaining to compliance with NEPA, 40 C.F.R. Parts 1500 through 1508; and joint FHWA/FTA regulations, "Environmental Impact and Related Procedures," 23 C.F.R. Part 771 and 49 C.F.R. Part 622; the applicable provisions of 23 U.S. §§ 139 and 326; and subsequent Federal environmental protection regulations that may be promulgated.

b. Air Quality: The Contractor agrees to comply and shall assure subcontractors' compliance with all applicable regulations, standards, or orders implementing the Clean Air Act, as amended, 42 U.S.C. §§ 7401 through 7671q. In addition:

1. The Contractor agrees to comply with the applicable requirements of section 176(c) of the Clean Air Act, 42 U.S.C. § 7506(c), consistent with the joint FHWA/FTA document, "Interim Guidance for Implementing Key SAFETEA-LU Provisions on Planning, Environment, and Air Quality for Joint FHWA/FTA Authorities," dated September 2, 2005, and any subsequent applicable Federal directives that may be issued; with U.S. EPA regulations, "Conformity to State or Federal Implementation Plans of Transportation Plans, Programs, and Projects Developed, Funded or Approved Under Title 23 U.S.C. or the Federal Transit Act," 40 C.F.R. Part 51, Subpart T; and "Determining Conformity of Federal Actions to State or Federal Implementation Plans," 40 C.F.R. Part 93. All equipment provided under this contract shall be designed and equipped to limit air pollution in accordance with EPA regulations.

2. The Contractor agrees to comply with the following U.S. EPA regulations to the extent they are applicable to the work: "Control of Air Pollution from Mobile Sources," 40 C.F.R. Part 85; "Control of Air Pollution from New and In-Use Highway Vehicles and Engines: Certification and Test Procedures," 40 C.F.R. Part 86; and "Fuel Economy and Greenhouse Gas Exhaust Emissions of Motor Vehicles," 40 C.F.R. Part 600, and any revisions thereto.

3. The Contractor agrees to comply with the notice of violating facility provisions of Section 306 of the Clean Air Act, as amended, 42 U.S.C. § 7414, and facilitate compliance with Executive Order No. 11738, "Administration of the Clean Air Act and the Federal Water Pollution Control Act with Respect to Federal Contracts, Grants, or Loans," 42 U.S.C. § 7606 note.

4. The Contractor shall include these requirements in each subcontract exceeding \$100,000; issued in relation to this contract.

5. The Contractor shall report each violation to the Procuring Agency and understands and agrees that the Procuring Agency will, in turn, report each violation as required to assure notification to FTA and the appropriate EPA Regional Office.

c. Clean Water: The Contractor agrees to comply with all applicable Federal regulations and directives issued pursuant to the Clean Water Act, as amended, 33 U.S.C. §§ 1251 through 1377. Specifically:

I. The Contractor agrees to protect underground sources of drinking water consistent with the provisions of the Safe Drinking Water Act of 1974, as amended, 42 U.S.C. §§ 300f through 300j-6.

II. The Contractor agrees to comply with the notice of violating facility provisions of Section 508 of the Clean Water Act, as amended, 33 U.S.C. § 1368, and facilitate compliance with Executive Order No. 11738, "Administration of the Clean Air Act and the Federal Water Pollution Control Act with Respect to Federal Contracts, Grants, or Loans," 42 U.S.C. § 7606 note.

III. The Contractor agrees to report each violation to the Procuring Agency and understands and agrees that the Procuring Agency will, in turn, report each violation as required to assure notification to FTA and the appropriate EPA Regional Office.

IV. The Contractor shall include these requirements in each subcontract exceeding \$100,000., issued pursuant to this contract.

d. Energy Conservation: The Contractor shall comply with mandatory standards and policies relating to energy efficiency which are contained in the State of Wisconsin Energy Conservation Plan issued in compliance with the Energy Policy and Conservation Act (42 U.S.C. §§ 6321 et seq.) and 49 CFR Part 18; and U. S. Department of Transportation regulations relating to energy conservation.

e. Recycled Products: The Contractor agrees that it will comply with 42 USC.6962 et seq., and 40 CFR Part 247, and Executive Order 12873; and U.S. Department of Transportation regulations relating to recycled products. This requirement applies to all Contracts designated by the EPA, when the City or Contractor procures \$10,000 or more of such items in the fiscal year, or when the cost of such items purchased during the previous fiscal year were \$10,000, using federal funds.

Violations shall be reported to USDOT/FTA and to the United States Environmental Protection Agency Assistant Administrator for Enforcement.

### **13. Prohibition Against the Use of Federal Funds for Lobbying:**

The Contractor, in compliance with 49 CFR Parts 19 and 20, hereby assures and certifies that for any Contracts over \$100,000: (1) No federal appropriated funds have been paid or will be paid, by or on behalf of the Contractor, to any person, to influence or attempt 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 awarding any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, an 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 making lobbying contacts to an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract or grant, the Contractor shall complete and submit Standard Form LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions. (3.) The Contractor shall require that the language of this certification be included in the award documents for all subcontracts at all tiers and that all subcontractors shall certify and disclose accordingly. This assurance is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of the assurance and certification is a prerequisite for making or entering into this transaction, as imposed by 31 U.S.C. § 1352 (as amended by the Lobbying Disclosure Act of 1995). Any person who makes a prohibited expenditure or fails to file or amend a required certification or disclosure form shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each expenditure or failure.

**14. Assignment of Contract by City:**

At any time during the continuance of the agreement, the City shall have the right to sell, assign and transfer the contract or all or part of the specified deliverables under the contract both the base and/or the option quantities with all its right, title, and interest therein, to any person, firm, or corporation that succeeds it as a common carrier and the assignee thereof shall acquire all the rights and licenses granted to the City and shall be subject to any obligations that the City may have under the contract and any rights and restrictions the City may have under the license(s).

**15. Sensitive Security Information:**

Contractor must protect, and take measures to ensure that its subcontractors at each tier protect "sensitive security information" made available during the administration of this contract or any subcontract to ensure compliance with 49 U.S.C. Section 40119(b) and implementing DOT regulations, "Protection of Sensitive Security Information," 49 CFR Part 15, and with 49 U.S.C. Section 114(r) and implementing Department of Homeland Security regulations, "Protection of Sensitive Security Information," 49 CFR Part 1520.

**16. Seat Belt Use:**

In compliance with Federal Executive Order No. 13043, "Increasing Seat Belt Use in the United States," April 16, 1997, 24 U.S.C. Section 402 note, FTA encourages Contractor to adopt and promote on-the-job seat belt use policies and programs for its employees and other personnel that operate company owned, rented, or personally operated vehicles, and to include this provision in any third party subcontracts, involving the projects.

**17. Distracted Driving, Including Text Messaging While Driving:**

In accordance with Executive Order No. 13513, "Federal Leadership on Reducing Text Messaging While Driving," October 1, 2009, and DOT Order 3902.10, "Text Messaging While Driving," December 30, 2009, the Recipient is encouraged to comply with the terms of the following Special Provision:

(1) Definitions. As used in this Special Provision:

(a) "Driving" means operating a motor vehicle on a roadway, including while temporarily stationary because of traffic, a traffic light, stop sign, or otherwise. "Driving" does not include being in your vehicle (with or without the motor running) in a location off the roadway where it is safe and legal to remain stationary.

(b) "Text Messaging" means reading from or entering data into any handheld or other electronic device, including for the purpose of short message service texting, e-mailing, instant messaging, obtaining navigational information, or engaging in any other form of electronic data retrieval or electronic data communication. The term does not include the use of a cell phone or other electronic device for the limited purpose of entering a telephone number to make an outgoing call or answer an incoming call, unless the practice is prohibited by State or local law.

(2) Safety. The Recipient is encouraged to:

(a) Adopt and enforce workplace safety policies to decrease crashes caused by distracted drivers including policies to ban text messaging while driving—

(b) Recipient-owned or Recipient-rented vehicles or Government-owned, leased or rented vehicles;

(c) Privately-owned vehicles when on official Project related business or when performing any work for or on behalf of the Project; or

(d) Any vehicle, on or off duty, and using an employer supplied electronic device.

(3) Recipient Size. The Recipient is encouraged to conduct workplace safety initiatives in a manner commensurate with the Recipient's size, such as:

(a) Establishment of new rules and programs or re-evaluation of existing programs to prohibit text messaging while driving; and

(b) Education, awareness, and other outreach to employees about the safety risks associated with texting while driving.

(4) Extension of Provision. The Recipient is encouraged to include this Special Provision in its subagreements with its subrecipients, its leases, and its third party contracts, and also encourage its subrecipients, lessees, and third party contractors to comply with the terms of this Special Provision, and include this Special Condition in each subagreement, lease, and third party contract at each tier financed with Federal assistance provided by the Federal Government.

#### **18. CONTRACT WORK HOURS AND SAFETY STANDARDS ACT**

The Contractor agrees to comply with and shall assure compliance of all subcontractors with applicable employee protection requirements for non-construction employees of section 102 of the Contract Work Hours and Safety Standards Act, as amended, 40 U.S.C. §§ 3701 et seq, and implementing USDOL regulations, Labor Standards Provisions Applicable to Contracts Governing Federally Financed and Assisted Construction (also Labor Standards Provisions Applicable to Nonconstruction Contracts Subject to the Contract Work Hours and Safety Standards Act), 29 C.F.R. Part 5.

a. Overtime requirements. No Contractor or subcontractor contracting for any part of the Contract Work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.

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

c. Withholding for unpaid wages and liquidated damages. The Procuring Agency shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the Contractor or subcontractor under any such contract or any other Federal contract with the same prime Contractor, or any other federally-assisted contract subject to the Act, which is held by the same prime Contractor, such sums as may be determined to be necessary to satisfy any liabilities of such Contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (b) of this section.

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

e. Payrolls and basic records. (i) Payrolls and basic records relating thereto shall be maintained by the Contractor during the course of the work and preserved for a period of three years thereafter for all laborers and mechanics working at the site of the work (or under the United States Housing Act of 1937, or under the Housing Act of 1949, in the construction or development of the project). Such records shall contain the name, address, and social security number of each such worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in section 1(b)(2)(B) of the Davis-Bacon Act), daily and weekly number of hours worked, deductions made and actual wages paid. Whenever the Secretary of Labor has found under 29 CFR 5.5(a)(1)(iv) that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in section 1(b)(2)(B) of the Davis-Bacon Act, the Contractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits. Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs.

## **19. CARGO PREFERENCE**

The Contractor agrees:

To utilize privately owned United States-flag commercial vessels to ship at least 50 (fifty) percent of the gross tonnage (computed separately for dry bulk carriers, dry cargo liners, and tankers) involved, whenever shipping any equipment, material, or commodities pursuant to this Contract, to the extent such vessels are available at fair and reasonable rates for United States-flag commercial vessels.

To furnish within 20 (twenty) working days following the date of loading for shipments originating within the United States, or within 30 (thirty) working days following the date of loading for shipments originating outside the United States, a legible copy of a rated, "on-board" commercial ocean bill-of-lading in English for each shipment of cargo described in the preceding paragraph to the Division of National Cargo and Compliance, Maritime Administration, Washington, DC 20590 and to the Procuring Agency (through the Contractor in the case of a subcontractor's bill-of-lading.)

To include these requirements in all subcontracts issued pursuant to this contract when the subcontract may involve the transport of equipment, material, or commodities by ocean vessel.

## **20. FLY AMERICA**

The Contractor shall comply with 49 U.S.C. 40118, which provide that Federal funds may not be used in the costs of international air transportation of any persons involved in or property acquired for this contract unless that air transportation is provided by U.S.-flag air carriers to the extent service by these carriers is available, in accordance with the International Air Transportation Fair Competitive Practices Act of 1974, as amended, 49 U.S.C. 40118, and with U.S. General Services Administration (U.S. GSA) regulations pertaining to the use of United States flag air carriers, at 41 C.F.R. 301-10.131 et seq.



The Contractor shall submit, if a foreign air carrier was used, an appropriate certification or memorandum adequately explaining why service by a U.S. flag air carrier was not available or why it was necessary to use a foreign air carrier and shall, in any event, provide a certificate of compliance with the Fly America requirements.

The Contractor shall include these requirements in all subcontracts issued pursuant to this contract when the subcontract may involve the transport of property or persons by air between the United States and foreign destinations or between foreign destinations.

## **21. BUY AMERICA DOCUMENTATION**

The Offeror and selected Contractor shall comply with 49 U.S.C. 5323(j) and 49 CFR Part 661, which provide that Federal funds may not be obligated unless steel, iron, and manufactured products used in FTA-funded projects are produced in the United States, unless a waiver has been granted by FTA or the product is subject to a general waiver. General waivers are listed in 49 CFR 661.7.

A general public interest waiver from the Buy America requirements applies to microprocessors, computers, microcomputers, software or other such devices, which are used solely for the purpose of processing or storing data, and small purchases (currently less than \$150,000) made with capital, operating or planning funds. This general waiver does not extend to a product or device that merely contains a microprocessor or microcomputer and is not used solely for the purpose of processing or storing data. Separate requirements for rolling stock are set out at 5323(j)(2)(C) and 49 CFR 661.11. Rolling stock not subject to a general waiver must be manufactured in the United States and have a 65 percent domestic content.

An Offeror and selected Contractor shall submit to the Procuring Agency the appropriate Buy America certification with its response as described more fully below, except those subject to a general waiver. A proposal that is not accompanied by a completed Buy America certification will be rejected as non-responsive. This requirement does not apply to lower tier subcontractors.

## **22. Davis-Bacon Act and Related Act Requirements**

**22.1 Minimum Wages:** During the performance of all construction contracts in excess of \$2,000, the Contractor agrees to comply with all applicable provisions of the Davis-Bacon Act (29 C.F.R. Part 5) as quoted here in Section 19.01.

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

Contributions made or costs reasonably anticipated for bona fide fringe benefits under Section 1(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of 29 C.F.R. Part 5.5 (a)(1)(iv); also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period. Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination for the

classification of work actually performed, without regard to skill, except as provided in 29 C.F.R. Part 5.5 (a)(4), laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein: Provided, That the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classification and wage rates conformed under 29 C.F.R. Part 5.5 (a)(1)(ii) of this section) and the Davis-Bacon poster (WH-1321) shall be posted at all times by the contractor and its subcontractors at the site of the work in a prominent and accessible place where it can be easily seen by the workers.

"(b)(1) The contracting officer shall require that any class of laborers or mechanics which is not listed in the wage determination and which is to be employed under the contract shall be classified in conformance with the wage determination. The contracting officer shall approve an additional classification and wage rate and fringe benefits therefor only when the following criteria have been met:

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

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

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

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

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

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

"(4) The wage rate (including fringe benefits where appropriate) determined pursuant to 29 C.F.R. Part 5.5 (a)(i)(1)(B) or 29 C.F.R. Part 5.5 (a)(i)(1)(C), shall be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification.

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

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

(e)(1) The contracting officer shall require that any class of laborers or mechanics which is not listed in the wage determination and which is to be employed under the contract shall be classified in conformance with the wage determination. The contracting officer shall approve an additional classification and wage rate and fringe benefits therefor only when the following criteria have been met:

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

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

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

(e)(2) If the contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and the contracting officer agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken shall be sent by the contracting officer to the Administrator of the Wage and Hour Division, Employment Standards Administration, Washington, DC 20210. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

(e)(3) In the event the contractor, the laborers or mechanics to be employed in the classification or their representatives, and the contracting officer do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), the contracting officer shall refer the questions, including the views of all interested parties and the recommendation of the contracting officer, to the Administrator for determination. The Administrator, or an authorized representative, will issue a determination with 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

(e)(4) The wage rate (including fringe benefits where appropriate) determined pursuant to paragraphs (a)(1)(v) (B) or (C) of this section, shall be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification.

**22.2 Withholding:** The City of Madison shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld from the Contractor under this contract or any other Federal contract with the same prime Contractor, or any other Federally-assisted contract subject to Davis-Bacon prevailing wage requirements, which is held by the same prime Contractor, so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices, trainees, and helpers, employed by the Contractor or any subcontractor the full amount of wages required by the contract. In the event of failure to pay any laborer or mechanic, including any apprentice, trainee, or helper, employed or working on the site of the work (or under the United States Housing Act of 1937 or under the Housing Act of 1949 in the construction or development of the project), all or part of the wages required by the contract, the City of Madison may, after written

notice to the contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased.

**22.3 Payrolls and Basic Records:** (a) Payrolls and basic records relating thereto shall be maintained by the Contractor during the course of the work and preserved for a period of three years thereafter for all laborers and mechanics working at the site of the work (or under the United States Housing Act of 1937, or under the Housing Act of 1949, in the construction or development of the project). Such records shall contain the name, address, and social security number of each such worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in Section 1(b)(2)(B) of the Davis-Bacon Act), daily and weekly number of hours worked, deductions made and actual wages paid. Whenever the Secretary of Labor has found under 29 C.F.R. Part 5.5(a)(1)(iv) that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in section 1(b)(2)(B) of the Davis-Bacon Act, the Contractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits. Contractors employing apprentices or trainees under the approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs.

(b)(1) The contractor shall submit weekly for each week in which any contract work is performed a copy of all payrolls to the City of Madison for the transmission to USDOT/FTA. The payrolls submitted shall set out accurately and completely all of the information required to be maintained under 29 C.F.R. Part 5.5(a)(3)(i). This information may be submitted in any form desired. Optional Form WH-347 is available for this purpose and may be purchased from the Superintendent of Documents (Federal Stock Number 029-005-00014-1), U.S. Government Printing Office, Washington, DC 20402. The prime contractor is responsible for the submission of copies of payrolls by all subcontractors.

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

(a) That the payroll for the payroll period contains the information required to be maintained under 29 C.F.R. Part 5 and that such information is correct and complete;

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

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

(3) The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH-347 shall satisfy the requirement for submission of the "Statement of Compliance" required by 29 C.F.R. Part 5.5(a)(3)(ii)(B).

(4) The falsification of any above certifications may subject the Contractor or subcontractor to civil or criminal prosecution under 18 U.S.C. Part 1001 and 31 U.S.C. Part 231.

(c) The Contractor or subcontractor shall make the records required under 29 C.F.R. Part 5.5(a)(3)(i) available for inspection, copying, or transcription by authorized representatives of the City, USDOT/FTA, or the Department of Labor, and shall permit such representatives to interview employees during working hours on the job. If the Contractor or subcontractor fails to submit the required records or to make them available, USDOT/FTA may, after written notice to the Contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payments, advance or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment action pursuant to 29 C.F.R. Part 5.12.

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

(b) Trainees. Except as provided in 29 C.F.R. Part 5.16, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification the U.S. Department of Labor, Employment and Training Administration. The ratio of trainees to journeymen on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration. Every trainee must be paid at not less than the rate specified in the approved program for the trainee's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. The trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed on the wage determination unless the Administrator of the Wage and Hour

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

(c) **Equal Employment Opportunity.** The utilization of apprentices, trainees and journeymen under this part shall be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended, and 29 C.F.R. Part 30.

**22.5 Compliance with Copeland Act Requirements:** The Contractor shall comply with the requirements of 29 C.F.R. Part 3, which are incorporated herein by reference.

**22.6 Contract Termination: Debarment:** A breach of the contract clauses in 29 C.F.R. Part 5.5 may be grounds for termination of the contract, and for debarment as a Contractor and a subcontractor as provided in 29 C.F.R. Part 5.12.

**22.7 Compliance with Davis-Bacon and Related Act Requirements:** All rulings and interpretations of the Davis-Bacon and Related Acts contained in 29 C.F.R. Parts 1, 3, and 5 are incorporated herein by reference.

**22.8 Disputes Concerning Labor Standards:** Disputes arising out of the labor standards provisions of this contract shall not be subject to the general disputes clause of this contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 C.F.R. Parts 5, 6, and 7. Disputes within the meaning of this clause include disputes between the Contractor (or any of its subcontractors) and the City of Madison, the U.S. Department of Labor, or the employees or their representatives.

**22.9 Certification of Eligibility:** (a) By entering into this contract or a third-party contract financed under this contract, the Contractor certifies that neither it (nor he nor she) nor any person or firm that has an interest in the Contractor's firm is a person or firm ineligible to be awarded government contracts by virtue of Section 3(a) of the Davis-Bacon Act or 29 C.F.R. Part 5.12(a)(1).

(b) No part of this contract shall be subcontracted to any person or firm ineligible for award of a government contract by virtue of Section 3(a) of the Davis-Bacon Act or 29 C.F.R. Part 5.12(a)(1).

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

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

### **23. Copeland Anti-Kickback Act**

3.1 of the Copeland Act makes it clear that the purpose of the Act is to assist in "the enforcement of the minimum wage provisions of the Davis- Bacon Act." In keeping with this intent DOL has included a section on the Copeland Act in the mandatory language of the Davis-Bacon provisions. The language can be found at 29 CFR§ 5.5(a)(5) of the Davis-Bacon model clauses.

#### 24. Breaches and Dispute Resolution

Disputes arising in the performance of this Contract which are not resolved by agreement of the parties shall be decided in writing by the Transit General Manager. This decision shall be final and conclusive unless within ten (10) calendar days from date of receipt of its copy, the Selected Contractor mails or otherwise furnishes a written appeal to the City of Madison Finance Director. At a minimum, the challenge shall include the name and address of the Selected Contractor; the telephone and FAX numbers of the Selected Contractor; the action which is the subject of the dispute; the reason for the dispute; and a statement of the remedy sought. The letter should include all information available to the Selected Contractor relevant to the appeal. The challenge should be specific. A dispute will not be considered by the City Comptroller if it is insufficiently supported or if it is not received within the specified time limits. The decision of the City Comptroller shall be binding upon the Selected Contractor and the Selected Contractor shall abide by the decision. In the letter outlining the decision, the City Comptroller shall respond to each material issue raised in the appeal. This section is an administrative dispute resolution mechanism. It is not intended to deprive either party of its rights or remedies under Section 20 Choice of Law and Forum Selection of the Contract for Purchase of Services.

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

#### **25. Termination**

**Termination for Default** – The City may, by written notice of default to the Contractor, terminate the whole or any part of this Contract if the Contractor fails to make delivery of the supplies and/or work including, but not limited to buses and articles, parts and any other components provided for under this contract, or to perform the services within the time specified herein or any extension thereof; or if the Contractor fails to perform any of the other provisions of the Contract, or so fails to make progress as to endanger performance of this Contract in accordance with its terms, and in either of these two circumstances does not cure such failure within a period of 10 (ten) calendar days (or such longer period as the City may authorize in writing) after receipt of notice from the City specifying such failure.

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

If the Contract is terminated in whole or in part for default, the City may procure, upon such terms and in such manner as the City may deem appropriate, including all articles supplies or services similar to those so terminated. The Contractor shall be liable to the City for any excess costs for such similar buses including all articles, supplies or services, and shall continue the performance of this Contract to the extent not terminated under the provisions of this clause. Except with respect to defaults of subcontractors, the Contractor shall not be liable for any excess costs if the failure to perform the Contract arises out of causes beyond the control and without the fault or negligence of the Contractor. If the failure to perform is caused by the default of a subcontractor, and if such default arises out of causes beyond the control of both the Contractor and subcontractor, and without the fault or negligence of either of them, the Contractor shall not be liable for any excess costs for failure to perform, unless the buses including all articles, supplies or services to be furnished by the subcontractor were obtainable from other sources in sufficient time to permit the Contractor to meet the required delivery or performance schedule.

Payment for completed work and buses including all articles delivered to and accepted by the City shall be at the Contract price. The City may withhold from amounts otherwise due the Contractor for such completed work and buses including all articles such sum as the City determines to be necessary to protect the City against loss because of outstanding liens or claims of former lien holders.

If, after notice of termination of this Contract under the provisions of this clause, it is determined for any reason that the Contractor was not in default under the provisions of this clause, or that the default was excusable under the provisions of this clause, the rights and obligations of the parties shall be the same as if the notice of termination had been issued pursuant to termination for convenience of the City.

The rights and remedies of the City provided in this clause shall not be exclusive and are in addition to any other rights and remedies provided by law or under this Contract.

**Termination for Convenience** - The performance of work under this Contract may be terminated at any time upon seven (7)-calendar days written notice to the Contractor, by the City in accordance with this clause in whole, or from time to time in part, whenever the City shall determine that such termination is in the best interest of the City. Any such termination shall be effected by delivery to the Contractor of a notice of termination specifying the extent to which performance of work under the Contract is terminated, and the date upon which such termination becomes effective.

After receipt of a notice of termination, and except as otherwise directed by the City, the Contractor shall: stop work under the Contract on the date and to the extent specified in the notice of termination; place no further orders or subcontracts for materials, services, or facilities, except as may be necessary for completion of such portion of the work under the Contract as is not terminated; terminate all orders and subcontracts to the extent that they relate to the performance of work terminated by the notice of termination; assign to the City in the manner, at the times, and to the extent directed by the City, all of the right, title, and interest of the Contractor under the orders and subcontracts so terminated, in which case the City shall have the right, in its discretion, to settle or pay and or all claims arising out of the termination of such orders and subcontracts; settle all outstanding liabilities and all claims arising out of such termination of orders and subcontracts, with the approval or ratification of the City, to the extent it may require, which approval or ratification shall be final for all the purposes of this clause; transfer title to the City and deliver in the manner, at the times, and to the extent, if any, directed by the City the fabricated or unfabricated parts, work in process, completed work, supplies, and other material produced as part of, or acquired in connection with the performance of, the work terminated, and the completed or partially completed plans, drawings, information and other property which, if the Contract had been completed, would have been required to be furnished to the City; use its best efforts to sell, in the manner, at the times, to the extent, and at the price(s) directed or authorized by the City, any property of the types referred to above, provided, however, that the Contractor shall not be required to extend credit to any purchaser, and may acquire any such property under the conditions prescribed by and at a price(s) approved by the City, and provided further, that the proceeds of any such transfer or disposition shall be applied in reduction of any payments to be made by the City to the Contractor under this Contract or shall otherwise be credited to the price or cost of the work covered by this Contract or paid in such other manner as the City may direct; complete performance of such part of the work as shall not have been terminated by the notice of termination; and take such action as may be necessary, or as the City may direct, for the protection or preservation of the property related to this Contract which is in the possession of the Contractor and in which the City has or may acquire an interest.



The Contractor shall promptly submit its claim for payment to the City to be paid to the Contractor. Settlement of claims by the Contractor under this termination for convenience clause shall be in accordance with the provisions set forth in 48 C.F.R. Part 31.2 except that wherever the word "Government" appears it shall be deleted and the word "the City" shall be substituted in lieu thereof.

**26. Privacy Act:**

(1) The Contractor agrees to comply with, and assures the compliance of its employees with, the information restrictions and other applicable requirements of the Privacy Act of 1974, 5 U.S.C. § 552a. Among other things, the Contractor agrees to obtain the express consent of the Federal Government before the Contractor or its employees operate a system of records on behalf of the Federal Government. The Contractor understands that the requirements of the Privacy Act, including the civil and criminal penalties for violation of that Act, apply to those individuals involved, and that failure to comply with the terms of the Privacy Act may result in termination of the underlying contract.

(2) The Contractor also agrees to include these requirements in each subcontract to administer any system of records on behalf of the Federal Government financed in whole or in part with Federal assistance provided by FTA.

**27. Seismic Safety:**

The Contractor agrees that any new building or addition to an existing building will be designed and constructed in accordance with the standards for Seismic Safety required in Department of Transportation Seismic Safety Regulations 49 CFR Part 41 and will certify to compliance to the extent required by the regulation. The contractor also agrees to ensure that all work performed under this Contract including work performed by a subcontractor is in compliance with the standards required by the Seismic Safety Regulations and the certification of compliance issued on the project

**FTA & LOCAL CERTIFICATIONS**

**The following Certifications and forms must be submitted in a separate sealed envelope marked "Envelope No. 2-- Certifications."**

**1. AFFIDAVIT AND INFORMATION REQUIRED OF PROPOSERS -(Include in all bids)**

I hereby declare and affirm under the penalty for perjury:

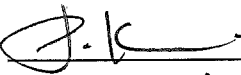
A. That I am the Proposer (if the Proposer is an individual), a partner in the Proposal (if the Proposer is a partnership), or an officer or employee of the proposing corporation (if the Proposer is a corporation or limited liability company);

B. That the attached Proposal(s) have been arrived at by the Proposer independently and have been submitted without collusion or sham [fraud] and without any agreement, understanding, or planned common course of action with any other vendor of materials, supplies, equipment, or services described in the request for proposals, designed to limit independent proposing or competition;

C. That the contents of the Proposal(s) have not been communicated, directly or indirectly, by the Proposer or its employees or agents to any person not an employee or agent of the Proposer or

its surety or any bond furnished with the Proposal(s), and will not be communicated to any such person prior to the official opening of the proposal(s); and

D. That I have fully informed myself regarding the accuracy of the statements made in the affidavit.

SIGNATURE   
NAME Pam Kernick  
TITLE President  
FIRM NAME Maly Roofing Company, Inc.  
DATE 12/14/17

**2. OVERALL FEDERAL REGULATION COMPLIANCE**

All contractual provisions required by USDOT/FTA, as set forth in USDOT/FTA Circular 4220.1F, as amended, and outlined in "USDOT/FTA Terms and Conditions", are hereby incorporated by reference. Anything to the contrary herein notwithstanding, all USDOT/FTA mandated terms shall be deemed to control in the event of a conflict with other provisions contained in the Contract with the successful Proposer. The successful Proposer shall not perform any act, fail to perform any act, or refuse to comply with any City of Madison requests which would cause the City of Madison to be in violation of USDOT/FTA or Wisconsin Department of Transportation grant terms and conditions. The successful Proposer shall ensure that any proposed subcontractors have been determined to meet the same standards of responsibility applicable to the prime contractor.

SIGNATURE P. K.

NAME Pam Keiner

TITLE President

FIRM NAME Maly Roofing Company, Inc

DATE 12/14/17

**3. COMPLIANCE WITH SPECIFICATIONS/SCOPE OF WORK -(Include in all bids)**

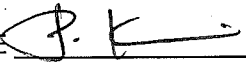
The Proposer hereby certifies that it will comply with the specifications/scope of work issued by the City of Madison, WI.

**The Proposer warrants and certifies that of the following three paragraphs, paragraph A or B or C is true (check one ONLY):**

A. \_\_\_ The Proposer hereby states that it will comply with the specifications/scope of work in all areas. (This means that there are no exceptions to the City's specifications/scope of work, no matter how minor. If you have any doubts, check paragraph C or call the Procuring Agency, for assistance.)

B.  The Proposer hereby states that it will comply with the specifications/scope of work in all areas except those where requests for clarification were approved by the City prior to Proposal submission.

C. \_\_\_ The Proposer hereby states that it will comply with the specifications/scope of work in all areas except those noted in its response as not being granted by the City in the requests for clarification process. The Proposer understands that those exceptions to the specifications/scope of work may be considered not responsive and may be rejected by the City.

SIGNATURE 

NAME Pam Keiner

TITLE President

FIRM NAME Maly Roofing Company, Inc.

DATE 12/14/17

#### **4. DEBARMENT AND SUSPENSION CERTIFICATION (LOWER TIER COVERED TRANSACTION) (Only Proposals Exceeding \$25,000)**

Instructions for Certification:

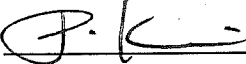
1. By signing and submitting this Offer or proposal, the prospective lower tier participant is providing the signed certification set out below.
2. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.
3. The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
4. The terms "covered transaction," "debarred," "suspended," "ineligible," "lower tier covered transaction," "participant," "person," "primary covered transaction," "principal," "proposal," and "voluntarily excluded," as used in this clause, have the meanings set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations.
5. The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by in writing by the department or agency with which this transaction originated.
6. The prospective lower tier participant further agrees by submitting this proposal that it will include this clause titled "Certification regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Covered Transaction", without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.
7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant agrees to review the "Excluded Parties Listing System" at <http://www.sam.gov>, before entering into any third party contract or subagreement.
8. Nothing contained in the foregoing shall be construed to require establishment of system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
9. Except for transactions authorized under Paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies including suspension and/or debarment.

The prospective lower tier participant certifies, by submission of this Proposal that neither it nor its "principals" as defined in 2. C.F.R. § 180.995 is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.

Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective lower tier participant shall attach an explanation to this proposal, and indicate that it has done so, by placing an X in the following space: \_\_\_\_\_

Furthermore, the prospective lower tier participant certifies that it will provide immediate written notice to the Procuring Agency if, at any time during the course of the proposed Offer, it learns that this certification was erroneous when submitted or has been erroneous by reason of changed circumstances.

**THE SUBCONTRACTOR OR LOWER-TIER PARTICIPANT, CERTIFIES OR AFFIRMS THE TRUTHFULNESS AND ACCURACY OF EACH STATEMENT OF ITS CERTIFICATION AND EXPLANATION, IF ANY. IN ADDITION, THE PROPOSER OR OFFEROR UNDERSTANDS AND AGREES THAT THE PROVISIONS OF 31 U.S.C. §§ 3801 ET SEQ. APPLY TO THIS CERTIFICATION AND EXPLANATION, IF ANY.**

SIGNATURE   
NAME Pam Keiner  
TITLE President  
FIRM NAME Maly Roofing Company, Inc.  
DATE 12/14/17

**5. DEBARMENT AND SUSPENSION CERTIFICATION - PRIMARY  
(Only Proposals Exceeding \$25,000)**

Instructions for Certification:

1. By signing and submitting this Offer or proposal, the prospective primary participant is providing the signed certification set out below.
2. The inability of a person to provide the certification required below will not necessarily result in denial of participation in this covered transaction. The prospective participant shall submit an explanation of why it cannot provide the certification set out below. The certification or explanation will be considered in connection with the department or agency's determination whether to enter into this transaction. However, failure of the prospective primary participant to furnish a certification shall disqualify such person from participation in this transaction.
3. The certification in this clause is a material representation of fact upon which reliance was placed when the department or agency determined to enter into this. If it is later determined that the prospective primary participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause or default.
4. The prospective primary participant shall provide immediate written notice to the department or agency to which this proposal is submitted if at any time the prospective primary participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
5. The terms "covered transaction," "debarred," "suspended," "ineligible," "lower tier covered transaction," "participant," "person," "primary covered transaction," "principal," "proposal," and "voluntarily excluded," as used in this clause, have the meanings set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact the department or agency to which this proposal is submitted for assistance in obtaining a copy of those regulations.
6. The prospective primary participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by in writing by the department or agency entering into this transactions.
7. The prospective primary participant further agrees by submitting this proposal that it will include this clause titled "Certification regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Covered Transaction", provided by the department or agency entering into this covered transaction, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.
8. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant agrees to review the "Excluded Parties Listing System" at <http://www.sam.gov>, before entering into any third party contract or subagreement.
9. Nothing contained in the foregoing shall be construed to require establishment of system of records in order to render in good faith the certification required by this clause. The knowledge

and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

10. Except for transactions authorized under Paragraph 6 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause or default.

The prospective primary participant certifies, by submission of this Proposal, to the best of its knowledge and belief, that neither it nor its "principals," as defined in 2. C.F.R. Part 180.995:

Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;

Have not within a three-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property.

Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph (2) of this certification.

Have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State, local) terminated for cause or default.

If the prospective primary participant is unable to certify to any of the statements in this certification, such prospective primary participant shall attach an explanation to this proposal, and indicate that it has done so, by placing an "X" in the following space: \_\_\_\_.

Furthermore, the Offeror certifies that it will provide immediate written notice to the Procuring Agency if, at any time during the course of the proposed contract, it learns that this certification was erroneous when submitted or has been erroneous by reason of changed circumstances.

**THE PROPOSER OR OFFEROR, CERTIFIES OR AFFIRMS THE TRUTHFULNESS AND ACCURACY OF EACH STATEMENT OF ITS CERTIFICATION AND EXPLANATION, IF ANY. IN ADDITION, THE PROPOSER OR OFFEROR UNDERSTANDS AND AGREES THAT THE PROVISIONS OF 31 U.S.C. §§ 3801 ET SEQ. APPLY TO THIS CERTIFICATION AND EXPLANATION, IF ANY.**

SIGNATURE *P. K.*  
NAME *Pam Kewer*  
TITLE *President*  
FIRM NAME *Maly Roofing Company*  
DATE *12/14/17*



**6. LOBBYING CERTIFICATION (Only Proposals Exceeding \$100,000)**

As required by U.S.DOT regulations, "New Restrictions on Lobbying" at 49 CFR 20.110, the undersigned [Offeror] certifies, to the best of his or her knowledge and belief, that:

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

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for making lobbying contacts to an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form--LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions [as amended by "Government wide Guidance for New Restrictions on Lobbying," 61 Fed. Reg. 1413 (1/19/96)].

(3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients 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 31, U.S.C. § 1352. 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.

**THE BIDDER OR OFFEROR, Pam Keiner, CERTIFIES OR AFFIRMS THE TRUTHFULNESS AND ACCURACY OF EACH STATEMENT OF ITS CERTIFICATION AND DISCLOSURE, IF ANY. IN ADDITION, THE BIDDER OR OFFEROR UNDERSTANDS AND AGREES THAT THE PROVISIONS OF 31 U.S.C. §§ 3801 ET SEQ. APPLY TO THIS CERTIFICATION AND DISCLOSURE, IF ANY.**

Signature: 

Name & Title: Pam Keiner, President

Company Name: Maly Roofing Company, Inc.

Date: 12/14/17

**7. DBE APPROVAL CERTIFICATION**

The Proposer hereby certifies that it will not discriminate on the basis of race, color, national origin, religion, sex, age or disability in awarding a subcontract, and that it will take reasonable and necessary steps to ensure that Disadvantaged Business Enterprises as defined in 49 CFR Part 26, Participation by Disadvantaged Business Enterprises in DOT Financial Assistance Programs, including 49 CFR 26.13, will have the opportunity to participate in the performance of this Proposal. Furthermore, the Proposer certifies that its goals have not been disapproved by the Federal Transit Administration.

SIGNATURE P. Keiner  
NAME Pam Keiner  
TITLE President  
FIRM NAME Mahy Roofing Company, Inc.  
DATE 12/14/17

**8. COMPLIANCE WITH LOCAL AFFIRMATIVE ACTION ORDINANCE**

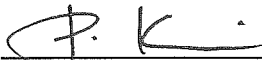
The Bidder/Offeror hereby certifies that it will comply with all provisions of the Affirmative Action Ordinance of the Procuring Agency including contract compliance requirements. **The Bidder/Offeror warrants and certifies that, of the following three paragraphs, paragraph A or B or C, is true (check one ONLY), Check Paragraph D if applicable:**

A.  It has prepared and has on file with the City of Madison's Department of Civil Rights an Affirmative Action Plan that meets the formal requirements of Federal Revised Order No. 4, 41 C.F.R. Part 60.2, as established by 43 FR 51400, November 3, 1978, including appendices required by the City of Madison ordinances or it has prepared and has on file a model Affirmative Action Plan approved by the Madison Common Council. (Please note that **Affirmative Action plans must be updated annually** with the Department of Civil Rights.)

B.  Within thirty (30) days after the effective date of this contract, it will complete an Affirmative Action Plan that meets the format requirements of Federal Revised Order No. 4, 41 C.F.R. Part 60.2, as established by 43 FR 51400, November 3, 1978, including appendices required by the City of Madison ordinance or within thirty (30) days after the effective date of this contract, it will complete a model Affirmative Action Plan approved by the Madison Common Council.

C.  The Bidder/Offeror is exempt from filing an Affirmative Action Plan as he or she has fewer than fifteen (15) employees. Within thirty (30) days after contract award, the offeror will file with the Department of Civil Rights an Employer Information Report form to document his or her exempt status.

D.  The Bidder/Offeror understands that if Offeror is found by Procuring Agencies Department of Civil Rights to be nonexempt, Paragraph B applies.

SIGNATURE   
NAME Pam Keiner  
TITLE President  
FIRM NAME Maly Roofing Company  
DATE 12/14/17

**9. DBE VENDOR SURVEY (To be completed by prime and all sub-contractors whether DBE or not)**

The United States Department of Transportation (USDOT) has issued new rules to restructure the Disadvantaged Business Enterprise Program so it complies with Court orders. These new rules at 49 C.F.R. Part 26.11 require transit properties to obtain the following information from all current, past and potential Proposers. Here "potential Proposer" is defined as one seeking or has sought to do business with us.

A. PROPOSING COMPANY NAME Maly Roofing Company, Inc.

Address 4202 Robertson Road

City Madison State WI Zip + 4 53714

B. How long has your firm been in business? 30

C. What are the annual gross receipts of your firm? 600K

D. Are you a D.B.E.? Yes  No

E. If yes, is your personal net worth greater than \$750,000? Yes  No

F. If you want USDOT and the City of Madison to treat this information as proprietary you must place an "X" in the following space:  If done, then USDOT and the City will view this information as proprietary. It will therefore be protected under the Federal Freedom of Information Act, which pre-empts state and local laws, if any, which may allow this information to be otherwise released.

SIGNATURE J. K.

NAME Pam Kernier

TITLE President

FIRM NAME Maly Roofing Company

DATE 12/14/17

10. VENDOR DATA SHEET

A. LIST THE PERSON THE CITY CAN CONTACT IF THERE ARE QUESTIONS ABOUT YOUR PROPOSAL.

Name Terry Theis  
Address same as B  
City \_\_\_\_\_ State \_\_\_\_\_ Zip + 4 \_\_\_\_\_  
Phone \_\_\_\_\_ FAX \_\_\_\_\_ E-mail terryt@malyroofing.com

B. LIST THE PERSON RESPONSIBLE FOR REQUIRED AFFIRMATIVE ACTION INFORMATION.

Name Pam Kemere  
Address 4202 Robertson  
City Madison State WI Zip + 4 53714  
Phone 608-249-7663 FAX 608 249 7555 E-mail pamk@malyroofing.com

C. LIST THE PERSON RESPONSIBLE FOR INVOICES & PREVAILING WAGE DOCUMENTATION.

Name Marsha Kai  
Address same as B  
City \_\_\_\_\_ State \_\_\_\_\_ Zip + 4 \_\_\_\_\_  
Phone \_\_\_\_\_ FAX \_\_\_\_\_ E-mail acct@malyroofing.com

D. LIST THE PERSON RESPONSIBLE FOR THE MONTHLY PROGRESS REPORTS, if required.

Name Julie Kowalke  
Address same as B  
City \_\_\_\_\_ State \_\_\_\_\_ Zip + 4 \_\_\_\_\_  
Phone \_\_\_\_\_ FAX \_\_\_\_\_ E-mail juliek@malyroofing.com

**11. BUY AMERICA CERTIFICATION (Steel or Manufactured Products, except Rolling Stock)**

**NOTE: Only fill in one (1) of the following Buy America Certification forms.**

**Certificate of Compliance**

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

Signature: PK

Name & Title: Pam Keiner

Company Name: Maly Roofing Company, Inc

Date: 12/14/17

**Certificate of Non-Compliance**

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

Signature: \_\_\_\_\_

Name & Title: \_\_\_\_\_

Company Name: \_\_\_\_\_

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

If Applicable, list the "exemption" qualifications accepted by FTA:

## **SECTION I: PROCUREMENT PROTEST PROCEDURE**

In response to Federal Transit Administration (FTA) Circular 4220.1F, "Third Party Contracting Guidelines," it is Metro Transit's policy to consider all protests or objections regarding the award of a contract, whether submitted before or after award. Furthermore, this procedure shall be included or referenced in all solicitation documents. If referenced, the procedure shall be provided immediately upon request, barring copying restrictions.

### **PROTESTS**

Any protests by an interested party i.e., Offeror or adversely affected sub-contractor; regarding this procurement shall be made in accordance with the procedures listed below. After such administrative remedies have been exhausted, an interested party may file a protest with the Federal Transit Administration (FTA) of the U.S. Department of Transportation pursuant to the procedures provided in FTA C 4220.1F. Allegations of violations of certain federal requirements may require the use of a separate complaint procedure. See, for example, Buy America Requirements, 49 CFR 661 (Section 661.15) and Participation by Disadvantaged Business Enterprise in Department of Transportation Programs, 49 CFR 26 (Section 26.101).

Failure to comply with the procedures, listed below, will render a protest untimely and/or inadequate and shall result in its rejection.

### **PRE-AWARD PROTESTS PROTEST PROCEDURE**

In all cases, the services, equipment, parts, or materials furnished under a contract shall fully comply with the plans, specifications, and scope of services attached to the request for proposals.

All pre-proposal or pre-award protests by interested parties, based upon restrictive or unclear scopes of work, the procurement process, alleged improprieties, or similar situations shall be received by Metro Transit, in writing, at the address listed in the solicitation document. If the protest is made orally, timely written confirmation of the protest shall be required. Any protest must be fully supported with technical data or other pertinent information as evidence. Metro Transit will not consider a protest, if it is insufficiently supported or if Metro Transit does not receive it within the specified time limits.

With respect to any protest considered by Metro Transit, the Project Administrator will respond in detail to each substantive issue raised. This written response will be postmarked or transmitted at least five (5) business days prior to the bid/proposal due date.

### **PRE-AWARD PROTESTS APPEALS PROCEDURE**

An Offeror or an adversely affected subcontractor is eligible to file an appeal from the decision of Metro Transit's Project Administrator. All appeals shall be filed, in writing, not more than five (5) business days from the date of determination, by 4:30 PM local time, with the Transit Service Manager, at 1245 East Washington Ave., Suite 201, Madison, WI 53703 or FAX 608-267-8778. At minimum, the appeal shall include the name and address of the appellant; the telephone and FAX numbers of the appellant; the action, which is the subject of the appeal; the reason for the protest; and a statement of the remedy sought.

With respect to any protest considered by Metro Transit, the Transit Service Manager will respond in detail to each substantive issue raised. Metro Transit's final decision will be postmarked not less than five (5) business days prior to the bid/proposal due date.

### **AWARD PROTEST PROCEDURE**

An Offeror or an adversely affected subcontractor may protest the selected, responsible Offeror designation of any individual or organization by Metro Transit. All protests shall be filed, in writing, within five (5) business days of the bid award, by 4:30 PM local time, with the Transit General Manager, at 1245 East Washington Ave., Suite 201, Madison, WI 53703 or FAX 608-267-8778.

At a minimum, the protest shall include the name and address of the protesting party; the telephone and FAX numbers of the protesting party; the action, which is the subject of the protest; the reason for the protest; and a statement of the remedy sought. The letter should include all information available to the protestor relevant to a determination of whether the protested party is in fact the selected, responsible Offeror. The protest should be specific. Metro Transit will not consider a protest, if it is insufficiently supported or if it is not received within the specified time limits.

The Transit General Manager shall determine, on the basis of information provided by the protestor, whether there is reason to believe that the protested party should not have been awarded the contract.

If the Transit General Manager determines that there is no reason to believe that the protested party should not have been awarded the contract, Metro Transit shall so inform the protestor in writing. In this letter, Metro Transit shall respond, at least generally, to each material issue raised in the protest.

If the Transit General Manager determines that there is reason to believe that the protested party should not have been awarded the contract, Metro Transit shall begin a proceeding to re-evaluate the bid/proposal award.

Metro Transit shall notify all involved or affected Offerors, in writing, that the contract award has been protested. The notice may identify the protesting party and summarize the grounds for protest. The notice shall also require the protested party to provide Metro Transit, within a reasonable period of time, any information necessary to permit Metro Transit to evaluate the protested party's designation as the selected, responsible Offeror.

The Transit General Manager shall evaluate the information available and make a determination. Metro Transit shall notify the parties of this determination in writing, within ten (10) business days of the conclusion of the determination, setting forth the reason for the determination.

In the event the Transit General Manager determines that the protested party should not have been awarded the contract, Metro Transit, at its discretion, may re-evaluate the evaluation process with the remaining Offerors or re-announce the RFP.

#### AWARD PROTEST APPEALS PROCEDURE

Any aggrieved person who was a party to the above award protest, or any person who possesses a direct financial interest in the determination, is eligible to file an appeal.

All appeals should be filed, in writing, within five (5) business days of the date of determination, during normal working hours, with the City Comptroller, City of Madison, 210 Martin Luther King Jr. Blvd., Room 406, Madison, WI. 53710 or FAX 608-267-8705.

At minimum, the appeal shall include the name and address of the appellant; the telephone and FAX numbers of the appellant; the action which is the subject of the appeal; the specific reason for the appeal; a statement of the remedy sought; and a copy of Metro Transit's determination. The City Comptroller will not consider a protest, if it is insufficiently supported or if it is not received within the specified time limits.

Upon receipt of an appeal, the City Comptroller shall fix a place, date, time, and designated officer to investigate the appeal, which shall be within five (5) business days of the date of receipt of the appeal.

The designated officer shall serve notice in writing, by telephone, or by other satisfactory means, to inform the parties of any information needed from them in order to respond to the appeal.

Within ten (10) business days of the conclusion of the review, the City Comptroller shall prepare a factual summary of the review and a final determination. In the report, all material issues raised in the protest shall be addressed in detail. This report shall be delivered to Metro Transit, with copies to the parties. This determination shall be final.



## FTA OVERSIGHT

FTA will only review protests that allege failure of the City of Madison (Metro Transit) to have written protest procedures or failure to follow such procedures, or its failure to review a complaint or protest; or violation of Federal Law or regulations. A protest to the USDOT/FTA must be filed in accordance with FTA Circular 4220.1F., currently in effect or amended time to time.

Alleged violations on other grounds, to the extent that they are justifiable, are under the jurisdictions of the appropriate federal, state or local administrative or judicial authorities. A concurrent copy of the protest must be sent to Madison Metro Transit.

The USDOT/FTA's remedy for City's failure to have written protest procedures or failure to follow such procedure is limited to requiring the City of Madison (Metro Transit) to develop such procedures, if necessary, and to follow such procedures in reviewing the protest at issue if Metro Transit desires USDOT/FTA financial participation in the contract in question.

Appellants shall file a protest with the USDOT/FTA not later than five (5) business days after the appellant knows or has reason to know of the violation.

In general, the protest filed must include the name and address of the appellant; identify Metro Transit, the project (grant) number, and the number of the contract solicitation; contain a statement of the grounds for the protest and any supporting documentation; and a copy of the local protest filed with the City of Madison and a copy of City's decision, if any.

## POST-AWARD PROCEDURE

The City of Madison shall not award a contract for five (5) business days following its decision on a procurement protest or if a protest has been filed with the FTA, during the pendency of that protest, unless Madison Metro Transit has determined that:

1. The items or services to be contracted for are urgently required;
2. Delivery or performance will be unduly delayed by failure to make the award promptly; or
3. Failure to make prompt award will otherwise cause undue harm to the Madison Metro Transit or the Federal Government.

In the event that City of Madison (Metro Transit) determines that the award is to be made during the five (5) business day period following the local protest decision or the pendency of a protest, the project file shall be documented by Metro Transit, explaining the basis for the award. In addition, Metro Transit shall notify the FTA prior to making such an award. Written notice of the decision to proceed with the award shall also be sent to the protester and all other interested or aggrieved parties, including the selected Offeror.



## SECTION J: AGREEMENT

THIS AGREEMENT made this 22 day of JANUARY in the year Two Thousand and Eighteen between MALY ROOFING COMPANY, INC. hereinafter called the Contractor, and the City of Madison, Wisconsin, hereinafter called the City.

WHEREAS, the Common Council of the said City of Madison under the provisions of a resolution adopted JANUARY 16, 2018, and by virtue of authority vested in the said Council, has awarded to the Contractor the work of performing certain construction.

NOW, THEREFORE, the Contractor and the City, for the consideration hereinafter named, agree as follows:

1. **Scope of Work.** The Contractor shall, perform the construction, execution and completion of the following listed complete work or improvement in full compliance with the Plans, Specifications, Standard Specifications, Supplemental Specifications, Special Provisions and contract; perform all items of work covered or stipulated in the proposal; perform all altered or extra work; and shall furnish, unless otherwise provided in the contract, all materials, implements, machinery, equipment, tools, supplies, transportation, and labor necessary to the prosecution and completion of the work or improvements:

### MADISON METRO BUS GARAGE - ROOF REPLACEMENT CONTRACT NO. 8064

2. **Completion Date/Contract Time.** Construction work must begin within seven (7) calendar days after the date appearing on mailed written notice to do so shall have been sent to the Contractor and shall be carried on at a rate so as to secure full completion SEE SPECIAL PROVISIONS, the rate of progress and the time of completion being essential conditions of this Agreement.
3. **Contract Price.** The City shall pay to the Contractor at the times, in the manner and on the conditions set forth in said specifications, the sum of ONE MILLION NINETY-SEVEN THOUSAND SIX HUNDRED TWENTY-SIX AND NO/100 (\$1,097,626.00) Dollars being the amount bid by such Contractor and which was awarded to him/her as provided by law.
4. **Affirmative Action.** In the performance of the services under this Agreement the Contractor agrees not to discriminate against any employee or applicant because of race, religion, marital status, age, color, sex, disability, national origin or ancestry, income level or source of income, arrest record or conviction record, less than honorable discharge, physical appearance, sexual orientation, gender identity, political beliefs, or student status. The Contractor further agrees not to discriminate against any subcontractor or person who offers to subcontract on this contract because of race, religion, color, age, disability, sex, sexual orientation, gender identity or national origin.

The Contractor agrees that within thirty (30) days after the effective date of this agreement, the Contractor will provide to the City Affirmative Action Division certain workforce utilization statistics, using a form to be furnished by the City.

If the contract is still in effect, or if the City enters into a new agreement with the Contractor, within one year after the date on which the form was required to be provided, the Contractor will provide updated workforce information using a second form, also to be furnished by the City. The second form will be submitted to the City Affirmative Action Division no later than one year after the date on which the first form was required to be provided.

The Contractor further agrees that, for at least twelve (12) months after the effective date of this contract, it will notify the City Affirmative Action Division of each of its job openings at facilities in Dane County for which applicants not already employees of the Contractor are to be considered. The notice will include a job description, classification, qualifications and application procedures and deadlines. The Contractor agrees to interview and consider candidates referred by the Affirmative Action Division if the candidate meets the minimum qualification standards established

by the Contractor, and if the referral is timely. A referral is timely if it is received by the Contractor on or before the date started in the notice.

Articles of Agreement  
Article I

The Contractor shall take affirmative action in accordance with the provisions of this contract to insure that applicants are employed, and that employees are treated during employment without regard to race, religion, color, age, marital status, disability, sex, sexual orientation, gender identity or national origin and that the employer shall provide harassment free work environment for the realization of the potential of each employee. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation and selection for training including apprenticeship insofar as it is within the control of the Contractor. The Contractor agrees to post in conspicuous places available to employees and applicants notices to be provided by the City setting out the provisions of the nondiscrimination clauses in this contract.

Article II

The Contractor shall in all solicitations or advertisements for employees placed by or on behalf of the Contractors state that all qualified or qualifiable applicants will be employed without regard to race, religion, color, age, marital status, disability, sex, sexual orientation, gender identity or national origin.

Article III

The Contractor shall send to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding a notice to be provided by the City advising the labor union or worker's representative of the Contractor's equal employment opportunity and affirmative action commitments. Such notices shall be posted in conspicuous places available to employees and applicants for employment.

Article V

The Contractor agrees that it will comply with all provisions of the Affirmative Action Ordinance of the City of Madison, including the contract compliance requirements. The Contractor agrees to submit the model affirmative action plan for public works contractors in a form approved by the Affirmative Action Division Manager.

Article VI

The Contractor will maintain records as required by Section 39.02(9)(f) of the Madison General Ordinances and will provide the City Affirmative Action Division with access to such records and to persons who have relevant and necessary information, as provided in Section 39.02(9)(f). The City agrees to keep all such records confidential, except to the extent that public inspection is required by law.

Article VII

In the event of the Contractor's or subcontractor's failure to comply with the Equal Employment Opportunity and Affirmative Action Provisions of this contract or Section 39.03 and 39.02 of the Madison General Ordinances, it is agreed that the City at its option may do any or all of the following:

1. Cancel, terminate or suspend this Contract in whole or in part.

2. Declare the Contractor ineligible for further City contracts until the Affirmative Action requirements are met.
3. Recover on behalf of the City from the prime Contractor 0.5 percent of the contract award price for each week that such party fails or refuses to comply, in the nature of liquidated damages, but not to exceed a total of five percent (5%) of the contract price, or five thousand dollars (\$5,000), whichever is less. Under public works contracts, if a subcontractor is in noncompliance, the City may recover liquidated damages from the prime Contractor in the manner described above. The preceding sentence shall not be construed to prohibit a prime Contractor from recovering the amount of such damage from the non-complying subcontractor.

#### Article VIII

The Contractor shall include the above provisions of this contract in every subcontract so that such provisions will be binding upon each subcontractor. The Contractor shall take such action with respect to any subcontractor as necessary to enforce such provisions, including sanctions provided for noncompliance.

#### Article IX

The Contractor shall allow the maximum feasible opportunity to small business enterprises to compete for any subcontracts entered into pursuant to this contract. (In federally funded contracts the terms "DBE, MBE and WBE" shall be substituted for the term "small business" in this Article.)

5. Substance Abuse Prevention Program Required. Prior to commencing work on the Contract, the Contractor, and any Subcontractor, shall have in place a written program for the prevention of substance abuse among its employees as required under Wis. Stat. Sec. 103.503.
6. **Contractor Hiring Practices.**

#### **Ban the Box - Arrest and Criminal Background Checks. (Sec. 39.08, MGO)**

This provision applies to all prime contractors on contracts entered into on or after January 1, 2016, and all subcontractors who are required to meet prequalification requirements under MGO 33.07(7)(l), MGO as of the first time they seek or renew pre-qualification status on or after January 1, 2016. The City will monitor compliance of subcontractors through the pre-qualification process.

- a. **Definitions.** For purposes of this section, "Arrest and Conviction Record" includes, but is not limited to, information indicating that a person has been questioned, apprehended, taken into custody or detention, held for investigation, arrested, charged with, indicted or tried for any felony, misdemeanor or other offense pursuant to any law enforcement or military authority.

"Conviction record" includes, but is not limited to, information indicating that a person has been convicted of a felony, misdemeanor or other offense, placed on probation, fined, imprisoned or paroled pursuant to any law enforcement or military authority.

"Background Check" means the process of checking an applicant's arrest and conviction record, through any means.

- b. **Requirements.** For the duration of this Contract, the Contractor shall:
  1. Remove from all job application forms any questions, check boxes, or other inquiries regarding an applicant's arrest and conviction record, as defined herein.

2. Refrain from asking an applicant in any manner about their arrest or conviction record until after conditional offer of employment is made to the applicant in question.
3. Refrain from conducting a formal or informal background check or making any other inquiry using any privately or publicly available means of obtaining the arrest or conviction record of an applicant until after a conditional offer of employment is made to the applicant in question.
4. Make information about this ordinance available to applicants and existing employees, and post notices in prominent locations at the workplace with information about the ordinance and complaint procedure using language provided by the City.
5. Comply with all other provisions of Sec. 39.08, MGO.

**c. Exemptions:** This section shall not apply when:

1. Hiring for a position where certain convictions or violations are a bar to employment in that position under applicable law, or
2. Hiring a position for which information about criminal or arrest record, or a background check is required by law to be performed at a time or in a manner that would otherwise be prohibited by this ordinance, including a licensed trade or profession where the licensing authority explicitly authorizes or requires the inquiry in question.

To be exempt, Contractor has the burden of demonstrating that there is an applicable law or regulation that requires the hiring practice in question, if so, the contractor is exempt from all of the requirements of this ordinance for the position(s) in question.

MADISON METRO BUS GARAGE - ROOF REPLACEMENT  
CONTRACT NO. 8064

IN WITNESS WHEREOF, the Contractor has hereunto set his/her hand and seal and the City has caused these presents to be sealed with its corporate seal and to be subscribed by its Mayor and City Clerk the day and year first above written.

Countersigned:

MALY ROOFING COMPANY, INC.

Julia A Kowalke 1-22-18  
Witness Date

P. Ki 1/22/18  
President Date

Julia A Kowalke 1-22-18  
Witness Date

Ki J. Kerner  
Secretary Date

CITY OF MADISON, WISCONSIN

Provisions have been made to pay the liability that will accrue under this contract.

Approved as to form:

Whitney Duke  
Finance Director

Will P. No  
City Attorney

Signed this 9th day of February, 2018.

Dan Cini  
Witness

Pam Y 9 Feb 2018  
Mayor Date

Jennifer Haa  
Witness

Maibeth Witzel-bell 1-31-2018  
City Clerk Date

**SECTION K: PAYMENT AND PERFORMANCE BOND**

KNOW ALL MEN BY THESE PRESENTS, that we MALY ROOFING COMPANY, INC. as principal, and  
United Fire & Casualty Company

Company of Cedar Rapids, IA as surety, are held and firmly bound unto the City of  
Madison, Wisconsin, in the sum of **ONE MILLION NINETY-SEVEN THOUSAND SIX HUNDRED TWENTY-  
SIX AND NO/100 (\$1,097,626.00)** Dollars, lawful money of the United  
States, for the payment of which sum to the City of Madison, we hereby bind ourselves and our respective  
executors and administrators firmly by these presents.

The condition of this Bond is such that if the above bounden shall on his/her part fully and faithfully perform  
all of the terms of the Contract entered into between him/herself and the City of Madison for the construction  
of:

**MADISON METRO BUS GARAGE - ROOF REPLACEMENT  
CONTRACT NO. 8064**

in Madison, Wisconsin, and shall pay all claims for labor performed and material furnished in the  
prosecution of said work, and save the City harmless from all claims for damages because of negligence  
in the prosecution of said work, and shall save harmless the said City from all claims for compensation  
(under Chapter 102, Wisconsin Statutes) of employees and employees of subcontractor, then this Bond is  
to be void, otherwise of full force, virtue and effect.

Signed and sealed this 22nd day of January, 2018

Countersigned:

Julia Kowalke  
Witness

Kevin J. Kerner  
Secretary

Approved as to form:

Neil P. [Signature]  
City Attorney

MALY ROOFING COMPANY, INC.  
Company Name (Principal)

[Signature]  
President Seal

United Fire & Casualty Company  
Surety Seal

Salary Employee  Commission  
By [Signature]  
Attorney-in-Fact Connie Eastland

This certifies that I have been duly licensed as an agent for the above company in Wisconsin under  
National Producer Number 6504657 for the year 2018, and appointed as attorney-in-fact  
with authority to execute this payment and performance bond which power of attorney has not been  
revoked.

January 22, 2018  
Date

[Signature]  
Agent Signature





(original on file at Home Office of Company – See Certification)

KNOW ALL PERSONS BY THESE PRESENTS, That UNITED FIRE & CASUALTY COMPANY, a corporation duly organized and existing under the laws of the State of Iowa; UNITED FIRE & INDEMNITY COMPANY, a corporation duly organized and existing under the laws of the State of Texas; and FINANCIAL PACIFIC INSURANCE COMPANY, a corporation duly organized and existing under the laws of the State of California (herein collectively called the Companies), and having their corporate headquarters in Cedar Rapids, State of Iowa, does make, constitute and appoint RICHARD A. HAGEN, OR SUSAN SIMONEAU, OR CONNIE EASLAND, OR TIMOTHY A. DRAXLER, ALL INDIVIDUALLY OF MADISON WI

their true and lawful Attorney(s)-in-Fact with power and authority hereby conferred to sign, seal and execute in its behalf all lawful bonds, undertakings and other obligatory instruments of similar nature provided that no single obligation shall exceed \$2,000,000.00 and to bind the Companies thereby as fully and to the same extent as if such instruments were signed by the duly authorized officers of the Companies and all of the acts of said Attorney, pursuant to the authority hereby given and hereby ratified and confirmed.

The Authority hereby granted shall expire the 3rd day of December, 2018 unless sooner revoked by UNITED FIRE & CASUALTY COMPANY, UNITED FIRE & INDEMNITY COMPANY, AND FINANCIAL PACIFIC INSURANCE COMPANY.

This Power of Attorney is made and executed pursuant to and by authority of the following bylaw duly adopted on May 15, 2013, by the Boards of Directors of UNITED FIRE & CASUALTY COMPANY, UNITED FIRE & INDEMNITY COMPANY, and FINANCIAL PACIFIC INSURANCE COMPANY.

“Article VI – Surety Bonds and Undertakings”

Section 2, Appointment of Attorney-in-Fact. “The President or any Vice President, or any other officer of the Companies may, from time to time, appoint by written certificates attorneys-in-fact to act in behalf of the Companies in the execution of policies of insurance, bonds, undertakings and other obligatory instruments of like nature. The signature of any officer authorized hereby, and the Corporate seal, may be affixed by facsimile to any power of attorney or special power of attorney or certification of either authorized hereby; such signature and seal, when so used, being adopted by the Companies as the original signature of such officer and the original seal of the Companies, to be valid and binding upon the Companies with the same force and effect as though manually affixed. Such attorneys-in-fact, subject to the limitations set forth in their respective certificates of authority shall have full power to bind the Companies by their signature and execution of any such instruments and to attach the seal of the Companies thereto. The President or any Vice President, the Board of Directors or any other officer of the Companies may at any time revoke all power and authority previously given to any attorney-in-fact.

IN WITNESS WHEREOF, the COMPANIES have each caused these presents to be signed by its vice president and its corporate seal to be hereto affixed this 3rd day of December, 2016

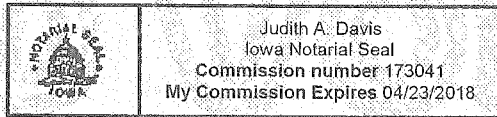
UNITED FIRE & CASUALTY COMPANY  
UNITED FIRE & INDEMNITY COMPANY  
FINANCIAL PACIFIC INSURANCE COMPANY

By: *Dennis J. Richmann* Vice President

State of Iowa, County of Linn, ss:

On 3rd day of December, 2016, before me personally came Dennis J. Richmann

to me known, who being by me duly sworn, did depose and say; that he resides in Cedar Rapids, State of Iowa; that he is a Vice President of UNITED FIRE & CASUALTY COMPANY, a Vice President of UNITED FIRE & INDEMNITY COMPANY, and a Vice President of FINANCIAL PACIFIC INSURANCE COMPANY the corporations described in and which executed the above instrument; that he knows the seal of said corporations; that the seal affixed to the said instrument is such corporate seal; that it was so affixed pursuant to authority given by the Board of Directors of said corporations and that he signed his name thereto pursuant to like authority, and acknowledges same to be the act and deed of said corporations.



*Judith A. Davis* Notary Public  
My commission expires: 04/23/2018

I, David A. Lange, Secretary of UNITED FIRE & CASUALTY COMPANY and Assistant Secretary of UNITED FIRE & INDEMNITY COMPANY, and Assistant Secretary of FINANCIAL PACIFIC INSURANCE COMPANY, do hereby certify that I have compared the foregoing copy of the Power of Attorney and affidavit, and the copy of the Section of the bylaws and resolutions of said Corporations as set forth in said Power of Attorney, with the ORIGINALS ON FILE IN THE HOME OFFICE OF SAID CORPORATIONS, and that the same are correct transcripts thereof, and of the whole of the said originals, and that the said Power of Attorney has not been revoked and is now in full force and effect.

In testimony whereof I have hereunto subscribed my name and affixed the corporate seal of the said Corporations this 25th day of January, 2018

By: *David A. Lange*  
Secretary, UF&C  
Assistant Secretary, UF&I/FPIC

General Decision Number: WI170005 11/03/2017 WI5

Superseded General Decision Number: WI20160005

State: Wisconsin

Construction Type: Building

County: Dane County in Wisconsin.

BUILDING CONSTRUCTION PROJECTS (does not include residential construction consisting of single family homes and apartments up to and including 4 stories)

Note: Under Executive Order (EO) 13658, an hourly minimum wage of \$10.20 for calendar year 2017 applies to all contracts subject to the Davis-Bacon Act for which the contract is awarded (and any solicitation was issued) on or after January 1, 2015. If this contract is covered by the EO, the contractor must pay all workers in any classification listed on this wage determination at least \$10.20 (or the applicable wage rate listed on this wage determination, if it is higher) for all hours spent performing on the contract in calendar year 2017. The EO minimum wage rate will be adjusted annually. Additional information on contractor requirements and worker protections under the EO is available at [www.dol.gov/whd/govcontracts](http://www.dol.gov/whd/govcontracts).

Modification Number	Publication Date
0	01/06/2017
1	02/10/2017
2	02/17/2017
3	04/14/2017
4	07/14/2017
5	07/21/2017
6	07/28/2017
7	08/11/2017
8	08/25/2017
9	09/08/2017
10	09/22/2017
11	11/03/2017

ASBE0205-001 06/01/2001

	Rates	Fringes
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Asbestos Removal  
worker/hazardous material  
handler

Includes preparation,  
wetting, stripping,  
removal, scrapping,  
vacuuming, bagging and  
disposing of all  
insulation materials from  
mechanical systems,  
whether they contain  
asbestos or not.....\$ 17.90

4.45

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BOIL0107-001 01/01/2017

	Rates	Fringes
BOILERMAKER		
Boilermaker.....	\$ 35.65	29.89
Small Boiler Repair (under 25,000 lbs/hr).....	\$ 26.91	16.00

BRWI0013-001 06/01/2016

	Rates	Fringes
BRICKLAYER		
Bricklayer.....	\$ 33.49	20.99
Terrazzo Finisher.....	\$ 26.57	16.20
Terrazzo Worker.....	\$ 34.76	19.91
Tile Finisher.....	\$ 25.01	19.90
Tile Layer.....	\$ 31.26	19.90

CARP0252-007 06/01/2016

	Rates	Fringes
CARPENTER (Including Acoustical work and Drywall hanging; Excluding Batt Insulation)		
CARPENTER & SOFT FLOOR LAYER.....	\$ 33.56	18.00
MILLWRIGHT.....	\$ 35.08	18.35
PILEDRIVERMAN.....	\$ 34.12	18.00

ELEC0014-005 06/05/2017

	Rates	Fringes
Teledata System Installer		
Installer/Technician.....	\$ 25.81	14.01

Low voltage construction, installation, maintenance and removal of teledata facilities (voice, data, and video) including outside plant, telephone and data inside wire, interconnect, terminal equipment, central offices, PABX, fiber optic cable and equipment, micro waves, V-SAT, bypass, CATV, WAN (wide area networks), LAN (local area networks), and ISDN (integrated systems digital network).

ELEC0159-002 06/05/2017

	Rates	Fringes
ELECTRICIAN.....	\$ 37.75	20.96

ELEV0132-001 01/01/2017

	Rates	Fringes
ELEVATOR MECHANIC.....	\$ 48.94	31.58

FOOTNOTE:

PAID VACATION: Employer contributes 8% of basic hourly rate as vacation pay for employees with more than 5 years or more of service, and 6% for less than 5 years of service.

PAID HOLIDAYS: New Years Day, Memorial Day, Independence Day, Labor Day, Veterans Day, Thanksgiving Day, Friday after Thanksgiving, and Christmas Day.

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ENGI0139-002 06/05/2017

	Rates	Fringes
OPERATOR: Power Equipment		
Group 1.....	\$ 39.72	20.95
Group 2.....	\$ 38.47	20.95
Group 3.....	\$ 37.17	20.95
Group 4.....	\$ 36.64	20.95
Group 5.....	\$ 34.57	20.95
Group 6.....	\$ 33.04	20.95

HAZARDOUS WASTE PREMIUMS:

EPA Level "A" Protection: \$3.00 per hour

EPA Level "B" Protection: \$2.00 per hour

EPA Level "C" Protection: \$1.00 per hour

POWER EQUIPMENT OPERATORS CLASSIFICATIONS

GROUP 1: Cranes, Tower Cranes and Derricks with or without attachments with a lifting capacity of over 100 tons; Cranes, Tower Cranes, and Derricks with boom, leads and/or jib lengths 176 ft or longer.

GROUP 2: Backhoes (Excavators) weighing 130,000 lbs & over; Cranes, Tower Cranes and Derricks with or without attachments with a lifting capacity of 100 tons or less; Cranes, Tower Cranes, and Derricks with boom, leads, and/or jib lengths 175 ft or less; Caisson Rigs; Pile Driver

GROUP 3: Backhoes (Excavators) weighing under 130,000 lbs; Travelling Crane (bridge type); Milling Machine; Concrete Paver over 27 E; Concrete Spreader and Distributor; Concrete Laser Screed; Concrete Grinder and Planing Machine; Slipform Curb and Gutter Machine; Boring Machine (Directional); Dredge Operator; Skid Rigs; Over 46 meter Concrete Pump.

GROUP 4: Hydraulic Backhoe (tractor or truck mounted); Hydraulic Crane, 10 tons or less; Tractor, Bulldozer, or End Loader (over 40 hp); Motor Patrol; Scraper Operator; Bituminous Plant and Paver Operator; Screed-Milling Machine; Roller over 5 tons; Concrete Pumps 46 meter & under; Grout Pumps; Rotec Type Machine; Hydro Blaster, 10,000 psi and over; Rotary Drill Operator; Percussion Drilling Machine; Air Track Drill with or without integral hammer; Blaster; Boring Machine (vertical or horizontal); Side Boom; Trencher, wheel type or chain type having 8 inch or larger bucket; Rail Leveling Machine (Railroad); Tie Placer; Tie Extractor; Tie Tamper; Stone Leveler; Straddle

Carrier; Material Hoists; Stack Hoist; Man Hoists; Mechanic and Welder; Off Road Material Haulers

GROUP 5: Tractor, Bulldozer, or Endloader (under 40 hp); Tampers -Compactors, riding type; Stump Chipper, large; Roller, Rubber Tire; Backfiller; Trencher, chain type (bucket under 8 inch); Concrete Auto Breaker, large; Concrete Finishing Machine (road type); Concrete Batch Hopper; Concrete Conveyor Systems; Concrete Mixers, 14S or over; Pumps, Screw Type and Gypsum); Hydrohammers, small; Brooms and Sweepers; Lift Slab Machine; Roller under 5 tons; Industrial Locomotives; Fireman (Pile Drivers and Derricks); Pumps (well points); Hoists, automatic; A-Frames and Winch Trucks; Hoists (tuggers); Boats (Tug, Safety, Work Barges and Launches); Assistant Engineer

GROUP 6: Shouldering Machine Operator; Farm or Industrial Tractor mounted equipment; Post Hole Digger; Auger (vertical and horizontal); Skid Steer Loader with or without attachments; Robotic Tool Carrier with or without attachments; Power Pack Vibratory/Ultra Sound Driver and Extractor; Fireman (Asphalt Plants); Screed Operator; Stone Crushers and Screening Plants; Air, Electric, Hydraulic Jacks (Slip Form); Prestress Machines; Air Compressor, 400 CFM or over; Refrigeration Plant/Freeze Machine; Boiler Operators (temporary heat); Forklifts; Welding Machines; Generators; Pumps over 3"; Compressors, under 400 CFM; Heaters, Mechanical; Combination small equipment operator; Winches, small electric; Oiler; Greaser; Rotary Drill Tender; Conveyor; Elevator Operator

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IRON0383-002 06/01/2017

	Rates	Fringes
IRONWORKER.....	\$ 34.50	23.82

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LABO0464-001 06/05/2017

	Rates	Fringes
Laborer, General.....	\$ 27.13	16.79
Laborer: Asbestos/hazardous material remover (Preparation, removal, and encapsulation of hazardous materials from non-mechanical systems).....	\$ 25.29	16.79

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PAIN0802-001 06/01/2017

	Rates	Fringes
PAINTER Brush, Roller.....	\$ 28.25	17.72

PREMIUM RATES [Add to Basic Hourly Rate]  
Swing Work \$0.25  
Drywall Taper \$0.30

Paperhanger \$0.40  
Steel, Spray \$1.00

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PAIN0941-001 06/01/2017

	Rates	Fringes
GLAZIER.....	\$ 38.27	17.72
17.72		

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PLAS0599-001 06/01/2017

	Rates	Fringes
CEMENT MASON/CONCRETE FINISHER...	\$ 34.43	19.93
PLASTERER.....	\$ 33.70	23.13

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PLUM0075-007 06/01/2015

	Rates	Fringes
PLUMBER (Including HVAC work)....	\$ 38.82	20.12

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PLUM0601-007 06/04/2017

	Rates	Fringes
PIPEFITTER (Including HVAC work).....	\$ 47.08	20.89

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SFWI0669-002 04/01/2016

	Rates	Fringes
SPRINKLER FITTER.....	\$ 39.48	19.36

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\* SHEE0018-009 06/01/2017

	Rates	Fringes
Sheet Metal Worker (Including HVAC Duct work and Technicians).....	\$ 37.00	27.09

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TEAM0662-003 06/04/2017

	Rates	Fringes
TRUCK DRIVER		
1 & 2 Axles.....	\$ 27.40	20.48
3 or more Axles.....	\$ 27.55	20.48

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SUWI2002-011 01/23/2002

	Rates	Fringes
Asbestos Worker/Heat and Frost Insulator.....	\$ 25.36	8.37

Laborers:		
Concrete Worker.....	\$ 16.34	3.59
Landscape.....	\$ 8.73	4.90
ROOFER.....	\$ 18.01	3.28
Tile & Marble Finisher.....	\$ 13.89	7.58

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WELDERS - Receive rate prescribed for craft performing operation to which welding is incidental.

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Note: Executive Order (EO) 13706, Establishing Paid Sick Leave for Federal Contractors applies to all contracts subject to the Davis-Bacon Act for which the contract is awarded (and any solicitation was issued) on or after January 1, 2017. If this contract is covered by the EO, the contractor must provide employees with 1 hour of paid sick leave for every 30 hours they work, up to 56 hours of paid sick leave each year. Employees must be permitted to use paid sick leave for their own illness, injury or other health-related needs, including preventive care; to assist a family member (or person who is like family to the employee) who is ill, injured, or has other health-related needs, including preventive care; or for reasons resulting from, or to assist a family member (or person who is like family to the employee) who is a victim of, domestic violence, sexual assault, or stalking. Additional information on contractor requirements and worker protections under the EO is available at [www.dol.gov/whd/govcontracts](http://www.dol.gov/whd/govcontracts).

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29CFR 5.5 (a) (1) (ii)).

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The body of each wage determination lists the classification and wage rates that have been found to be prevailing for the cited type(s) of construction in the area covered by the wage determination. The classifications are listed in alphabetical order of "identifiers" that indicate whether the particular rate is a union rate (current union negotiated rate for local), a survey rate (weighted average rate) or a union average rate (weighted union average rate).

#### Union Rate Identifiers

A four letter classification abbreviation identifier enclosed in dotted lines beginning with characters other than "SU" or "UAVG" denotes that the union classification and rate were prevailing for that classification in the survey. Example: PLUM0198-005 07/01/2014. PLUM is an abbreviation identifier of the union which prevailed in the survey for this classification, which in this example would be Plumbers. 0198 indicates the local union number or district council number

where applicable, i.e., Plumbers Local 0198. The next number, 005 in the example, is an internal number used in processing the wage determination. 07/01/2014 is the effective date of the most current negotiated rate, which in this example is July 1, 2014.

Union prevailing wage rates are updated to reflect all rate changes in the collective bargaining agreement (CBA) governing this classification and rate.

#### Survey Rate Identifiers

Classifications listed under the "SU" identifier indicate that no one rate prevailed for this classification in the survey and the published rate is derived by computing a weighted average rate based on all the rates reported in the survey for that classification. As this weighted average rate includes all rates reported in the survey, it may include both union and non-union rates. Example: SULA2012-007 5/13/2014. SU indicates the rates are survey rates based on a weighted average calculation of rates and are not majority rates. LA indicates the State of Louisiana. 2012 is the year of survey on which these classifications and rates are based. The next number, 007 in the example, is an internal number used in producing the wage determination. 5/13/2014 indicates the survey completion date for the classifications and rates under that identifier.

Survey wage rates are not updated and remain in effect until a new survey is conducted.

#### Union Average Rate Identifiers

Classification(s) listed under the UAVG identifier indicate that no single majority rate prevailed for those classifications; however, 100% of the data reported for the classifications was union data. EXAMPLE: UAVG-OH-0010 08/29/2014. UAVG indicates that the rate is a weighted union average rate. OH indicates the state. The next number, 0010 in the example, is an internal number used in producing the wage determination. 08/29/2014 indicates the survey completion date for the classifications and rates under that identifier.

A UAVG rate will be updated once a year, usually in January of each year, to reflect a weighted average of the current negotiated/CBA rate of the union locals from which the rate is based.

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#### WAGE DETERMINATION APPEALS PROCESS

1.) Has there been an initial decision in the matter? This can be:

- \* an existing published wage determination
- \* a survey underlying a wage determination
- \* a Wage and Hour Division letter setting forth a position on a wage determination matter



\* a conformance (additional classification and rate) ruling

On survey related matters, initial contact, including requests for summaries of surveys, should be with the Wage and Hour Regional Office for the area in which the survey was conducted because those Regional Offices have responsibility for the Davis-Bacon survey program. If the response from this initial contact is not satisfactory, then the process described in 2.) and 3.) should be followed.

With regard to any other matter not yet ripe for the formal process described here, initial contact should be with the Branch of Construction Wage Determinations. Write to:

Branch of Construction Wage Determinations  
Wage and Hour Division  
U.S. Department of Labor  
200 Constitution Avenue, N.W.  
Washington, DC 20210

2.) If the answer to the question in 1.) is yes, then an interested party (those affected by the action) can request review and reconsideration from the Wage and Hour Administrator (See 29 CFR Part 1.8 and 29 CFR Part 7). Write to:

Wage and Hour Administrator  
U.S. Department of Labor  
200 Constitution Avenue, N.W.  
Washington, DC 20210

The request should be accompanied by a full statement of the interested party's position and by any information (wage payment data, project description, area practice material, etc.) that the requestor considers relevant to the issue.

3.) If the decision of the Administrator is not favorable, an interested party may appeal directly to the Administrative Review Board (formerly the Wage Appeals Board). Write to:

Administrative Review Board  
U.S. Department of Labor  
200 Constitution Avenue, N.W.  
Washington, DC 20210

4.) All decisions by the Administrative Review Board are final.

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END OF GENERAL DECISION