



Franklin Regional Council of Governments

INVITATION FOR BIDS Water Treatment Chemical REBID for Sodium Hypochlorite IFB #2023 2101

The Franklin Regional Council of Governments (FRCOG), on behalf of its Participants, will accept sealed bids for the supply and delivery of Sodium Hypochlorite for one year October 1, 2023 through September 30, 2024 until **SEPTEMBER 6, 2023 at 2 PM**, at which time they will be publicly opened. Participants are municipal entities in the FRCOG Collective Purchasing Program.

TWO COPIES OF THE PRICE BID FORM SHALL BE SUBMITTED; only one copy of the supporting documentation, including MSDS Sheets, is required. Bids should be submitted in a sealed envelope plainly marked "**Sodium Hypochlorite Bid**" in the lower left corner and to the attention of Ellen Batchelder, Assistant Procurement Officer at Franklin Regional Council of Governments, 12 Olive St. Suite 2, Greenfield, MA 01301.

Specifications for bids are available for download at <https://frcog.org/bids>. Once registered, any addenda or notifications will automatically be sent to the email address on record. Written questions regarding the bid must be received via email at ebatchelder@frcog.org per the bid schedule in order to allow for any addenda to be issued.

Qualified bidders who are Minority/Women/Disabled Owned Business Enterprises (M/W/D/BE) businesses are encouraged to apply. Other qualified bidders are encouraged to partner with disadvantaged businesses.

The Franklin Regional Council of Governments, the awarding authority, and the participating entities reserve the right to accept or reject any or all bids in total or in part as they may deem in the public's best interest.

FRANKLIN REGIONAL COUNCIL OF GOVERNMENTS

By: Andrea Woods, Chief Procurement Officer
AUGUST 22, 2023

The Franklin Regional Council of Governments (FRCOG) does not discriminate on the basis of race, color, religion, ancestry, national origin, age, disability, sexual orientation, gender identity, gender or any other protected class under the law with respect to admission to, access to, or operation of its programs, services or activities. If you would like accessibility or language accommodation, please contact the Title VI Coordinator at 413-774-3167 (voice) (MA Relay System: 800-439-2370), 413-774-3169 (fax), or civilrights@frcog.org (e-mail).

12 Olive Street, Suite 2, Greenfield, MA 01301 phone 413-774-3167 fax 413-774-3169 www.frcog.org

GENERAL INSTRUCTIONS TO BIDDERS

1. All bids must include a filled out bid form and also a properly executed Tax Compliance / Non-Collusion Form and References List. Materials data as specified must also be included. Failure to submit all required information (or comply with bid terms and conditions) may be cause for rejection of bid.
2. The period of the contract shall be from October 1, 2023 through September 30, 2024.
3. This is a rebid for one chemical; Sodium Hypochlorite, 12.5% Chlorine, Bulk Delivery. Expected volume is listed on the Bid Form. The volume is for informational purposes only. Actual volume may be more or less than these estimates. Bidders must state any and all minimum delivery quantities and/or required deposits in the proper columns on the Bid Form. The Bid Award(s) for the purchase of Water Treatment Chemicals will be made to the vendor(s) whose price, past performance, product quality and suitability are determined to be in the participating entities' best interest. Buyer reserves the right to award items to both a primary and secondary bidder.

In the event the Primary Vendor cannot make delivery of the quantities of water treatment chemicals specified within the acceptable time frame, the Buyer reserves the right to purchase such quantities from their Secondary Vendor or on the open market as it may require to fulfill its needs.

4. Bids which are incomplete, not properly endorsed or signed, or otherwise contrary to instructions will be rejected as non-responsive by the Chief Procurement Officer. Conditional bids may not be accepted. Any bid arriving after the time and date requested will not be accepted.
5. The Franklin Regional Council of Governments and all participating towns are exempt from the payment of Federal Excise Taxes and Massachusetts Sales Tax, prices quoted herein are not to include these taxes.
6. A vendor will be held to the terms and the prices on the Bid Form for the duration of the contract period if a contract is signed by both parties within 30 days.
7. Bidders must be prepared to satisfy the participating towns and the Chief Procurement Officer as to the company's reliability and quality of product. Bidders must have sufficient capacity to supply the towns' needs and the Council has the right to investigate the bidder's capacity before awarding the contract. A determination that the bidder does not have enough capacity to supply the bid items or otherwise fulfill the terms and conditions of the bid may result in award to the next responsive and responsible bidder.
8. The Contract(s) resulting from this bid will be awarded to the lowest responsible and responsive bidder based upon bid price, past performance and reliability of the bidder, quality of product and/or service, and degree of exclusion, exemption, or restrictions on the bid form. **Requirement for deposits on containers is discouraged and any deposit fees will be factored into the low bid award for a product by adding the cost of deposit into the total extension cost of the item.**

Should there be two or more bids for this Contract that are identical and where the bidders are determined to all be responsible and eligible in accordance with MGL Chapter 30B, the following procedure will be used to determine the winner.

- a. The Contract will be awarded to that bidder with its office in Franklin or Hampshire County, MA.
- b. If there is no bidder with its office located within Franklin or Hampshire County or if there are two or more bidders with offices located within Franklin or Hampshire County, the award of the Contract shall be determined by the toss of a coin. Such a toss shall be done with two

witnesses. The respective bidders will be notified and invited to come to the FRCOG office.
c. If there are more than two bidders with identical bids, the coin toss method shall be used by selecting the first two bidders in alphabetical order and eliminating one with a coin toss. This process shall be continued until such time as there remains one bidder.

9. The Assistant Procurement Officer will be available to answer any general questions about procedure, etc., but no question will be answered that in any way could give an unfair advantage to a vendor. All inquires should be directed to:

Ellen Batchelder, Assistant Procurement Officer
Franklin Regional Council of Governments
12 Olive Street, Suite 2 Greenfield, MA 01301
(413) 774-3167 x131 / email ebatchelder@frcog.org

CONTRACT TERMS AND CONDITIONS

The FRCOG Standard Contract Agreement is attached for reference. The contract will include but not be limited to all general and specific conditions contained in the Invitation For Bids, all addenda, and the BID FORM submitted by the awarded bidder and the following provisions. Revised or added contract terms to the FRCOG Standard Contract from the previous year are listed below.

1. EMERGENCY STANDBY SERVICES

Due to a declaration of an emergency or state of emergency where the safety and well-being of the citizens in the Participating Towns are at risk, the Participating Towns may request specific commodities and/or services from its Contractors under this collective contract. Contractors may be called upon to supply and/or deliver to the Participating Town on a priority basis such commodities and/or services currently under contract. Such accommodations may be requested from a Contractor during an actual emergency. To accommodate such requests, Contractors may be requested and must make every effort to service these requests to the best of their ability from regular sources of supply and labor at the rates set forth in any standard contract resulting from this Invitation for Bids.

2. Per MGL Ch7 §22B, the Franklin Regional Council of Governments will in no way be responsible for the actions of the Collective Purchasing participants and each participant accepts sole responsibility for any payment due a vendor or contractor for their share of the purchase. Payments of invoices will be made within the town's warrant procedure and typically within 30 days upon receipt of invoice by each town which requested services upon acceptance of the Work
3. A contract will be signed between the awarded bidder(s) and the Franklin Regional Council of Governments, acting on behalf of the Participants. A sample contract is attached. If a specific town is called out in the contract, that town will be bound by the conditions of the contract. If a town has an existing contract for the bid item, the existing contract shall take precedence. Termination of a contract or services by any town shall not invalidate or alter the terms of a contract or services with any other town. **Any other FRCOG collective purchasing participant than those listed may only utilize this contract for delivered product with permission of the FRCOG and the contracted vendor and a written contract amendment.**
4. The contractor will be required to indemnify and hold harmless the Franklin Regional Council of Governments for all damages to life and property that may occur due to contractors' negligence or that of his/her employees, subcontractors, etc., during the contract.
5. If in the judgment of the Chief Procurement Officer, any property is needlessly damaged by an act

or omission of the contractor, the amount of damages will be deducted from money due the contractor or may be recovered from said contractor in legal action.

6. Any inferior or damaged product, as determined by the Purchasing Department, will be replaced at the total expense of the Contractor.
7. The Contractor will be bound by all applicable statutory provisions of law of the Federal Government and the Commonwealth of Massachusetts.

8. **INSURANCE REQUIREMENTS – Required for Delivered Products Contracts**

The Contractor shall at all times during the Contract maintain in full force and effect Employer's Liability, Worker's Compensation, Bodily Injury Liability and Property Damage, and General Liability Insurance, including contractual liability coverage. All insurance shall be by insurers and for policy limits acceptable to the Council and before commencement of work hereunder the Contractor agrees to furnish the Council certificates of insurance or other evidence satisfactory to the Council to the effect that such insurance has been procured and is in force.

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

COVERAGES	LIMITS OF LIABILITY
Workers' Compensation	Statutory Limit
Employers' Liability	\$500,000
Bodily Injury Liability (except automobile)	\$1,000,000 each occurrence \$2,000,000 aggregate
Property Damage Liability (except automobile)	\$1,000,000 each occurrence \$2,000,000 aggregate
Automobile Bodily Injury Liability	\$1,000,000 each person \$2,000,000 each occurrence
Automobile Property Damage Liability	\$1,000,000 each occurrence
Excess Umbrella Liability	\$1,000,000 each occurrence

** A [Form 153 - Affidavit of Exemption for Certain Corporate Officers](#)” as issued by the Massachusetts Department of Industrial Accidents may be required of the winning bidder(s) if any partner/owner is exempt from Workers Compensation Insurance.

The Franklin Regional Council of Governments and the Bid Participants shall be named as an additional insured under the liability and automobile insurance. The excess/umbrella liability insurance policy should contain a broad form general liability endorsement.

Administrative Fee and Quarterly Reports

9. Awarded contractors, as a condition of acceptance of their bids, shall pay an administrative fee to the Franklin Regional Council of Governments in the amount of:

Option 1) Two percent (2%) of the total sales volume reported under the awarded contract
OR

Option 2) A lump sum administrative fee of \$500, to be billed via invoice by FRCOG to the vendor after January 1, 2024 and due within 45 days of date of invoice.

(If Option 2 is chosen, there would be only one flat fee covering awards on original IFB 2023-2089 and this REBID, IFB 2023-2101)







Bidding vendors must make their Administrative Fee distinction on the Bid Signature Form.

Vendors who have not submitted quarterly reports and paid their 2% or \$500 Lump Sum* Administrative fee for the prior bid risk not being awarded new contracts until fees are settled.

By submitting a bid and agreeing to the 2% admin fee, you agree to file QUARTERLY REPORTS of the total amount of money spent by each entity under the awarded contract. Quarterly reports are due twenty-one (21) days following the end of each quarter. FRCOG will provide the quarterly report form and will generate invoices payable by the awarded contractors. *Vendors who choose the \$500 lump sum fee will not be required to submit quarterly reports.

Failure to submit the Quarterly Reports and accompanying administrative fee or payment of lump sum fee by the due date shall constitute a material breach of contract. By submitting a bid, you agree to submit to the jurisdiction of the Franklin County District Court and the Franklin Superior Court located in Greenfield, Massachusetts over any suit, action or proceeding arising out of or related to this bid and the awarded contract, including but not limited to breach of this provision. In the event of breach of this provision, you shall be liable for all attorneys' fees, costs of collection and interest payable at a rate of eighteen percent (18%),

You must have the following completed bid documents in the bid package in order to meet the minimum requirement:

-  Bid Sheet (Original plus 1 copy)
-  Bid Signature Form
-  Signed Tax Compliance Form
-  Signed Non Collusion Form
-  References (at least three)
-  Product Specifications / MSDS Sheet(s) – 1 copy printed 1 side

Technical Specifications

1. All chemicals must be in compliance with the most current AWWA standards.
2. Brand names listed are for the purpose of denoting a level of quality and suitability. "Equivalent" bids will be considered. Any bid for an "Equivalent" Product must be submitted with complete product information and samples may be required to be presented to the plant supervisors for testing within one week of bid opening, in which case their products will be considered if it meets quality requirements.
3. **Liquid Sodium Hydroxide** shall conform to the general handling, packing, shipping and marking requirements of the most current AWWA B511 Standards. It shall contain no mineral or organic impurities in quantities capable of producing injurious effects because of consumption. The liquid chemical supplied shall contain approx. 50% Sodium Hydroxide and shall be shipped in properly clean tanks. In accordance with applicable regulations each bulk shipment shall identify the name of manufacturer, brand name, net weight and other markings as required. Extreme care shall be taken in transport and handling. Workers shall be given safety instructions and protective equipment. Shipping containers shall conform to MassDOT specifications.
4. **Liquid Potassium Hydroxide** shall conform to the general handling, packing, shipping and marking requirements of the most current AWWA B511 Standards. It shall contain no mineral or organic impurities in quantities capable of producing injurious effects because of consumption. The liquid chemical supplied shall contain approx. 45% Potassium Hydroxide and shall be shipped in properly clean tanks. In accordance with applicable regulations each bulk shipment shall identify the name of manufacturer, brand name, net weight and other markings as required. Extreme care shall be taken in transport and handling. Workers shall be given safety instructions and protective equipment. Shipping containers shall conform to MassDOT specifications.
5. Delivery trucks shall be equipped with power-drop tail gates, sufficient hose and adapters to make all deliveries
6. Intentionally left blank
7. **ORANGE WATER DEPARTMENT** has two delivery locations (251 Daniel Shays Highway and 465 West River Street). All their deliveries must be inspected by OWD prior to unloading, and the awarded vendor's driver must be able to draw a sample for inspection. Awarded vendor must fax / email security info (including, at a minimum: driver's name, truck #, trailer #, seal #s, chemical name/volume) prior to delivery, or the delivery will be refused. A Certificate of Analysis and photo ID must be provided by the driver at the time of delivery, along with the Bill of Lading. The specific gravity and manganese concentration must be shown on the CoA.
8. If possible, and if applicable, participating municipalities will be willing to cooperate in the coordination of deliveries for the respective chemicals. Awarded vendors will be allowed to suggest and initiate the manner in which these deliveries might be coordinated for joint deliveries.
9. In the event that all deliveries are not coordinated into a regular basis, all materials must be delivered to the respective municipalities within seven (7) working days after the order is placed. However, vendors must have the ability to deliver **Liquid Chlorine and Hydroxide** on-site within three (3) days of the orders, so that the municipalities, if necessary, can avoid risk management practices due to higher on-site quantities.

	<p align="center">FRCOG COLLECTIVE PURCHASING REBID #2023 2101 - SODIUM HYPOCHLORITE 10/1/2023 - 9/30/2024 BID FORM</p>	<p align="center">TOTAL ESTIMATED NEEDS</p>	<p align="center">DEPOSIT (IF ANY)</p>	<p align="center">MINIMUM DELIVERY Bidders MUST specify minimum delivery amount, if any</p>	<p align="center">BID PRICE Bidders MUST enter DELIVERED price per unit indicated</p>			
<p>Montague - Total Annual Est Quantity: 4,500 gallons *</p> <p>So. Hadley Water - Total Annual Est Quantity: 12,000 gallons *</p>								
<p>Sodium Hypochlorite, 12.5 % Chlorine, Bulk Delivery</p>		<p align="center">16,500</p>	<p align="center">gal</p>			<p align="center">gal</p>	<p align="center">\$</p>	<p align="center">gal</p>

* Note that participants are willing to cooperate in the coordination of deliveries for this chemical due to varying usage.

Montague: Chelsey Little, Superintendent 413-773-8865, x421 email: cwf.supt@montague-ma.gov

So. Hadley: Melissa LaBonte, Superintendent 413-538-5040 email: mlabonte@southhadleyma.gov

Additional Information, Packaging / Unit of Measure Conversion, Etc.

Please check: We have enclosed the Materials Safety Data Sheets for each product a bid has been provided for _____



Authorized Signature


Company Name

THIS PAGE (ONLY) MUST BE SUBMITTED IN DUPLICATE

Bid Signature Form
Water Treatment Chemical REBID for Sodium Hypochlorite – IFB 2023-2101

I have received and acknowledge, if appropriate:			
ADDENDUM 1	ADDENDUM 2	ADDENDUM 3	ADDENDUM 4
Circle all that apply			

I/We hereby agree to supply and deliver all products for which we have provided pricing in accordance with the specifications in this bid and any addenda.

Authorized Signature  _____ Printed Name _____

Company Name _____ Date _____


Address _____ Email _____

_____ Zip _____ Phone: _____

Per Contract Terms and Conditions #9, we agree to pay the Administrative Fee as (must choose one)
(If Option 2 is chosen, there would be only one flat fee covering awards on original IFB 2023-2089 and this REBID, IFB 2023-2101)

_____ OPTION 1: Two percent (2.0%) of quarterly sales reported

_____ OPTION 2: \$500 flat fee to be billed via Invoice from FRCOG to Awarded Vendor
after January 1, 2023

Authorized Signature  _____ Printed Name _____

Name of Person Filing Quarterly Reports

Phone: _____ Ext. _____

Email: _____

TAX COMPLIANCE AND NON-COLLUSION STATEMENTS

Any person or corporation that fails to date, sign with original signature, and submit the following statements shall not be awarded this contract.


Tax Compliance

Pursuant to M.G.L. Ch. 62C, Sec. 49A, I certify under the penalties of perjury that, to the best of my knowledge and belief, I am in compliance with all laws of the Commonwealth relating to taxes, reporting of employees and contractors, and withholding and remitting child support.

 _____ Authorized Official's Signature	 _____ Title of Person Signing
_____ Typed or Printed Name of Person Signing	_____ Company or Corporation
_____ Telephone Number	_____ Address
_____ Fax Number	_____ Address
_____ Date	_____ Email

Certificate of Non-Collusion

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

Date _____	_____ Typed or Printed Name of Person Signing
	 _____ Authorized Official's Signature
	_____ Company or Corporation

REFERENCES: Please list AT LEAST THREE references if your company has not provided products under this bid during the last three (3) years. Please make sure contact information is CURRENT. Inability to check references may affect the eligibility of your bid. You may use your own form if it includes at least all of this information.

1 _____ Type of Product Sold	_____ Contract Dates
_____ Name of Contact Person	_____ Municipality
_____ Phone Number / Email	_____ Comment, if any

2 _____ Type of Product Sold	_____ Contract Dates
_____ Name of Contact Person	_____ Municipality
_____ Phone Number / Email	_____ Comment, if any

3 _____ Type of Product Sold	_____ Contract Dates
_____ Name of Contact Person	_____ Municipality
_____ Phone Number / Email	_____ Comment, if any

SAMPLE AGREEMENT – An agreement substantially in accord with this agreement will be signed between the selected vendor and FRCOG

AGREEMENT made this ___ day of September, 2023 for a portion of the **Water Treatment Chemicals Bid #2023-2101** bid between _____, hereinafter called the SELLER, and the Franklin Regional Council of Governments of the Commonwealth of Massachusetts, doing business at 12 Olive St., Greenfield, MA 01301, on behalf of the Collective Purchasing Participants who are certain municipalities in the Commonwealth of Massachusetts (hereinafter called the PARTICIPANTS).

The SELLER agrees to sell and the PARTICIPANTS agree to buy materials and/or services particularly described as follows:

As further described in Attachments A and B (Award document with Bidder's submission and Invitation for Bids/Specifications including list of Participants),

1. The PARTICIPANTS agree to pay the SELLER for said materials and/or services in the following manner:
 - a. See Attachments A and B. Per MGL Ch7, §22B, the Franklin Regional Council of Governments (hereinafter "FRCOG"), who has facilitated the bid on behalf of the Participants, will in no way be responsible for the actions of the PARTICIPANTS and each PARTICIPANT accepts sole responsibility for any payment due a Seller. All scheduling, acceptance of products/services and invoicing shall be done directly between the SELLER and the INDIVIDUAL PARTICIPANT. The prices herein are maximum prices, and the PARTICIPANT and SELLER may agree to a lower unit price for certain large volume orders as negotiated.
2. The SELLER agrees to deliver said materials and/or perform such services as described in Attachments A and B
3. Title to said materials and/or services shall not pass to the PARTICIPANTS until delivered and/or performed and accepted by the PARTICIPANT, and the risk of loss shall be that of the SELLER until delivered and/or accepted by the PARTICIPANT.
4. The contract period shall be from **October 1, 2023 to September 30, 2024.**
5. The following contract terms apply to all contracts involving **Delivered** products:

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

Successors and Assigns This Agreement shall inure to the benefit of, and be binding upon, the successors and assigns of each of the parties hereto.

Violation of Law The Seller shall strictly observe and comply with all federal, state and local laws and regulations which may govern the work to be performed as herein specified.

Nondiscrimination The Seller shall not discriminate against any person because of race, gender, age, color, religion, ancestry, handicap, sexual orientation, sexual identity, gender identity, veteran status, national origin or any other protected class under the law.

Governing Law This Agreement shall be governed by the laws of the Commonwealth of Massachusetts.

Venue and Jurisdiction Venue and jurisdiction of any action will only be brought in the Commonwealth of Massachusetts, County of Franklin.

Termination Any party may terminate this Agreement by giving thirty (30) days notice to the other parties.

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

Marginal Headings and Pronouns The marginal headings used in this Agreement are for convenience only and shall not be deemed to be a binding portion of this Agreement. The pronouns he, she, or it, are also used for convenience, and in the event that an improper pronoun has been used, it shall be deemed changed so as to render the sentence in which it is contained effective in accordance with its terms.

Insurance The Seller shall, at all times during the Contract, maintain in full force and effect: Employer's Liability, Workers' Compensation, Public Liability and Property Damage Insurance, including contractual liability coverage for the provisions of the Section herein entitled Indemnity. All insurance shall be by insurers and for policy limits acceptable to the Participants and, before commencement of work hereunder, the Seller agrees to furnish the FRCOG with certificates of insurance or other evidence satisfactory to the FRCOG to the effect that such insurance has been procured and is in force.

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

COVERAGES	LIMITS OF LIABILITY
Workers' Compensation**	Statutory
Employers' Liability	\$500,000
Bodily Injury Liability (except automobile)	\$1,000,000 each occurrence \$2,000,000 aggregate
Property Damage Liability (except automobile)	\$1,000,000 each occurrence \$2,000,000 aggregate
Automobile Bodily Injury	\$1,000,000 each person \$2,000,000 each occurrence
Automobile Property Damage Liability	\$1,000,000 each occurrence
Excess/Umbrella	\$1,000,000

*** If Contractor has elected exemption from M.G.L. c. 152 pursuant to M.G.L. c. 152 sec. 1(4), Contractor shall provide Council with a copy of its Affidavit of Exemption, and Contractor hereby covenants and affirms that in electing such exemption has complied with all requirements of M.G.L. c. 152, and 452 C.M.R. c. 8.00 et seq., as amended from time to time. Failure by Contractor to comply with this paragraph shall constitute an event of default as defined herein.*

The Franklin Regional Council of Governments and the Participants of “FRCOG Water Treatment Chemicals Bid #2023-2101” shall be named as an additional insured under the liability and automobile insurance. The general liability insurance policy should contain a broad form general liability endorsement.

Licenses and Fees The Seller shall obtain all licenses and permits (other than the license and permit granted by the Agreement) required to conduct the activities pursuant to this Agreement and shall promptly pay all fees, taxes or other state or municipal costs necessary for said licenses, permits or activities.

Compliance with the Law The Seller shall conduct operations under this Agreement in compliance with all applicable laws, regulations, rules, by-laws and codes of the local, state and federal government such provisions being incorporated herein by reference, provided however, the General Specifications shall govern the obligations of the Contractor where there exists conflicting ordinances on the subject.

Availability of Funds The compensation provided by this Agreement is subject to the continued availability of Municipal funds and appropriations and the continued availability of any other funds anticipated or earmarked for the work hereunder.

Access to Records Seller will make all books, accounts, data, records, reports, files and other papers required to be kept or kept in the course of the work to be performed under this Agreement available at all reasonable times for inspection, review and audit by the Participants or the FRCOG.

Rights and Remedies The Participant’s rights and remedies provided in this Agreement are in addition to any other rights and remedies provided by law.

Ownership of Documents The parties agree that all documents created for the Participant(s) pursuant to this Agreement by the Contractor shall belong to the Participant(s) with all rights established thereby.

Indemnity

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

b. Seller assumes full responsibility for relations with any subcontractors employed directly or indirectly by the Seller and the Seller shall defend, indemnify, and save harmless the FRCOG and Participants from all demands made against the FRCOG and Participants by such subcontractor, such subcontractor’s agent or employee, or any person, as the result of such subcontractor’s work performed pursuant to this Agreement including but not limited to negligent acts, errors, or omissions that arise out of, result from, or are connected with the

performance of this Agreement or any subsequent Agreement and is not otherwise subject to indemnifications under subparagraph "a" above.

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

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

e. In the event of a breach of this Agreement by the Seller, the Seller shall pay the FRCOG and/or Participants all reasonable attorney fees, costs and other litigation expenses incurred by the FRCOG and Participants in enforcing their rights as a result of said breach in addition to any damages for said breach.

Force Majeure The Seller shall not be liable for the failure to wholly perform his duties if such failure is caused by catastrophe, riot, war, governmental order or regulation, strike, fire, accident, act of God or other similar or different contingency beyond the reasonable control of the Seller.

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

In witness whereof the parties hereto have subscribed their hands and seals on the date first above written.

FOR SELLER

FRANKLIN REGIONAL
COUNCIL OF GOVERNMENTS
on behalf of the Participants per their
Collective Purchasing Agreement.

Company

Andrea Woods, Chief Procurement Officer

Authorized Signature

Printed Name of Above

Telephone/Fax

Email address

Name & Email of Person filing Quarterly Reports