

## **BID FORM**

### **PROJECT IDENTIFICATION:**

Read-West Pump and Storage Project, IFB No. 17-30

Lowell Regional Wastewater Utility

CWSRF-4108

### **TABLE OF ARTICLES**

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#### **ARTICLE 1 BID RECIPIENT**

- 1.1 This Bid is submitted to:

City of Lowell Purchasing Department

- 1.2 City Hall, 375 Merrimack Street, 3<sup>rd</sup> Floor, Room 60, Lowell, MA 01852. The undersigned Bidder proposes and agrees, if this Bid is accepted, to enter into an Agreement with OWNER in the form included in the Bidding Documents to perform all Work as specified or indicated in the Bidding Documents for the prices and within the times indicated in this Bid and in accordance with the other terms and conditions of the Bidding Documents.

#### **ARTICLE 2 BIDDER'S ACKNOWLEDGEMENTS**

- 2.1 Bidder accepts all of the terms and conditions of the Advertisement for Bids and Instructions to Bidders, including without limitation, those dealing with the disposition of Bid deposit.
- 2.2 The time period for holding bids, where Federal approval is not required is 60 days, Saturdays, Sundays and legal holidays excluded, after opening of bids.
- 2.3 Bidders must fully comply with Subpart C of 2 CFR Part 180 and 2 CFR Part 1532, entitled Responsibilities of Participants Regarding Transactions (Doing Business with Other Persons). Contractors, subcontractors, or suppliers that appear on the Excluded Parties List System at [www.epls.gov](http://www.epls.gov) are not eligible for award of any contracts funded by the Massachusetts State Revolving Fund.
- 2.4 The undersigned agrees that, if he is selected as general contractor, he will within ten (10) days, Saturdays, Sundays and legal holidays excluded, after presentation thereof by the awarding authority, execute a contract in accordance with the terms of the general bid and furnish a performance bond and also a labor and materials or payment bond, each of a

Surety company qualified to do business under the laws of the Commonwealth and satisfactory to the awarding authority and each in the sum of one hundred percent (100%) of the contract price, the premiums for which are to be paid by the general contractor and are included in the contract price.

2.5 The Work will be substantially completed within 305 days from the date of the Notice to Proceed and completed and ready for final payment within 365 days from the date of the Notice to Proceed.

2.6 Liquidated Damages

A. CONTRACTOR and OWNER recognize that time is of the essence and that OWNER will suffer financial and other losses if the Work is not completed within the times specified above, plus any extensions thereof allowed in accordance with the Contract. Accordingly, OWNER and Contractor agree that as liquidated damages for delay:

1. Substantial Completion: CONTRACTOR shall pay OWNER \$1,000 for each day that expires after the time (as duly adjusted pursuant to the Contract) specified above for Substantial Completion until the Work is substantially complete.
2. Completion of Remaining Work: After Substantial Completion, if CONTRACTOR shall neglect, refuse, or fail to complete the remaining Work within the Contract Time (as duly adjusted pursuant to the Contract), for completion and readiness for final payment, CONTRACTOR shall pay OWNER \$1,000 for each day that expires after such time until the Work is completed and ready for final payment.
3. Liquidated damages for failing to timely attain Substantial Completion and final completion are not additive and will not be imposed concurrently.

### ARTICLE 3 BIDDER'S REPRESENTATIONS

3.1 In submitting this Bid, Bidder represents, as set forth in the Agreement, that:

- A. Bidder has examined and carefully studied the Bidding Documents, and any data and reference items identified in the Bidding Documents and hereby acknowledges the receipt of all Addenda.
- B. Bidder has visited the Site, conducted a thorough, alert visual examination of the Site and adjacent areas, and become familiar with and satisfied itself as to the general, local and Site conditions that may affect cost, progress, and performance of the Work.
- C. Bidder is familiar with and has satisfied itself as to all federal, state and local Laws and Regulations that may affect cost, progress and performance of the Work.
- D. Bidder has carefully studied all: (1) reports of explorations and tests of subsurface conditions at or adjacent to the Site and all drawings of physical conditions relating to existing surface or subsurface structures at the site, and (2) reports and drawings relating to Hazardous Environmental Conditions, if any, at or adjacent to the Site that have been identified in the Contract Documents, especially with respect to Technical Data in such reports and drawings.
- E. Bidder has considered the information known to Bidder itself; information commonly known to contractors doing business in the locality of the Site; information and observations obtained from visits to the Site; the Bidding Documents; and any Site-related reports and drawings identified in the Bidding

Documents, with respect to the effect of such information, observations, and documents on (1) the cost, progress, and performance of the Work; (2) the means, methods, techniques, sequences, and procedures of construction to be employed by Bidder; and (3) Bidder's safety precautions and programs.

- F. Bidder agrees, based on the information and observations referred to in the preceding paragraph, that no further examinations, investigations, explorations, tests, studies, or data are necessary for the determination of this Bid for performance of the Work at the price bid and within the times required and in accordance with the other terms and conditions of the Bidding Documents.
- G. Bidder is aware of the general nature of work to be performed by OWNER and others at the Site that relates to the Work as indicated in the Bidding Documents.
- H. Bidder has given ENGINEER written notice of all conflicts, errors, ambiguities, or discrepancies that Bidder has discovered in the Bidding Documents, and confirms that the written resolution thereof by Engineer is acceptable to Bidder.
- I. The Bidding Documents are generally sufficient to indicate and convey understanding of all terms and conditions for the performance and furnishing of the Work.
- J. The submission of this Bid constitutes an incontrovertible representation by Bidder that Bidder has complied with every requirement of this Article, and that without exception the Bid and all prices in the Bid are premised upon performing and furnishing the Work required by the Bidding Documents.

#### ARTICLE 4 BIDDER'S CERTIFICATION

- 4.1 Bidder certifies that Bidder is able to furnish labor that can work in harmony with all other elements of labor employed or to be employed on the work, that all employees to be employed at the worksite will have successfully completed a course in construction safety and health approved by the United States Occupational Safety and Health Administration that is at least 10 hours in duration at the time the employee begins work and who shall furnish documentation of successful completion of said course with the first certified payroll report for each employee, and that Bidder will comply fully with all laws and regulations applicable to awards made subject to MGL Chapter 149, Section 44A.
- 4.2 Bidder certifies that, under penalty of perjury, Bidder is not presently debarred from doing public construction work in the Commonwealth under the provisions of MGL Chapter 29, Section 29F or any other applicable debarment provisions of any other chapter of the General Laws or any rule or regulation promulgated thereunder; and is not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency.
- 4.3 Pursuant to M.G.L.c.62C, s49A I certify under the penalties of perjury that I, to my best knowledge and belief, have filed all state tax returns and paid all State Taxes required under law.
- 4.4 Pursuant to M.G.L.c.62C, s49A, bidder hereby certifies under the penalties of perjury, to the best of Bidder's knowledge and belief, that Bidder has complied with all laws of the commonwealth related to taxes, reporting of employees and contractors, and withholding and remitting of child support.
- 4.5 The undersigned bidder hereby certifies he/she will comply with the specific affirmative action steps contained in the Equal Employment Opportunity/Affirmative Action (EEO/AA) provisions of this Contract, including compliance with the Disadvantaged

Business Enterprise provisions as required under these contract provisions. The contractor receiving the award of the contract shall incorporate the EEO/AA provisions of this contract into all subcontracts and purchase orders so that such provisions will be binding upon each subcontractor or vendor.

- 4.6 Bidder certifies that, under the penalties of perjury, this Bid is in all respects bona fide, fair and made without collusion or fraud with any other person. As used in this paragraph the word “person” shall mean any natural person, joint venture, partnership, corporation or other business or legal entity.
- 4.7 Bidder certifies that, under penalties of perjury, there have been no substantial changes in Bidder’s financial position or business organization other than those changes noted within the application since the applicant’s most recent prequalification statement and that the Bid is in all respects bona fide, fair and made without collusion or fraud with any other person. “Person” here means any natural person, joint venture, partnership, corporation or other business or legal entity which sells materials, equipment or supplies used in or for, or engages in the performance of, the same or similar construction, reconstruction, installation, demolition, maintenance or repair work or any part thereof.
- 4.8 Bidder certifies that this Bid is genuine and not made in the interest of or on behalf of any undisclosed individual or entity and is not submitted in conformity with any collusive agreement or rules of any group, association, organization, or corporation.
- 4.9 Bidder certifies that Bidder has not directly or indirectly induced or solicited any other Bidder to submit a false or sham Bid.
- 4.10 Bidder certifies that Bidder has not solicited or induced any individual or entity to refrain from bidding.
- 4.11 Bidder certifies that Bidder has not engaged in corrupt, fraudulent, collusive, or coercive practices in competing for the Contract. For the purposes of this Paragraph:
  - A. “corrupt practice” means the offering, giving, receiving, or soliciting of any thing of value likely to influence the action of a public official in the bidding process;
  - B. “fraudulent practice” means an intentional misrepresentation of facts made (a) to influence the bidding process to the detriment of the Owner, (b) to establish bid prices at artificial non-competitive levels, or (c) to deprive Owner of the benefits of free and open competition;
  - C. “collusive practice” means a scheme or arrangement between two or more Bidders, with or without the knowledge of Owner, a purpose of which is to establish bid prices at artificial, non-competitive levels; and
  - D. “coercive practice” means harming or threatening to harm, directly or indirectly, persons or their property to influence their participation in the bidding process or affect the execution of the Contract.

#### ARTICLE 5 BASIS OF BID

- 5.1 Bidder proposes to furnish all labor and materials required for construction of the Read-West Pump and Storage Project, Lowell, MA in accordance with the accompanying Bidding Documents for the Contract Price specified below, subject to additions and deductions according to the terms of the Bidding Documents.
- 5.2 This Bid includes Addenda numbered \_\_\_\_\_.

5.3 The proposed Contract Price (base bid including Sub-Bids) is:

\_\_\_\_\_dollars

(words)

(\$ \_\_\_\_\_)

(figures)

5.4 The subdivision of the proposed Contract Price (base bid) is as follows:

**Item 1 – Read-West Pump and Storage Project:** The work of the General Contractor, being all Work other than that covered by Items 2A, 2B, 2C, 2D, 2E, 2F, and Item 3.

\_\_\_\_\_dollars

(Bid in words)

(\$ \_\_\_\_\_)

(figures)

**Item 2: Unit Price Bid as follows:**

Item Number	Item Name and Unit Bid Prices Written in Words and Figures	Estimated Quantity	Total Amount of Item (in figures)
2A	Rock Excavation, per cubic yard, the price of:  _____ (\$ _____ )	x 50 c.y. =	\$ _____
2B	Contaminated Soil Disposal, per cubic yard, the price of:  _____ (\$ _____ )	x 1,350 c.y. =	\$ _____
2C	Repair of Cracked Concrete in accordance with Detail 1/S-002, per linear foot, the price of:  _____ (\$ _____ )	x 200 l.f. =	\$ _____
2D	Repair of Deep Spalls in Concrete in accordance with Detail 2/S-002, per square foot, the price of:  _____ (\$ _____ )	x 600 s.f. =	\$ _____
2E	Repair of Shallow Spalls and Scaling in Concrete in accordance with Detail 3/S-002, per square foot, the price of:  _____ (\$ _____ )	x 3,000 s.f. =	\$ _____
2F	Repair of Hollow-Sounding Areas in Concrete in Accordance with Detail 4/S-002, per square foot, the price of:  _____ (\$ _____ )	x 400 s.f. =	\$ _____

**Item 3: Sub-Bids as follows:**

Sub-Trade	Name of Sub-Bidder	Base Bid Amount	Bonds required indicated by "Yes" or "No"*
Total of Item 3: \$ _____			

\*Failure to fill in any or all spaces in the Bonds Required column will be construed as an entry of the word "no."

- 5.5 Bidder agrees that each of the above named Sub-Bidders will be used for the work indicated at the amount stated, unless a substitution is made. Bidder further agrees to pay the premiums for the performance and payment bonds furnished by Sub-Bidders as requested herein and that all of the cost of all such premiums is included in the amount set forth in Item 1 of this Bid.
- 5.6 Bidder agrees, if this Bid is accepted, to promptly confer with OWNER on the question of Sub-Bidders, and that OWNER may substitute for any Sub-Bid listed above a Sub-Bid filed with OWNER by another Sub-Bidder for the sub-trade against whose standing and ability Bidder makes no objection; and that Bidder will use all such finally selected Sub-Bidders at the amounts named in their respective Sub-Bids and be in every way as responsible for them and their work as if they had been originally named in this General Bid, the total Contract Price being adjusted to conform thereto.

**ARTICLE 6 ATTACHMENTS TO THIS BID**

- 6.1 The following documents are attached to and made a condition of this Bid:
  - A. Bid deposit in the amount of \_\_\_\_\_ dollars (\$ \_\_\_\_\_), consisting of a bid bond in the amount of five percent of the total amount of Bid
  - B. Evidence of authority to sign
  - C. List of Project References / Evidence of Qualifications
  - D. Evidence of authority to do business in the state of the Project; or a written covenant to obtain such license within the time for acceptance of Bids
  - E. A list of adversarial proceedings in which the bidder is or was a party within the past 10 years that relate to the procurement or performance of any public or private construction contract together with a brief statement as to outcome if concluded or status if pending.

- F. A list of any projects on which the firm was terminated or failed to complete the work within the past 10 years, including a brief explanation for each instance listed.
- G. Contractor's License or Registration No.: \_\_\_\_\_ or Evidence of Bidder's ability to obtain a license or registration and a covenant by Bidder to obtain said license or registration within the time for acceptance of Bids;
- H. Name and experience statement for proposed Superintendent
- I. DCAMM Certificate of Eligibility
- J. DCAMM Update Statement
- K. DBE participation forms
  - 1. Schedule of DBE Participation (Form EEO-DEP-190C)
  - 2. DBE Letters of Intent (Form EEO-DEP-191C)
  - 3. Request for Waiver for SRF Construction (Form EEO-DEP-490C) (if applicable)
  - 4. DBE Certifications prepared by each DBE
  - 5. DBE Subcontractor Participation Form (6100-2)
- L. Contractors Certification Statement (Appendix A2)
- M. Massachusetts Diesel Retrofit Program Statement of Intent to Comply
- N. List of Subcontractors
- O. City of Lowell Non-Collusion Affidavit

ARTICLE 7 BID SUBMITTAL

BIDDER: *[Indicate correct name of bidding entity]*

\_\_\_\_\_  
By:  
*[Signature]* \_\_\_\_\_

*[Printed name]* \_\_\_\_\_  
*(If Bidder is a corporation, a limited liability company, a partnership, or a joint venture, attach evidence of authority to sign.)*

Attest:  
*[Signature]* \_\_\_\_\_

*[Printed name]* \_\_\_\_\_

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

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

Address for giving notices:  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Telephone Number: \_\_\_\_\_

Fax Number: \_\_\_\_\_

Contact Name and e-mail  
address: \_\_\_\_\_  
\_\_\_\_\_

Bidder's License No.: \_\_\_\_\_  
*(where applicable)*

DISADVANTAGED BUSINESS ENTERPRISE PARTICIPATION  
 MASSACHUSETTS DEPARTMENT OF ENVIRONMENTAL PROTECTION  
 DIVISION OF MUNICIPAL SERVICES

**SCHEDULE OF PARTICIPATION FOR SRF CONSTRUCTION**

**Project Title:** \_\_\_\_\_ **Project Location:** \_\_\_\_\_

**Disadvantaged Minority Business Enterprise Participation in the SRF Loan Work**

Name & Address of D/MBE	Nature of Participation	Dollar Value of Participation
1.		
2.		
3.		
<b>Total D/MBE Commitment:</b>		<b>\$</b>
<b>Percentage D/MBE Participation = (Total D/MBE Commitment) / (Bid Price) =</b>		<b>%</b>

**Disadvantaged Women Business Enterprise Participation in the SRF Loan Work**

Name & Address of D/WBE	Nature of Participation	Dollar Value of Participation
1.		
2.		
3.		
<b>Total D/WBE Commitment:</b>		<b>\$</b>
<b>Percentage D/WBE Participation = (Total D/WBE Commitment) / ( Bid Price) =</b>		<b>%</b>

The Bidder agrees to furnish implementation reports as required by MassDEP to indicate the D/MBEs and D/WBE(s) which it has used or intends to use. Breach of this commitment constitutes a breach of the contract.

Name of Bidder: \_\_\_\_\_

Date: \_\_\_\_\_ By: \_\_\_\_\_  
Signature

NOTE: Participation of a DBE may be counted in only their certified category; the same dollar participation cannot be used in computing the percentage of D/MBE participation and again of D/WBE participation.



**DBE CERTIFICATION OF UNITED STATES CITIZENSHIP**

For the SRF program, under the EPA Disadvantage Business Enterprise (DBE) Rule, a DBE must be owned or controlled by a socially and economically disadvantaged person that is also a **citizen of the United States** (See 40 CFR 33.202). “Ownership” is defined at 13 CFR 124.105 and “control” is defined at 13 CFR 124.106.

DBEs are certified for the SRF program through the Supplier Diversity Office using the federal Department of Transportation (DOT) DBE rules. EPA allows the use of DBEs certified under the DOT rules as long as they are also United States citizens. To ensure compliance with the EPA rule, MassDEP must verify United States citizenship through the completion of the following form for each DBE used on the project.

SRF Project Number \_\_\_\_\_

Contract Number \_\_\_\_\_

Contract Title \_\_\_\_\_

DBE Subcontractor \_\_\_\_\_

The undersigned, on behalf of the above named DBE subcontractor, hereby certifies that the DBE firm is either owned or controlled by a person or persons that are citizens of the United States.

\_\_\_\_\_  
Printed Name and Title of DBE Signatory

\_\_\_\_\_  
DBE Signature

\_\_\_\_\_  
Date

**REQUEST FOR WAIVER FOR SRF CONSTRUCTION**

Upon exhausting all known sources and making every possible effort to meet the minimum requirements for DBE participation, the Bidder may seek relief either partially or entirely from these requirements by submitting a completed waiver package by the close of business on the third business day after notification by the LGU. Failure to comply with this process shall be cause to reject the bid thereby rendering the Bidder not eligible for award of the contract.

**General Information**

Project Title: \_\_\_\_\_ Project Location: \_\_\_\_\_

Bid Opening (time/date) \_\_\_\_\_

Bidder: \_\_\_\_\_

Mailing Address: \_\_\_\_\_

Contact Person: \_\_\_\_\_ Telephone No. ( ) \_\_\_\_\_ Ext. \_\_\_\_\_

**Minimum Requirements**

The bidder must demonstrate that good faith efforts were undertaken to comply with the percentage goals as specified. The firm seeking relief must show that such efforts were taken appropriately in advance of the time set for opening bid proposals to allow adequate time for response(s) by submitting the following:

- A. A detailed record of the effort made to contact and negotiate with disadvantaged minority and/or woman owned businesses, including:
  - 1. names, addresses, telephone numbers and contact dates of all such companies contacted;
  - 2. copies of written notice(s) which were sent to DBE potential subcontractors prior to bid opening;
  - 3. a detailed statement as to why each subcontractor contacted (i) was not willing to do the job or (ii) was not qualified to perform the work as solicited; and
  - 4. in the case(s) where a negotiated price could not be reached the bidder should detail what efforts were made to reach an agreement on a competitive price.
  - 5. copies of advertisements, dated not less than ten (10) days prior to bid opening, as appearing in general publications, trade-oriented publications, and applicable minority/women-focused media detailing the opportunities for participation;

- B. MassDEP may require the bidder to produce such additional information as it deems appropriate.
- C. No later than fifteen (15) days after submission of all required information and documentation, MassDEP shall make a determination, in writing, whether the waiver request is granted and shall provide that determination to the bidder and Awarding Authority. If the waiver request is denied, the facts upon which a denial is based will be set forth in writing.

CERTIFICATION

The undersigned herewith certifies that the above information and appropriate attachments are true and accurate to the best of my knowledge and that I have been authorized to act on behalf of the bidder in this matter.

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(authorized original signature)

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DATE

**DISADVANTAGED BUSINESS ENTERPRISE PROGRAM**  
**DBE SUBCONTRACTOR PARTICIPATION FORM**

The United States Environmental Protection Agency (EPA) requires that this form be provided to all subcontractors on the project. At the option of the subcontractor, this form may be filled out and submitted directly to the EPA DBE Coordinator.

NAME OF SUBCONTRACTOR	PROJECT NAME
ADDRESS	CONTRACT NO.
TELEPHONE NO.	E-MAIL ADDRESS
PRIME CONTRACTOR NAME:	

Please use the space below to report any concerns regarding the above EPA-funded project (e.g., reason for termination by prime contractor, late payment, etc.).

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CONTRACT ITEM NO.	ITEM OF WORK OR DESCRIPTION OF SERVICES RECEIVED FROM THE PRIME CONTRACTOR	AMOUNT SUBCONTRACTOR WAS PAID BY PRIME CONTRACTOR

  

_____	_____
Subcontractor Signature	Title/Date

**APPENDIX A2**

Certification Statements wording required in the BID PROPOSAL of contracts bid under the provisions of c.149 s 44A – 44J (Building Contract with filed Sub-bids)

Pursuant to M.G.L. Ch. 62C, s 49A, I certify under the penalties of perjury that I, to my best knowledge and belief, have filed all state tax returns and paid all State Taxes Required under law.

The undersigned bidder hereby certifies he/she will comply with the specific affirmative action steps contained in the Equal Employment Opportunity/Affirmative Action (EEO/AA) provisions of this Contract, including compliance with the Disadvantaged Business Enterprise provisions as required under these contract provisions. The contractor receiving the award of the contract shall incorporate the EEO/AA provisions of this contract into all subcontracts and purchase orders so that such provisions will be binding upon each subcontractor or vendor.

The undersigned certifies under penalties of perjury that there have been no substantial changes in his financial position or business organization other than those changes noted within the application since the applicant's most recent pre-qualification statement and that the bid is in all respects bonafide, fair and made without collusion or fraud with any other person.

c149 s44D (1)(b) “Person” shall mean any natural person, joint venture, partnership, corporation or other business or legal entity which sells materials, equipment or supplies used in or for, or engages in the performance of, the same or similar construction, reconstruction, installation, demolition, maintenance or repair work or any part thereof.

c149 s44E (2) The undersigned hereby certifies that he is able to furnish labor that can work in harmony with all other elements of labor employed or to be employed on the work and that he will comply fully with all laws and regulations applicable to awards made subject to section forty-four A.

c149 s44E (3) The undersigned further certifies under penalty of perjury that the said undersigned is not presently debarred from doing public construction work in the Commonwealth of Massachusetts under the provision of Section Twenty-Nine F of Chapter Twenty-Nine, or any other applicable debarment provisions of any other Chapter of the General Laws or any rule or regulation promulgated thereunder; and is not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency.

\_\_\_\_\_  
(Date) (Name of General Bidder) (Federal Employer Identification No.)

By: \_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Title & Name of person signing bid)

\_\_\_\_\_  
(Business Address) (City State, Zip)

## APPENDIX – B DIESEL RETROFIT PROGRAM

The Department of Environmental Protection (“DEP”) has developed the Diesel Retrofit Program in response to increasing public health concerns with the emissions from diesel engines and vehicles.

### **Diesel Construction Equipment Standard**

All diesel powered non-road construction equipment and vehicles greater than 50 brake horsepower which will be used in the performance of the work under the Contract (hereinafter “Diesel Construction Equipment”) must have the following pollution control device installed unless exempt as provided below:

1. Emission control technology verified by U.S. Environmental Protection Agency (“EPA”) or the California Air Resources Board (“CARB”) for use with non-road engines;
2. Emission control technology verified by EPA or CARB for use with on-road engines provided that such equipment is operated with diesel fuel that has no more than 15 parts per million sulfur content (i.e. Ultra Low Sulfur Diesel fuel); or
3. Emission control technology certified by the manufacturer that such technology meets or exceeds the emission reductions provided by on-road or off-road emission control technology verified by EPA or CARB, i.e. that a Diesel Oxidation Catalyst is achieving the following minimum emission reductions: particulate matter 20%; carbon monoxide 40%; volatile organic compounds 50%; or a Diesel Particulate Filter is achieving a minimum of 85% emission reductions for particulate matter.

Emission control devices, such as oxidation catalysts or particulate filters, shall be installed on the exhaust system side of the Diesel Construction Equipment. The Contractor shall be responsible to insure that the emissions control technology is operated, maintained, and serviced as recommended by the manufacturer.

For the latest up-to-date list of EPA verified-technologies, see:

<http://www.epa.gov/otaq/retrofit/retroverifiedlist.htm>

For the latest up-to-date list of CARB verified technologies, see:

<http://www.arb.ca.gov/diesel/verdev/verifiedtechnologies/vt.htm>

### **Exemptions**

The following Diesel Construction Equipment shall be exempt from the standard above. The Contractor shall include such Diesel Construction Equipment in the required recordkeeping:

1. Diesel Construction Equipment not owned by the Contractor and used in the performance of the work under this Contract for 30 calendar days (cumulative days but not necessarily consecutive) or less;
2. Unless otherwise exempt, additional Diesel Construction Equipment originally not anticipated to be used under the Contract or used as permanent replacement after the work under the Contract has commenced, for 15 calendar days from the date such Diesel Construction Equipment is brought on site;

**APPENDIX – B (cont.)  
DIESEL RETROFIT PROGRAM**

3. Diesel Construction Equipment with an engine that meets the EPA particulate matter (PM) Tier emission standards in effect at the start of the Contract for non-road diesel engines for the applicable engine power group (e.g., as of January 1, 2009, a piece of Diesel Construction Equipment with a Tier 3 engine is exempt from meeting the standard until the piece of Diesel Construction Equipment is available with a Tier 4 engine) provided that if such emissions standards are superseded during the Contract then such Diesel Construction Equipment must be retrofitted in accordance with the standards above prior to the end of the Contract;
4. A large crane (e.g. a sky crane or link belt crane which is responsible for critical lift operations) if such device would adversely affect the operation of the crane provided the Contractor submits to the municipality's project engineer written technical justification documenting the adverse impact on operation; and
5. Diesel Construction Equipment that the project engineer has determined is necessary to control a compelling emergency including but not limited to, the need for rescue vehicles or other equipment to prevent harm to human beings or additional equipment required to address a catastrophic emergency such as structure collapse or imminent collapse. After the compelling emergency is controlled, such non-compliant equipment must be removed from the Contract site and may not be used in further performance of the work under this Contract. Meeting Contract deadlines is not a compelling emergency.

**Contractor Certification**

Each bidder shall submit as part of its bid, the Statement of Intent to Comply. Within 10 days of being notified that it has been awarded a contract, the bidder and each of its Contractors and Subcontractors shall submit a Diesel Retrofit Program Contractor Certification. Each such Certification shall contain the following information for each piece of Diesel Construction Equipment:

1. Contractor or Subcontractor name;
2. Equipment type, make, model;
3. Vehicle Identification Number or VIN;
4. Engine model and year of manufacture;
5. Engine HP rating;
6. Emission Control Device (ECD) type (Diesel Oxidation Catalyst or Diesel Particulate Filter);
7. ECD make, model, and manufacturer;
8. ECD EPA or CARB Verification Number or manufacturer's certification that the DOC or DPF meets or exceeds emission reductions provided by similar emission control technology verified by EPA or CARB;
9. ECD installation date;
10. Type of fuel to be used; and
11. Whether the equipment is owned or rented.

**Recordkeeping**

Each Contractor and Subcontractor shall maintain detailed records of all Diesel Construction Equipment used under the Contract, including the dates and duration times the Diesel Construction Equipment is

**APPENDIX – B (cont.)**  
**DIESEL RETROFIT PROGRAM**

used at the Contract site. Records shall be available for inspection by DEP. Each Contractor and Subcontractor shall notify DEP within 48 hours of any new Diesel Construction Equipment brought onto the Contract site.

For Diesel Construction Equipment that has an emissions control device with a manufacturer's certification, the Contractor shall maintain records of all supporting emissions test data and test procedures. If upon review the emissions reductions are not supported by the test data and test procedures, then the emissions control device may need to be replaced with a compliant retrofit device.

**Project Regulatory Agreement**

The following language shall be included section 4 (Covenants of the Borrower) of the municipality's Project Regulatory Agreement if it receives funds from the State Revolving Fund:

The Borrower shall require each Contractor and Subcontractor to submit the Diesel Retrofit Program Contractor Certification to DEP and the Borrower prior to commencing work on the Project. The Borrower shall not allow any Contractor or Subcontractor to commence work at the Project site prior to submitting such Certification.

**APPENDIX – B (cont.)  
DIESEL RETROFIT PROGRAM**

**STATEMENT OF INTENT TO COMPLY**

*This form must be signed and submitted by the bidder as part of the bid.*

**Local Governmental Unit** \_\_\_\_\_ **SRF Project No.** \_\_\_\_\_

**Contract No.** \_\_\_\_\_ **Contact Title** \_\_\_\_\_

**Bidder** \_\_\_\_\_

**The undersigned, on behalf of the above-named Bidder, agrees that, if awarded the Contract:**

- 1. the Bidder shall comply with the Department of Environmental Protection’s (“DEP”) Diesel Retrofit Program by ensuring that all diesel powered non-road construction equipment and vehicles greater than 50 brake horsepower which will be used in the performance of the work under the Contract are equipped or retrofitted with a pollution control device in accordance with the Diesel Retrofit Program Standard;**
- 2. the Bidder shall require all Subcontractors to comply with DEP’s Diesel Retrofit Program by ensuring all diesel powered non-road construction equipment and vehicles greater than 50 brake horsepower which will be used in the performance of the work under the Contract are equipped or retrofitted with a pollution control device in accordance with the Diesel Retrofit Program Standard; and**
- 3. The Bidder shall submit and shall require each Subcontractor to submit a Diesel Retrofit Program Contractor Certification (form attached) with a Diesel Retrofit List to DEP (NAME and ADDRESS) and the Bidder within 10 days of the bidder being notified that it has been awarded the Contract. The Bidder shall require each Subcontractor to update such Certification and List within 2 days of using additional Diesel Construction Equipment on the project under the Contract.**

\_\_\_\_\_  
(Signature of Bidder’s Authorized Representative) (Date)

**APPENDIX – B (cont.)**  
**DIESEL RETROFIT PROGRAM CONTRACTOR CERTIFICATION**

*Each Contractor and its Subcontractor(s) must sign and submit this form to John Felix, 6<sup>th</sup> Floor, MassDEP, One Winter Street, Boston, MA 02108 and the Municipality within 10 days after the Contractor is notified that it is awarded the Contract.*

**Local Governmental Unit** \_\_\_\_\_ **SRF Project No.** \_\_\_\_\_

**Contract No.** \_\_\_\_\_ **Contact Title** \_\_\_\_\_

**Contractor** \_\_\_\_\_

I, \_\_\_\_\_, an authorized signatory for \_\_\_\_\_, whose principal place of business is at \_\_\_\_\_ do hereby certify that any and all diesel powered non-road construction equipment and vehicles greater than 50 brake horsepower which will be used in the performance of the work under the Contract (hereinafter “Diesel Construction Equipment”) have pollution control devices, such as oxidation catalysts or particulate filters, installed on the exhaust system side of the diesel combustion engine equipment in accordance with the Diesel Retrofit Program Standard.

I am submitting on behalf of \_\_\_\_\_ a list of all said Diesel Construction Equipment, labeled “Diesel Retrofit List,” that will be used in connection with this Contract by \_\_\_\_\_. I hereby certify that the information on the attached Diesel Retrofit List is correct and accurate as of the date of signature. The List includes the following information for each piece of Diesel Construction Equipment:

1. Equipment type, make, model;
2. Vehicle Identification Number or VIN;
3. Engine model and year of manufacture;
4. Engine HP rating;
5. Emission Control Device (“ECD”) type (Diesel Oxidation Catalyst or Diesel Particulate Filter);
6. ECD make, model, and manufacturer;
7. ECD EPA or CARB Verification Number or manufacturer’s certification that the DOC or DPF meets or exceeds emission reductions provided by similar emission control technology verified by EPA or CARB;
8. ECD installation date;
9. Type of fuel to be used; and
10. Whether the equipment is owned or rented.

**APPENDIX – B (cont.)**

**DIESEL RETROFIT PROGRAM CONTRACTOR CERTIFICATION**

\_\_\_\_\_ shall notify DEP within 48 hours of any new Diesel Construction Equipment brought onto the Contract site. \_\_\_\_\_ shall maintain detailed records of all Diesel Construction Equipment used at the Contract site, including the dates and duration times the Diesel Construction Equipment is used at the Contract site. \_\_\_\_\_ shall make such records available for inspection by DEP. \_\_\_\_\_ shall ensure that the emissions control technology for each piece of Diesel Construction Equipment is operated, maintained, and serviced as recommended by the manufacturer. \_\_\_\_\_ shall retrofit prior to the end of the Contract any Diesel Construction Equipment no longer exempt from meeting the Diesel Construction Equipment Standard under exemption 3 (because it had an engine that met the EPA particulate matter (PM) Tier emission standards currently in effect at the start of the Contract for non-road diesel engines for the applicable engine power group and such emissions standards were superseded during the Contract).

I acknowledge that this certificate is being furnished as a requirement under this Contract and is subject to applicable State and federal laws, both criminal and civil. Signed under pains and penalty of perjury on this date \_\_\_\_\_.

Signature \_\_\_\_\_

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

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



**NON-COLLUSION AFFIDAVIT OF PRIME BIDDER**

State of \_\_\_\_\_ )

ss

County of \_\_\_\_\_ )

\_\_\_\_\_ being duly sworn,  
deposes and says that:

(1) He is (owner, partner, office representative or agent) of \_\_\_\_\_  
\_\_\_\_\_ the Bidder that has submitted the  
attached bid;

(2) He is fully informed respecting the preparation and contents of the attached bid and of  
all pertinent circumstances respecting such bid;

(3) Such bid is genuine and is not a collusive or sham bid;

(4) Neither the said bidder nor any of its officers, partners, owners, agents,  
representatives, employees or parties in interest, including this affiant, has in any way  
colluded, conspired, connived or agreed, directly or indirectly, with any other Bidder, firm or  
person to submit a collusive or sham bid in connection with the Contract for which the  
attached bid has been submitted, or to refrain from bidding in connection with such contract,  
or has in any manner directly or indirectly, sought by agreement or collusion or  
communication or conference with any other Bidder, firm or person to fix the price or prices  
in the attached bid, or of any other Bidder; or to fix any overhead, profit or cost element of  
the bid price, or the bid price of any other Bidder; or to secure through any collusion,  
conspiracy, connivance or unlawful agreement any advantage against the CITY OF  
LOWELL or any person interested in the proposed Contract: Read-West Pumping and  
Storage Project.

(5) The price or prices quoted in the attached bid are fair and proper and are not tainted  
by any collusion, conspiracy, connivance or unlawful agreement on the part of the Bidder or  
any of its agents, representatives, owners, employees, or parties in interest, including this  
affiant.

\_\_\_\_\_  
(Signed)

\_\_\_\_\_  
(Title)

Subscribed and sworn to before me on  
this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_

\_\_\_\_\_  
Title

My commission expires \_\_\_\_\_