



Mayor Byron W. Brown

City of Buffalo New York

Division of Purchase
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**REQUEST FOR PROPOSALS
PROVISION OF TRANSPORTATION DEMAND
MANAGEMENT INITIATIVES AND
OPERATION OF MUNICIPAL PARKING FACILITIES**

DATE ISSUED: December 11, 2020



SECTION 1- INTRODUCTION

The City of Buffalo, under the leadership of Mayor Byron W. Brown, is committed to creating a downtown which is vibrant, inclusive, and sustainable, these principles have been expressed by residents and included in documents such as The Future of Mobility: Remaking Buffalo for the 21st Century (www.buffalony.gov/thefutureofmobility). A vital component of this vision is that downtown must be convenient for all to access and use through a variety of travel modes.

Buffalo has had a history of managing transportation separately with roles divided up among a number of organization including the current parking ramp operator BCAR, transit by the Niagara Frontier Transportation Authority, the Pedestrian and Bicycle Advisory Committee, GO Bike Buffalo, NYS Department of Transportation, City of Buffalo Engineering and others. Which leads to an inefficient use of land that does not support the vibrant walkable neighborhood called for in the City’s downtown plan the Queen City Hub., nor does it support other modes of transportation such as mass transit.

The City of Buffalo aspires to manage the existing public downtown parking resources to further the goal of a vibrant, inclusive, sustainable downtown.

The City of Buffalo Parking Department (hereinafter “the City”) is seeking proposals from qualified organizations to provide services for the operation, maintenance, security, and administration of the City’s Municipal Parking Facilities, as well as services to optimize the mode share of commuters and visitors, reduce single occupancy vehicle trips to downtown through transportation demand management initiatives, while providing a high level of service to all users.

The transportation system of today may not meet the needs of the future. As stated in The Future of Mobility: Remaking Buffalo for the 21st Century “Automated vehicles, advances in micromobility such as dockless e-scooters, on-demand partnerships with microtransit, and dynamic parking pricing are already starting to change how we move about cities.” Focusing on all types of mobility can help create equitable urban development and inclusive public spaces.

Approximately 30% of city households do not have access to a car, by ensuring that all modes of transportation are considered and that vehicular traffic, in particular single occupancy vehicles, are not the only focus of Downtown access strategies the City of Buffalo can further its goal of creating a great city that priorities equity and a high quality of life.

SECTION 2- BACKGROUND

The City’s parking assets have been well maintained and cared for. The City looks to continue this standard and use the revenues generated from its parking assets to continue a well-run and maintained system while also supporting transportation demand management

initiatives. In keeping with the Mayor's Race for Place (raceforplacebuffalo.com) initiative the City of Buffalo is looking for a plan and management structure that supports these goals. It is anticipated that the parking facilities operator will partner with or directly provide services which are normally associated with a Transportation Management Association (TMA).

In selecting a management firm to perform the daily operations of the municipal parking system while implementing transportation demand management strategies, the City will seek a firm that can support the vitality of downtown through:

- 1) Marketing of parking through traditional means, but also through the application of new technologies, to increase user awareness of available parking spots for peak and non-peak users
- 2) Offering creative transportation demand management solutions to facilitate mode share changes and reduction of single occupancy vehicles
- 3) Incorporation of non-typical revenue sources, *e.g.*, added customer services, advertising, dedicated commercial space located in parking structures.
- 4) Increasing in payment options, *e.g.*, web-based payments.
- 5) Reduction in operating expenses through modernization and/or centralization of systems and processes and conversion to automated facilities
- 6) Deploying new technology for parking and transportation, *e.g.*, apps, real time parking space management.
- 7) Developing ways to increase utilization of periphery parking lots.
- 8) Regularly engaging city departments, transportation agencies, and not-for-profits to develop and coordinate transportation demand management strategies.

SECTION 3- INSTRUCTIONS TO OFFERORS

3.1 General Invitation

The City invites all interested parties to submit proposals for the services described herein. The City will receive all proposals in person or via mail by no later than **March 12, 2021 11:00 AM EST**. All proposals shall be sealed, clearly labeled on the front of the package and delivered to:

**City of Buffalo
William Sunderlin, Director of Purchase
Purchasing Division
65 Niagara Square, Room 1901 City Hall
Buffalo, New York 14202**

The outside of each sealed envelope or package should be labeled:

Proposal Enclosed
PROVISION OF TRANSPORTATION DEMAND
MANAGEMENT INITIATIVES AND
OPERATION OF MUNICIPAL PARKING FACILITIES
Proposals Due: March 12, 2021
Submitted by: _____

The received time of proposals will be determined by the clock at the above noted location.

NO CONSIDERATION WILL BE GIVEN TO PROPOSALS RECEIVED AFTER THE STATED DATE AND TIME.

Proposals are solicited in accordance with the terms, conditions and instructions as set forth in this RFP. Submission of proposals via telephone, facsimile, e-mail or any other method not specifically provided for herein is prohibited. Proposals must be completed in accordance with the requirements of this RFP. No amendments or changes to proposals will be accepted after the closing date and time. No proposals shall be accepted after the stated deadline.

Any material misrepresentation made by an Offeror may void its proposal and eliminate the proposal from further consideration. Any proposal that is based upon violation of federal, state or local law, or deemed to be non-responsive will be eliminated from consideration.

The City shall not be responsible for any expenses or charges incurred by an Offeror in preparing or submitting a proposal, or in their providing any additional information considered necessary by the City in the evaluation of their proposal.

3.2 Schedule

Listed below is the anticipated schedule for all actions related to this RFP. In the event that there is any change or deviation from this schedule, such change will be posted on the City's website at <https://www.buffalony.gov/bids.aspx>.

<u>EVENT/</u>	<u>DATE</u>
Issuance of RFP	12/11/2020
Written Questions from Offerors Due	2/5/2021
Responses to Questions Posted on City Website	2/19/2021
Pre-Proposal Conference	2/24/2021
Proposals Due	11:00 AM 3/12/2021
Target Award Date	5/7/2021

3.3 Pre-Proposal Conference

Offerors interested in providing these services are strongly advised to attend a pre-proposal conference to be held on WEDNESDAY FEBRUARY 24, 2021 AT 11:00AM, via teleconference. Any Offeror who would like to attend the pre-proposal conference must email dthough@ch.ci.buffalo.ny.us by 4:00 pm Monday February 22, 2021 to request the teleconference information. The conference is intended to provide clarification of these specifications, where needed, and to respond to all technical inquiries. Representatives may not appear on behalf of more than one company. The teleconference will be recorded and available for subsequent review upon request by an Offeror.

3.4 RFP Review, Additional Information and Questions

Each Offeror is responsible for carefully examining all RFP documents and thoroughly familiarizing themselves with each of the City's requirements prior to the submission of a proposal to ensure that responses are in compliance with the RFP.

Each Offeror is responsible for conducting its own investigations and any examinations necessary to ascertain conditions and requirements affecting the requirements of this RFP. Failure to perform such investigations and examinations shall not relieve the Offeror from its obligation to comply, in every detail, with all of the provisions and requirements contained in the RFP.

Questions regarding the RFP shall be directed **only** to the City's designee **Davis Hough**. Any impermissible contact with any other City officer or employee regarding the RFP during the procurement period or any other restricted period set forth by the City designee shall result in the rejection of any such Offeror's proposal. Offerors shall communicate in writing only or during the Pre-Proposal Conference. No other communications with the City's designee regarding the RFP are permitted during the procurement period.

All written questions, requests for clarification or additional information must be sent by email to Davis Hough: dthough@ch.ci.buffalo.ny.us and must be received no later than **4:00pm, February, 5 2021**. The subject line must identify the RFP by title. Offerors shall not communicate with the City's designee via any other method or outside of the time period set forth herein.

The answers to questions received via email and the recording of the pre-proposal conference will be posted on the City's website at www.buffalony.gov. No other representatives of the City are to be contacted regarding this RFP. The City accepts no responsibility for, and the Offeror agrees not to rely upon, any verbal or written statements or representations from any other person, whether or not employed by the City.

Offerors are solely responsible for ensuring the City has a current address, e-mail address and telephone number on file for the Offeror. It is the responsibility of all Offerors to check the City of Buffalo website for any updates.

The City may, in its sole discretion, also elect to provide both the question(s), the written answer(s), and recordings to all known Offerors via e-mail. Offerors are solely responsible for ensuring that the City has accurate contact information, including e-mail address for the receipt of such correspondence. The City does not assume any responsibility for undelivered e-mails or for the receipt of any communication sent to any Offeror.

3.5 Addendums and Modifications

The City reserves the right, in its sole discretion, to amend this RFP at any time prior to the deadline for submission of proposals. In the event that it becomes necessary to revise or expand upon any part of this RFP, all addendums, amendments, and interpretations to this RFP will be made in writing and posted on the City's website at www.buffalony.gov. The City may also endeavor to notify all Offerors to whom the RFP has been issued.

All addendums shall be incorporated as part of the RFP documents as though they were originally set forth herein. The City does not assume any responsibility for the receipt of any addendum sent to any Offeror.

Any information supplied by the City relative to this RFP must be considered in preparing proposals. All other contacts that an Offeror may have had before or after receipt of this RFP with any individuals, employees, subcontractors, consultants or representatives of the City and any information that may have been read in any news media or seen or heard in any communication regarding this RFP should be disregarded in preparing responses.

3.6 Proposal Format

Offerors are advised to adhere to the submittal requirements of the RFP. Failure to comply with the instructions of the RFP may cause a proposal to be rejected. Submission of a proposal in response to this RFP constitutes acceptance of all requirements outlined in the RFP.

Visitation of the municipal parking facilities by the Offeror shall be presumed and is strongly encouraged. The Offeror's failure to visit the sites shall not relieve the successful Offeror of any responsibility under the agreement, if any, it enters into with the City. Further, the successful Offeror will not be able to renegotiate its proposal with the City before it enters into an agreement based upon the Offeror's failure to visit the sites.

One (1) original and thirteen (13) hard copies, along with one (1) digital copy on a flash drive of the proposal must be provided. Proposals must be prepared on 8-1/2" x 11" paper using a font no smaller than 11-point with one-inch margins, printed double-sided, and

bound on the long side. Each page of the submission must be numbered in a manner so that it can be uniquely identified. Legibility, clarity and completeness are required.

The proposal shall also contain a statement that the proposal, including all proposed prices, contained therein shall remain firm and irrevocable for a period of ninety (90) days following the City's receipt of such proposal and the award of the contract, if any.

SECTION 4 - SCOPE OF SERVICES

This work will include services required to successfully manage and operate the municipal parking facilities, including providing operational maintenance, bookkeeping, accounting and auditing functions; providing contracting for monthly parkers; and maintaining all operating equipment to successfully manage the listed parking facility spaces, while operating them in a clean, safe, secure, and presentable condition at all times. This work shall include security administration, staffing, and maintenance of incidents records. It will also require the implementation of transportation demand management strategies as detailed in the Transportation Demand Management Strategy Implementation Plan to be submitted by Offeror annually. Selection of the successful Offeror will be subject to the parties entering into and executing a Management Agreement.

A. FACILITIES

The City intends to select one RFP Offeror to manage all the parking facilities identified below. However, proposals will be considered from companies seeking to manage no more than three of the parking facilities identified herein.

The City reserves the right to award by facility, or as a whole. The City may also reduce or eliminate service locations after the operator is selected.

The following is a list of facilities that will be included as part of the Management Agreement:

- | | |
|------------------------------|-------------------------------------|
| 1. Robert B Adam Ramp | 343 Washington Street (1787 spaces) |
| 2. Mohawk Ramp | 477 Washington Street (629 spaces) |
| 3. Charles R Turner Ramp | 1 Perkins Drive (773 spaces) |
| 4. Owens B. Augspurgen Ramp | 362 Pearl Street. (1433 spaces) |
| 5. Robert Fernbach Ramp | 200 Pearl Street (1210 spaces) |
| 6. One Seneca Parking Garage | 1 HSBC Center (457 spaces) |

B. OPERATION OF FACILITIES AND TRANSPORTATION DEMAND MANAGEMENT STRATEGIES

1. The Offeror shall implement and maintain a plan of operation. The plan should address aspects of operation, such as: traffic controls, direction of patrons and systems, provision of tags, stickers, tickets and access cards to indicate and control the number/authorization of vehicles using the facility.
2. The Offer shall provide a detailed Transportation Demand Management Strategy Implementation Plan annually with identified goals and metrics related to mode share targets. Emerging modes of transportation (e.g., electric micromobility) and technology (e.g., parking sensor information or semi-autonomous vehicles) should be included in this strategy. The progress against metrics shall be annually evaluated and changes to the plan shall be submitted to the City as needed. This Implementation Plan must also identify if any financial resources will be dedicated.
3. The selected Offeror shall provide all labor, personnel, services, equipment, supplies and materials necessary to perform the contracted services.
4. The personnel of the selected Offeror shall perform all work in a safe manner that protects the health and welfare of the operator's personnel, personnel of the City, and the public at large.
5. The personnel of the selected operator shall perform all work in compliance with all rules, regulations, ordinances and laws within the City of Buffalo.
6. The personnel of the selected operator shall provide copies of chemical and material safety data sheets and hazardous waste disposal manifests to the City upon request.
7. The personnel of the selected operator shall wear appropriate uniforms and identification at all times.
8. The personnel of the selected operator shall be courteous and professional and its supervisors will be responsible for employee conduct.
9. The vehicles of the selected operator will be properly identified and maintained in a neat and professional manner.
10. The selected operator shall assume responsibility for all work of their work crews and other personnel.
11. The successful Offeror will be required to provide the City with an annual financial and management audit of their performance prepared by an independent CPA firm. The City reserves the right to audit any aspect of the Offeror's operation at any time without prior notice.

C. OFFICE LOCATION

The Offeror selected to manage the facilities shall establish an office in the City of Buffalo. This office, and the personnel assigned to it, shall be used exclusively for managing the

facilities. The office shall be located within close proximity of Buffalo City Hall-65 Niagara Square, Buffalo New York, 14202.

D. EQUIPMENT

The selected operator shall provide their own equipment and appropriate storage area(s) for such equipment. Equipment shall not be stored on job sites or on City grounds unless approved in advance by the City. After award of the contract, if any, the selected Offeror and the City may meet to discuss the availability of equipment currently used by the existing operator.

E. COMMUNICATION

At a minimum, the Operator, using computers and software at the Buffalo office shall be capable of monitoring monthly registration and usage, receiving electronic posting of accounts, and producing monthly general ledger reports and electronically transferring them to the City.

The selected Offeror shall provide the name(s) and contact information for their representative, who shall regularly inspect the services provided by their crews/employees and regularly communicate with City representatives. The selected Offeror shall provide necessary equipment to provide communication with City personnel. Each work crew of the selected operator shall have personnel who can proficiently communicate with City personnel.

F. USE AND DISPOSAL OF CHEMICALS AND SCHEDULED HAZARDOUS MATERIAL

All chemicals used by the selected Offeror in the performance of work shall be applied, stored and disposed of in accordance with labeling on chemical packaging, Material Safety Data Sheets, and all other applicable rules, regulations, ordinances and laws pertaining to chemicals use, storage and disposal. All disposal of scheduled hazardous materials will be in compliance with New York State Department of Transportation (DOT) and the Environmental Protection Agency (EPA) regulations.

SECTION 5– MANAGEMENT FEE CALCULATION

When calculating the management fee, Offerors must take the following into account:

Tax Exempt Bonds:

There are tax-exempt bonds associated with some of the municipal parking facilities, as such the manner in which the operator will receive compensation, is limited to one of the following four options:

- (1) 100% of the compensation must be based on a per-unit fee stated in the contract.
“Per unit fee” is a stated amount for each unit of services provided, *e.g.*, for each car parked.
- (2) 100% of the compensation must be based on any combination of periodic fixed fees and per-unit fees.
“Periodic fixed fee” is a stated dollar amount for services rendered for a specified period of time. The stated dollar amount may automatically increase according to a specified objective external standard that is not linked to the output or efficiency of a facility, *e.g.*, the Consumer Price Index and similar external indices that track increases in prices in an area or increases in revenues or costs in an industry which are objective external standards.
- (3) At least 50% of the compensation for each annual period must be based on a periodic fixed fee.
- (4) A one-time productivity award is permitted.
“Productivity award” is a stated dollar amount of additional compensation based on increases or decreases in gross revenues or reductions in total expense target (but not both) in any annual period during the term of a contract.

The compensation must be reasonable and no portion of it may be based on net profits derived from the parking facilities.

Reimbursement for actual and direct expenses paid by the Offeror to unrelated persons is not by itself treated as compensation.

Sales and Excise Tax Exemptions:

The City of Buffalo, as a New York State governmental entity, may make purchases exempt from sales and excise tax through an agent who is properly appointed by the City to act on its behalf. In addition, an agent may be exempt from collecting sale tax.

As part of calculating the Management Fee, Offerors must state their intentions in regard to the available tax exemptions. The standards qualifying an Offeror as an agent of the City of Buffalo exempt from paying sales and excise tax are explained in New York State Department of Taxation and Finance Publication 765, Sales and Fuel Excise Tax Information for Property Appointed Agents of New York Governmental Entities. The standards qualifying an Offeror as an agent of the City of Buffalo exempt from collecting sales tax are explained in In the Matter of the Petition of APCOA/Standard Parking, Inc. Both resources are available upon request.

SECTION 6 - REQUIRED CONTENT

Offerors shall provide all of the information listed below:

1) Company Description - Your response must include a complete team description, *i.e.* company, franchise, owner, operator, and financial source. Please also specify the legal form of your organization or proposed organization. Indicate the name, title, telephone number and e-mail address for a representative of the owner that can be contacted regarding your Proposal if additional information or details are required.

2) Resumes and References - Professional resumes should be presented for each team member. Of specific interest is the resume(s) of the on-site facility/facilities manager(s) and the TMA manager. Resumes should include experience relevant to the proposed operation (exit cashiering, maintenance, transportation demand management services, and valet parking operation) and management of the parking facilities, as well as operation/management of similar facilities. Include a list of current and recent assignments, with references. In addition, please include all professional parking industry certifications maintained by personnel to be assigned to this project with resume information.

3) Organizational Chart - The Offeror shall also submit an organizational chart, indicating who will be responsible for each component of the management and operations program. There must be a project manager designated who will take the lead role in communicating with the City and coordinating contract negotiations.

4) Financial Data - Financial data should be submitted in a sealed envelope with the words TRADE SECRET clearly written thereon, which will be returned, unopened if the proposal will not be considered further. Attach your last two (2) annual audited statements, conducted by a CPA firm. The financial statements will be considered totally confidential and treated as such. The release of information marked "Trade Secret" is ultimately subject to the New York Freedom of Information Law and the City cannot be held responsible for the release of information that, in the opinion of the City's Law Department, the statute mandates.

5) Budget - The successful Offeror will be required to provide an annual line item operating budget with written supporting narrative ninety (90) days prior to the start of the next fiscal year. Please submit with your response to this RFP your line item proposed Budget for July 1, 2021 - June 30, 2022 and anticipated three year plan.

If meeting the criteria in the materials identified above, the Management Agreement may identify the successful Offeror as an "Agent of the City of Buffalo" and as such will not require the Offeror to collect and pay sales tax. Please take this into consideration when preparing your proposed budget.

6) Reports - Please confirm in your written response that you agree to provide to the City monthly line item budget reports against plan, supported by written variance reports.

In addition to the already mentioned financial reporting requirements, list total outstanding loans as of the date your proposal is submitted.

- a. Indicate if any surety or bond has been called due to your default. If so, describe.
- b. Provide detailed information of any pending litigation, liens, or claims involving any of the firm's members that could impact a decision of the Offeror.

7) *Conflicts*. Identify all parking contracts in the City which your organization currently manages and maintains along with any planned future projects. Include a detailed description of these projects. Please disclose any known or possible conflicts of interest that may result if your organization's proposal is selected.

SECTION 7 - EVALUATION AND SELECTION PROCESS

7.1 *Qualifications*

Offerors intending to manage transportation demand and the municipal parking facilities must demonstrate independently as an organization or in partnership with another organization, including with staff experience, that they meet the following minimum requirements:

- A. Possess a minimum of ten (10) years of experience in the parking operations business.
- B. Any Offeror intending to manage all parking facilities shall have operated in its own name and/or a principal of the Offeror shall have operated five (5) or more parking facilities serving the general public for a period of at least one year during the five (5) year period preceding the proposal due date, one of which must have been a self-serve garage with at least 1000 parking spaces.
- C. Demonstrate the ability to handle the financial responsibilities entailed in carrying out the contract requirements. (This will be determined by reviewing the Offeror's financial statements and references.)
- D. Show past or current experience in managing parking facilities using state-of-the-art parking access and revenue control systems focusing on technology used to reduce labor costs and improve the parking experience of customers.
- E. Show past or current experience in providing security services, either with your own employees or with subcontracted employees.
- F. Provide evidence of successfully managing automated facilities and centralized operations.

G. Provide evidence of processing and administering web-based payments, credit card payments and any other non-cash based payment technologies the operator has managed.

H. Provide evidence of three (3) years of experience in developing and implementing Transportation Demand Management Plans.

I. Include descriptions as to why the Offeror believes that its proposed general manager has sufficient knowledge in transportation demand management and parking as well as the leadership ability to successfully manage this operation. Describe how the general manager will participate in the community. Finally, provide written assurance that those key management level personnel will not be removed from operation of City facilities without prior written notice to the City.

Items D through I must include detailed information regarding the facilities, along with the contact name, title, address and telephone number for each.

7.1.1 Project Operations

The Offeror is required to present a summary of an implementation plan for the management and operational aspects of the parking facilities. The summary should, at a minimum, adequately address the following aspects of your company's proposed management and operation strategy:

1. Staffing plan/personnel management
2. Auditing/revenue control procedures
3. Equipment maintenance/operation plan
4. Customer/public relations strategies
5. Employee training programs
6. Employee selection and procedures to reduce employee turnover
7. Compensation for 3 years and 2 possible one year renewals
8. New facility opening procedures
9. Experience with valet parking
10. Experience running a shuttle service moving parkers from periphery lots
11. Suggested upgrades to parking facilities – immediate and long-term - to improve the experience of the parking customer and to support the utilization of other modes of transportation
12. Proposed technology enhancements

13. An overview of your organization’s marketing strategy for delivering services that will satisfy our customer base and maximize surplus to the City without increasing the current rates.
14. Parking rates are set by the Common Council. For purposes of your Proposal, please assume that current rates will remain in effect. However, Offeror should identify rate schedules it deems appropriate based on the demand for each off-street facility and the respective services provided keeping in mind the relationship with fees for on-street parking and parking fines. Please identify the operational hours proposed for each facility, based on current conditions, and on your method for assessing that operational hours meet demand as conditions may change.

7.1.2 Management Program:

This section must include, at a minimum, the following information:

1. Provide a detailed summary of security/safety issues you have identified and related costs to address these issues. It will be the responsibility of the successful Offeror to provide security staffing deemed sufficient by the Offeror to maintain properly secured facilities on a 24/7 basis. The Offeror should maintain records of any and all criminal activity, public complaints/ and suggestions in a daily log. Copies of any and all such comments and the log shall be provided to the City on a monthly basis.
2. Provide a detailed description of the accounting/bookkeeping systems and procedures you will utilize to ensure that City funds are protected.
3. Please identify the Management Fee assessed for each facility separately along with the estimated operating budget for each facility. Please identify (total) the management fee and budgets of the entire system.

The Management Fee includes supervision, main office accounting, and other obligations to be defined in the Proposal and any professional charges or interface fees to a parent or national home office.

Please refer to the “Management Fee Calculations” section above for a discussion of the types of permissible Management Fees and exemptions related to sales and excise tax. Any proposal submitted with Management Fees that do not comply with the directions in the “Management Fee Calculations” section will be disqualified.

4. Year 1 Transportation Demand Management Implementation Strategy – The draft proposed first year Transportation Demand Management Strategy Implementation Plan with identified goals and metrics related to mode share targets. This Implementation Plan must also identify if any financial resources will need to be deployed.

5. State whether agent of the City status will be sought and, if so, explain what measures will be taken internally by the Offeror and as part of the parking management contract in order to secure agency status. See Publication 765 of the New York State Department of Taxation and Finance and *In the Matter of the Petition of APCOA/Standard Parking, Inc.*

For the purpose of obtaining agency status, and for management purposes generally, Offerors cannot commingle revenues, expenses, equipment, and labor with other operations of the Offeror. If the Offeror will not be providing services solely for the City of Buffalo, the Offeror must explain in detail how it will address the concern of commingling.

6. Provide a copy of your company maintenance manual, or, in its absence, a detailed frequency summary of all routine maintenance items you will perform with sample forms. At a minimum, this program should include daily housekeeping duties, wash down procedures, re-lamping procedures, striping frequency, trash removal, power sweeping schedule, snow removal/de-icing procedures, window cleaning procedures, sweeping, degreasing and keeping the surfaces of the facilities clean and free from debris, maintain lighting fixtures in fully operational conditions at all times, overseeing necessary contracts, and performing any and all maintenance duties set forth in the management agreement.

7.1.3 Proposed Transition Plan

This section must include, at a minimum, the following information:

1. A detailed plan for assuming the operation, including a list of specific tasks to be accomplished, the completion dates for those tasks, persons responsible for implementing the plan, and the amount of time committed to the implementation of the plan.
2. A detailed plan for employee retention, including how you plan to determine which, if any, of the present employees you plan on retaining. This plan should specifically address each of the job classifications, including on-site parking personnel, on-site security and administrative positions.

7.2 Basis of Selection

The City intends to award a contract to the Offeror whose proposal best meets the vision of the City of developing transportation demand management strategies while appropriately operating parking facilities. However, the City is under no obligation to award any contract, in whole or in part, and it reserves the right in its sole discretion to cancel this RFP process with or without cause at any time before or after closing and has no express or implied obligation to provide reasons for such cancellation.

The process for selecting a winning proposal for this RFP will be an open and fair solicitation process. While total costs will be considered in the award of this RFP, it is not the only

factor to be considered. The professional services sought herein are not subject to NYS competitive bidding requirements. Therefore, the lowest cost proposal may not necessarily be accepted. The City is under no obligation to award any contract, in whole or in part, and it reserves the right in its sole discretion to cancel this RFP at any time before or after the deadline for receipt of the proposals, without providing reasons for such cancellation. If only one proposal is received, the City reserves the right to reject it. Representatives of the City of Buffalo Parking Department shall oversee this project and evaluate Offerors' responses.

The evaluation criteria that will be utilized in selecting an Offeror, for possible award of a contract, will be based upon, but not limited to, the Offerors demonstrating prior proven experience, costs, and any other factors deemed to be in the best interest of the City. All proposals will be evaluated upon the demonstrated ability to fulfill the requirements of the proposal as listed in the Scope of Work. In addition, all proposals will be evaluated upon, and weighted as indicated, but not necessarily limited to, the following criteria:

1. Experience of the Offeror in operating a parking system
2. Experience of the Offeror in operating municipal parking facilities
3. Experience of the Offeror in managing (through Offeror's own employees or on a subcontract basis) a security force responsible for patrolling a parking system owned by a public or private entity
4. Quality of the proposed Transportation Demand Management Implementation Strategy including appropriate metrics.
5. Fiscal responsibility/financial information
6. Customer service philosophy
7. Proposed operating plan
8. Unique qualifications for managing the municipal parking facilities
9. Proposed management fee

7.3 City's Reservations of Rights

Upon submission of a proposal in response to this RFP, each Offeror acknowledges and consents to the following conditions relative to the submission and review and consideration of its proposal:

1. All costs incurred by the Offeror in connection with responding to this RFP and for participating in this procurement process shall be borne solely by the Offeror.
2. The City reserves the right, in its sole discretion, to reject for any reason any and all responses or components thereof and to eliminate any and all Offerors responding to this RFP from further consideration for this procurement.

3. The City reserves the right, in its sole discretion, to reject any Offeror that submits incomplete responses to this RFP, or a proposal that is not responsive to the requirements of this RFP.
4. The City reserves the right, without prior notice, to supplement, amend, or otherwise modify this RFP, or otherwise request additional information.
5. All proposals in response to this RFP shall become the property of the City and will not be returned.
6. All proposals in response to this RFP, and any and all portions thereof, shall constitute public records, except as specifically exempted, subject to public disclosure, in accordance with NYS Freedom of Information Law.
7. The City may request that Offerors personally attend or send representatives to the City for interviews and a demonstration of Offeror's proffered services.
8. Any and all proposals in response to this RFP that are not received by the City by 11:00 a.m., March 12, 2021 will be rejected.
9. Neither the City, nor its officers, officials nor employees shall be liable for any claims or damages resulting from the solicitation or preparation of any proposals crafted in response to this RFP.
10. The City of Buffalo's name, logo, crest, seal, etc. shall not be used without prior, expressed, written consent of the City of Buffalo.

The City reserves that it may, in its sole discretion, exercise the following rights and options with regard to this RFP and the procurement process in order to obtain the most advantageous offer for the City:

1. To waive irregularities and/or minor non-compliance by any Offeror with the requirements of this RFP;
2. To request clarification and/or further information from one or more Offerors, at any time, without becoming obligated to offer the same opportunity to all Offerors;
3. To enter into negotiations with one or more Offerors without being obligated to negotiate with, or offer the same opportunity, to all Offerors;
4. To reject any or all proposals or parts of proposals, to accept part or all of proposals on the basis of considerations other than lowest cost and to create a project of lesser or greater expense and reimbursement than described in this RFP or the Offeror's proposal based on the component prices submitted;

5. To determine that any proposal received in response to this RFP complies or fails to comply with the terms set forth herein;
6. To determine whether any perceived or actual conflict of interest exists that would affect or impair the award of any contract arising from this RFP to a Offeror(s);
7. To waive any technical non-conformance with the terms of this RFP;
8. To change or alter the schedule for any events called for in this RFP;
9. To conduct investigations of any or all of the Offerors, as the City deems necessary or convenient, to clarify the information provided as part of the proposal and to request additional information to support the information included in any proposal;
10. To suspend or terminate the procurement process described in this RFP at any time. If terminated, the City may determine to commence a new procurement process without any obligation to the Offerors;

Offerors are advised to submit a complete offer as their proposal. Any waiver, clarification or negotiation will not be considered an opportunity for Offerors to correct errors contained in their proposals.

SECTION 8 - AWARD OF CONTRACT

It is anticipated that the successful Offeror or Offerors will be awarded a three (3) year non-exclusive contract, with the option to renew for four (2) additional one (1) year terms. Any extension of the agreement must be in writing and the only condition that shall be permitted to be altered or changed in any extension is the sum to be paid the Offeror and the method of computing the same. Notwithstanding the foregoing, the City of Buffalo will have the right to terminate the contract upon thirty (30) days written notice. The contract with the successful Offeror (if any) shall include the terms of this RFP together with those terms of the Offeror's proposal, which are not inconsistent with the RFP, and which have been specifically accepted by the City of Buffalo.

SECTION 9 – INDEMNIFICATION/HOLD HARMLESS

For any contract awarded pursuant to the issuance of this RFP, the successful Offeror shall defend, indemnify and save harmless the City, and its officers and employees from all claims, suits, actions, damages, losses, and costs of every name, nature, and description to which the City, may be subjected or put by reason of any injury to the person or property of another, or the property of the City, resulting from the negligence or carelessness, active or passive, of the Offeror, its employees, agents or subcontractors, in the performance of any work under the contract. In addition to and in furtherance of the foregoing indemnity, the insurance coverage described herein must include language that states that the insurance

carrier will defend the City, for any and all claims arising or resulting from the contract. Furthermore, the whole, or so much of the money to become due under the contract as shall be considered necessary by the City, may be retained by it until all suits or claims for damages shall have been settled or otherwise disposed of, and evidence to that effect furnished to the satisfaction of the City.

SECTION 10 - INSURANCE COVERAGE REQUIREMENTS

The City of Buffalo requires insurance coverage as listed below for this work. Note: The term "Vendor" shall also include their respective agents, representatives, employees or subcontractors; and the term "City of Buffalo" (hereinafter called the "City") shall include their respective officers, agents, officials, employees, volunteers, boards and commissions. The insurance required shall be written for not less than the scope and limits of insurance specified hereunder, or required by applicable federal, state and/or municipal law, regulation or requirement, whichever coverage requirement is greater. It is agreed and understood that the scope and limits of insurance specified hereunder are minimum requirements and shall in no way limit or exclude the City from additional limits and coverage provided.

Minimum Scope and Limits of Insurance

10.1 Worker's Compensation Insurance and Disability Insurance:

With respect to all operations the Vendor performs, the Vendor shall carry Worker's Compensation Insurance and Disability Insurance in accordance with the requirements of the laws of the State of New York. Evidence of Worker's Compensation Insurance and Disability Insurance must be provided on the New York State approved form. The Acord form is not acceptable. Each certificate of insurance evidencing such coverages shall be submitted by the Vendor and must name the City of Buffalo as certificate holder.

10.2 Commercial General Liability:

With respect to all operations the Vendor performs, the Vendor shall carry Commercial General Liability insurance providing for a total limit of not less than one million dollars (\$1,000,000) per occurrence for each job site or location for all damages arising out of bodily injury, personal injury, property damage, products/completed operations, and contractual liability coverage for the indemnification provided under the contract. Each annual aggregate limit shall not be less than two million dollars (\$2,000,000). A certificate of insurance evidencing such coverage shall be submitted by the Offeror and must name the City of Buffalo and as additional insured and certificate holder under said policy of insurance. The City shall also be named as additional insured and certificate holder under Offeror's excess and umbrella policies.

10.3 Automobile Liability:

With respect to any owned, non-owned, or hired vehicles, the Vendor shall carry Automobile Liability insurance providing at least one million dollars (\$1,000,000) per accident for bodily injury and property damage. A certificate of insurance evidencing such coverage shall be submitted by the Offeror and must name the City of Buffalo as additional insured and certificate holder under said policy of insurance.

10.4 Professional Liability:

With respect to any damage caused by an error, omission or any negligent acts of the Vendor performed under this contract, the Vendor shall carry Professional Liability insurance providing at least two million dollars (\$2,000,000) per claim for any wrongful act. The certificate of insurance evidencing such coverage shall be submitted by the Offeror and must name the City of Buffalo as certificate holder under said policy of insurance.

10.5 "Tail" Coverage:

If any of the required liability insurance is on a "claims made" basis, "tail" coverage will be required at the completion of this contract for a duration of 24 months, or the maximum time period reasonably available in the marketplace. Vendor shall furnish certification of "tail" coverage as described or continuous "claims made" liability coverage for 24 months following Contract completion. Continuous "claims made" coverage will be acceptable in lieu of "tail" coverage provided its retroactive date is on or before the effective date of the pertinent Contract. If continuous "claims made" coverage is used, Vendor shall be required to keep the coverage in effect for a duration of not less than 24 months from the end of the Contract.

10.6 Acceptability of Insurers:

All of Vendor's insurance policies shall be written by insurance companies admitted in New York and licensed to do business in the State of New York or otherwise acceptable to the City's Corporation Counsel in his sole discretion.

10.7 Subcontractors:

The Vendor shall require subcontractors to provide the same "minimum scope and limits of insurance" as required herein, with the exception of Errors and Omissions/Professional Liability Insurance unless Errors and Omissions /Professional Liability insurance is applicable to the work performed by the subcontractor. All Certificates of Insurance shall be provided to Corporation Counsel's office as required herein and are subject to approval as to form by the Corporation Counsel and are subject to approval as to sufficiency by the City Comptroller.

10.8 Aggregate Limits:

Any aggregate limits must be declared to and approved by the City. It is agreed that the Vendor shall notify the City when fifty percent (50%) of the aggregate limits are eroded during the contract term. If the aggregate limit is eroded for the full limit, the Vendor agrees to reinstate or purchase additional limits to meet the minimum limit requirements stated herein. The premium shall be paid for by the Contractor/Vendor. Deductibles and Self-Insured Retentions: Any deductible or self-insured retentions must be declared to and approved by the City. All deductibles or self-insured retentions are the sole responsibility of the Vendor to pay and/or to indemnify.

10.9 Notice of Cancellation or Nonrenewal:

Each insurance policy required shall be endorsed to state that coverage shall not be suspended, voided, cancelled, or reduced in coverage or in limits except upon 30 days prior written notice.

10.10 Waiver of Governmental Immunity:

Unless requested otherwise by the City, the Vendor and its insurer shall waive governmental immunity as a defense and shall not use the defense of governmental immunity in the adjustment of claims or in the defense of any suit brought against the City.

10.11 Additional Insured:

The liability insurance coverage, except for Workers Compensation and Disability Insurance, required for the performance of the Contract shall include the City of Buffalo as additional insured and certificate holder but only with respect to the Vendor's activities to be performed under the contract. Coverage shall be primary and non-contributory with any other insurance.

10.12 Certificate of Insurance:

As evidence of the required insurance coverage, the Vendor shall furnish Certificate(s) of Insurance to the City of Buffalo prior to the award of the Contract and prior to the Vendor's commencement of work under the awarded contract. The Certificate(s) will specify all parties who are endorsed on the policy as Additional Insureds (or Loss Payees). The certificates and endorsements for each insurance policy are to be signed by a person authorized by the insurer to bind coverage on its behalf. Renewals of expiring certificates shall be filed thirty (30) days prior to expiration. The City reserves the right to require complete, certified copies of all required policies at any time.

All insurance documents required should be mailed to:

City of Buffalo Parking Department
Attn: Davis Hough
65 Niagara Square, Room 111
Buffalo, NY 14202

SECTION 11 – GENERAL REQUIREMENTS

11.1 Non-Discrimination

The successful Offeror(s) shall not discriminate against any employee or applicant for employment because of race, color, creed, religion, ancestry, sex, national origin, affection preference, disability, age, marital status or status with regard to public assistance or as a disabled veteran or veteran of the Vietnam era. Such prohibition against discrimination 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.

The successful Offeror(s) shall agree to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the City, setting forth this nondiscrimination clause. In addition, the Offeror(s) shall, in all solicitations or advertisements for employees placed by or on behalf of the Offeror(s), state that all qualified applicants will receive consideration for employment without regard to race, creed, religion, ancestry, sex, national origin, affectional preference, disability, age, marital status or status with regard to public assistance or status as disabled veteran or veteran of the Vietnam era, and comply in all other aspects with the requirements the Buffalo City Code and Ordinances.

11.2 Americans with Disabilities Act Compliance Provisions

Any Offeror(s) awarded a contract pursuant to an RFP are required to abide by the regulations of the Americans with Disabilities Act of 1990 (ADA) which prohibits discrimination against individuals with disabilities. The Offeror will not discriminate against any employee or applicant for employment because of their disability and will take affirmative action to ensure that all employment practices are free from such discrimination. Such employment practices include but are not limited to the following: hiring, promotion, demotion, transfer, recruitment or recruitment advertising, layoff, discharge, compensation and fringe benefits, classification, referral and training. The ADA also requires vendors associated with the City of Buffalo to provide qualified applicants and employees with disabilities with reasonable accommodation that do not impose undue hardship. Offeror(s) also agree to post in a conspicuous place, accessible to employees and applicants, notices of their policy on non-discrimination.

In the event of the Offeror's noncompliance with the non-discrimination clauses of the contract, the contract may be canceled, terminated, or suspended, in whole or in part, and

the Offeror may be declared ineligible by the Buffalo Common Council from any further participation in City contracts in addition to other remedies as provided by law.

11.3 General Compliance

The successful Offeror(s) agrees to comply with all applicable Federal, State and local laws and regulations governing funds provided under this contract.

11.4 Performance Monitoring

The City will monitor the performance of the successful Offeror(s) against goals and performance standards required herein. Substandard performance as determined by the City will constitute non-compliance with the contract. If action to correct such substandard performance is not taken by the Offeror within a reasonable period of time after being notified by the City, contract termination procedures will be initiated. All work submitted by Offeror shall be subject to the approval and acceptance by the City or its' designee(s). The City or its' designee(s) shall review each portion of the work when certified as complete and submitted by the Offeror and shall inform the Offeror of any apparent deficiencies, defects, or incomplete work, at any stage of the project.

11.5 Independent Contractor

Nothing contained in the agreement is intended to, or shall be construed in any manner, as creating or establishing the relationship of employer/employee between the parties. The successful Offeror(s) shall at all times remain an independent contractor with respect to the services to be performed under the contract. Any and all employees of Offeror(s) or other persons engaged in the performance of any work or services required by Offeror under the contract shall be considered employees or sub-vendors of the Offeror only and not of the City; and any and all claims that might arise, including Worker's Compensation claims under the Worker's Compensation Act of the State of New York or any other state, on behalf of said employees or other persons while so engaged in any of the work or services to be rendered herein, shall be the sole obligation and responsibility of Offeror.

11.6 Accounting Standards

The successful Offeror(s) agrees to maintain the necessary source documentation and enforce sufficient internal controls as dictated by generally accepted accounting practices to properly account for expenses incurred under the contract.

11.7 Retention of Records

The successful Offeror(s) shall retain all records pertinent to expenditures incurred under the contract for a period of three years after the resolution of all audit findings. Records for non-expendable property acquired with funds under the contract shall be retained for three years after final disposition of such property.

11.8 Inspection of Records

All records with respect to any matters covered by the contract shall be made available to the City or its designees at any time during normal business hours, as often as the City deems necessary, to audit, examine, and make excerpts or transcripts of all relevant data

11.9 Living Wage Policy

The Buffalo Living Wage ordinance applies to City contracts for services of more than \$50,000 value when the City contracts with a contractor employing more than ten people. The attached City of Buffalo Living Wage Commission Application For Contract with the City of Buffalo must be completed and accompany your response to this Request for Proposals.

11.10 Applicable Law

The laws of the State of New York shall govern all interpretations of this contract, and the appropriate venue and jurisdiction for any litigation which may arise hereunder will be in those courts located within the County of Erie, State of New York, regardless of the place of business, residence or incorporation of the Offeror. Each party agrees that all claims and matters shall be heard and determined in any such court and each party waives any right to object to such filing on venue, forum non-convenient or similar grounds. No such actions shall be commenced or maintained against the City unless the contractor shall, not less than sixty (60) days before the commencement or filing of such action(s), submit to the City via certified mail to the address for notices contained herein, an informal complaint specifically detailing each and every perceived allegation or grievance and that the City shall be afforded a reasonable amount of time within which to resolve any such claims.

11.11 Conflict and Priority

In the event that a conflict is found between provisions in any contract arising from this Request for Proposals, the successful Offeror's Proposal or the City's Request for Proposals, the provisions in the following rank order shall take precedence: 1) Contract; 2) Request for Proposals; and 3) Offeror's Proposal.

11.12 Ownership of Materials

All finished or unfinished documents, data, studies, surveys, maps, models, photographs, videos, reports or other materials resulting from any contract arising from this RFP shall constitute the property of the City. The City may use, extend, or enlarge any document produced under the contract without the consent, permission of, or further compensation to the Offeror.

11.13 Termination

The City shall have the unilateral right to terminate any contract awarded hereunder, without

cause, upon thirty (30) days written notice to the Offeror.

If termination shall be without cause, the City shall pay the Offeror, all compensation earned to the date of termination. If the termination shall be for breach of this contract by the successful Offeror(s), the City shall pay all compensation earned prior to the date of termination minus any damages and costs incurred by the City as a result of the breach.

Notwithstanding the above, the Offeror shall not be relieved of liability to the City for damages sustained by the City as a result of any breach of the contract by the Offeror. The City may, in such event, withhold payments due to the Offeror for the purpose of set-off until such time as the exact amount of damages due to the City is determined. The rights or remedies provided for herein shall not limit the City, in case of any default by the Offeror, from asserting any other right or remedy allowed by law, equity, or by statute.

11.14 Assignment

In accordance with General Municipal Law §109 you are hereby prohibited from assigning, transferring, conveying, subletting or otherwise disposing of any contract awarded pursuant to the issuance of this RFP, or of any right, title, or interests therein, or the power to execute such contract, to any other person or corporation without the previous consent in writing of the City.

If any Offeror, to whom any contract is let, granted or awarded, as required by law, shall without the previous written consent of the City, assign, transfer, convey, sublet or otherwise dispose of this contract, or any right, title or interest therein, or the power to execute such contract, to any other person or corporation, the City shall have the unilateral right to revoke and annul such contract, and the City shall be relieved and discharged from any and all liability and obligations growing out of such contract to such Offeror, and to the person or corporation to which such contract shall have been assigned, transferred, conveyed, sublet or otherwise disposed of, and such Offeror, and his assignees, transferees or sub-lessees shall forfeit and lose all moneys, theretofore earned under such contract, except so much as may be required to pay his employees. The provisions of this section shall not hinder, prevent, or affect an assignment by any such Offeror for the benefit of his creditors made pursuant to the laws of the State of New York.

11.15 Prime Contractor Responsibility

All sub-contractors will be subject to prior approval by the City. Prior to contract execution, the successful Offeror(s) will be required to furnish the corporate or company name and the names of the officers and principals of all sub-contractors. Notwithstanding any such approval by the City, the successful Offeror(s) shall itself be solely responsible for the performance of all work set forth in any contract resulting from the RFP and for compliance with the price and other terms provided in the contract. The successful Offeror(s) shall cause the appropriate provisions of its proposal and the contract to be inserted in all subcontracts.

The City's consent to or prior approval of any subcontract or subcontractor proposed by an Offeror shall not create or purport to create any obligation of the City to any such subcontractor, or any form of contractual relationship or relationship of privity between the City and the subcontractor. Any Offeror who obtains such approval or consent of the City shall be required to insert a clause so providing in all subcontracts.

11.16 Disclaimer

This RFP and the process it describes are proprietary to the City and are for the sole and exclusive benefit of the City. This RFP is not binding on the City. No other party, including any Offeror to this RFP or further Offerors to any RFP that may be issued by the City, is intended to be granted any rights hereunder. Any response to this RFP, including written documents and verbal communication, with the exception of materials marked as trade secret or confidential, may be subject to public disclosure by the City, or any authorized agent of the City. Any materials submitted or ideas elicited in response to this RFP shall be the sole and absolute property of the City with the City having title thereto and unrestricted use thereof.

11.17 Publicity

All publicity (including, but not limited to, news releases, news conferences, and commercial advertising) relating to this RFP and/or the services or products sought by this RFP and/or any contract awarded pursuant to this RFP shall require the prior written approval of the City.

11.18 Offerors Restricted

No proposal shall be accepted from or contract awarded to any City employee or official, or any firm in which a City employee or official has a direct or indirect financial interest. No Offeror may be the prime contractor or prime Offeror for more than one proposal submitted pursuant to this RFP. Entities that are legally related to each other or to a common entity may not submit separate proposals as prime contractors or prime Offerors. Any proposal may be rejected that, in the City's sole judgment, does not comply with these conditions. Nothing contained in this RFP is intended to preclude a proposal by a system integrator that proposes to perform the substantive work proposed through sub-contractors.

11.19 New York State Executory Clause

Any contract(s) arising from this RFP shall be deemed executory only to the extent of monies appropriated and available for the purpose of the contract, and no liability on account thereof shall be incurred by the City beyond the amount of such monies. Neither the full faith and credit nor the taxing powers of the City of Buffalo are pledged to the payment of any amount due or to become due under such contract. It is understood that neither the contract nor any representation by any public employee or officer creates any legal or moral obligation to appropriate or make monies available for the purpose of the contract.

11.20 Copyright and Patent Rights

The successful Offeror(s) warrants that there are no existing claims of violation and Offeror has no knowledge of any potential claims of violation of copyrights or patent rights in products being proposed in this Request for Proposals as of the date of proposal submittal. Offeror(s) shall indemnify and defend the City in any claim or action brought against the City based upon a claim that the software or hardware provided by the Offeror violated any copyright or patent rights.

11.21 Confidentiality

The Offeror agrees that neither it nor its employees will at any time or in any manner, either directly or indirectly, use any information for their own benefit, or divulge, disclose or communicate in any manner any information to any third party without the prior written consent of the City, or as may be required by law or the contract. The Offeror will protect the Information and treat it as strictly confidential. The confidentiality provisions shall remain in full force and effect after the termination of any contract formed as a result of this RFP.

11.22 Freedom of Information Law

The City of Buffalo is subject to the provisions of Article 6 Section 89 of New York State Public Officer's Law, entitled the Freedom of Information Law. All proposals, in their entirety, submitted in response to this Request for Proposal shall constitute a record subject to public disclosure pursuant to the Freedom of Information Law. It is the sole responsibility of each Offeror to this Request for Proposal to identify those portions deemed to constitute a "trade secret" or proprietary information of the commercial enterprise. Any such information shall be clearly marked "CONFIDENTIAL". The phrase trade secret is more extensively defined to include a formula, process, device or compilation of information used in one's business which confers a competitive advantage over those in similar businesses who do not know it or use it. The subject of the trade secret must not be of public knowledge or of a general knowledge in the trade or business. A corresponding letter, on company letterhead, must be provided describing the factors and extent to which the disclosure of the "CONFIDENTIAL" information would cause substantial injury to the competitive position of the commercial enterprise. The entire proposal shall not be marked "CONFIDENTIAL". Any portion of the proposal that is not clearly identified as "CONFIDENTIAL" may be disclosed pursuant to the Freedom of Information Law. **THE CITY OF BUFFALO DOES NOT ASSUME ANY RESPONSIBILITY WHATSOEVER TO ANY OFFEROR IN THE DISCLOSURE OF RECORDS PURSUANT TO THE FREEDOM OF INFORMATION LAW, COURT ORDER, OR ANY OTHER METHOD OF DISCLOSURE PROVIDED FOR UNDER THE LAW.**

**CITY OF BUFFALO
DEPARTMENT OF ADMINISTRATION, FINANCE & URBAN AFFAIRS
DIVISION OF PURCHASE
65 NIAGARA SQUARE, ROOM 1901 CITY HALL
BUFFALO NY 14202**

REGULATIONS

**FOR ENTERING FORMAL PROPOSALS FOR MATERIALS, SUPPLIES,
EQUIPMENT AND SERVICES**

1. METHOD OF TENDERING PROPOSALS.

(A) No person, co-partnership, or corporation, shall submit more than one proposal, either directly or by agent. Each Offeror shall sign said proposal with his/her full name, in his/her own handwriting, and, if a partnership, each partner must sign; if a corporation, the corporate name shall be signed, and signed and acknowledged by a duly authorized officer thereof.

(B) All Offerors must submit with their proposal a statement indicating that they will work toward a minority workforce goal of 25%, and woman workforce goal of 5%. In addition, a statement must be submitted indicating that the Offeror will work toward a business utilization goal for minority business enterprise of 25% and woman business enterprise of 5%.

Form EEO-2 is enclosed along with the Living Wage Statement. Both must be completed and returned with your proposal, together with the signed Non-Collusion Certification.

2. QUALIFICATIONS FOR OFFEROR.

Ordinarily, proposals are not considered from Offerors on supplies, material or equipment, if the Offeror or manufacturer of same is in bankruptcy, or in the hands of a receiver at the time of tendering a proposal or at the time of entering into a contract, but the Director of Purchase reserves the right to accept or reject such proposals in the best interest of the City. No proposal shall be accepted from any person or corporation that is in arrears to the City upon any debt or contract.

3. CONTRACT.

The successful Offeror will be required to enter into a contract on the City's form.

4. PAYMENT.

Payment for material, supplies or equipment called for herein shall be made within thirty (30) days after approved completion of contract and the rendition of proper invoice to the Division of Accounting, 65 Niagara Square, Room 1214 City Hall, Buffalo, New York

14202.

5. PATENT INFRINGEMENT.

The Contractor shall agree to indemnify and save harmless the City of Buffalo, its servants, agents and employees from any and all suits or action at law or in equity, which may hereafter be brought against them or either of them, for, or on account of, the infringement, or alleged infringement, of any patent or patent rights upon or pertaining to any of the articles described herein or supplied as a result of this RFP.

6. GENERAL.

(A) The Offeror will not be allowed to take advantage of any errors or omissions. The Director of Purchase reserves the right to reject any and all proposals on any or all items in the proposal and to waive any informalities. In case of error, unit price governs.

(B) Should there be any question concerning these specifications, or the intent of these specifications, the prospective Offeror shall apply to the City for such information.

(C) These regulations, specifications, invitation for proposals, and the proposal are deemed to be incorporated in the contract.

(D) The Division of Purchase reserves the right to award by item, or as a whole, or to reject any or all proposals.

7. TAXES.

Quotations shall not include any New York Sales Tax as municipalities of New York State are not subject to this tax. No Federal Tax of any kind shall be included unless the Federal Law specifically levies such tax against purchases made by the political subdivisions of a State.

8. TITLE.

Offeror must transfer a good and incontrovertible title to all equipment furnished hereunder free and clear of all liens and encumbrances of whatever name and nature.

9. ASSIGNMENT AND SUBCONTRACTING

No Offeror awarded a contract pursuant to this RFP shall assign or subcontract any part of such contract to any person, firm or corporation by whom a proposal was submitted to the City for the same contract. Further, no contractor shall assign, transfer or otherwise dispose of any contract awarded as a result of this RFP, or any part thereof, or any right, title or interest there under, without the prior written consent of the City. Any such purported action without such consent shall be null and void.

10. SUBCONTRACTOR LIST.

The successful Offeror shall submit a list of proposed subcontractors to the Director of Purchase for his approval and obtain his written consent thereto prior to the execution of the contract.

11. NATIONALLY KNOWN CORPORATIONS.

The Director of Purchase reserves the right to determine which corporations are to be designated as nationally known, and his decision will be final.

12. DELIVERY DATE, PENALTIES AND EXTENSIONS OF TIME.

The promised delivery date shall be considered by the City in making the award. Such delivery date shall be of the essence of the contract.

If the contractor and/or supplier fails to complete the contract work within the specified delivery date or within any extensions thereof granted in accordance with this section, the City may elect to permit the contractor and/or supplier to proceed with and complete the contract, provided, however, that in any such case such permission shall not be deemed a waiver in any respect by the City of the contractor's and/or supplier's liability for damages or expenses thereby incurred by the City as a result of the failure to complete delivery within the specified time, but such liability shall continue in full force against the contractor and/or supplier as if such permission had not been granted.

In order to avoid all controversy in the determination of actual damages or expenses to the City for the delay in completion of the contract by reason of the City's election not to terminate the right of the contractor and/or supplier to proceed with the completion of the contract, the contractor and/or supplier and/or their surety shall be liable for and shall pay or allow to the City a sum equal to one percent (1%) of the total amount of the contract per day as fixed and agreed liquidated damages for each and every calendar day, Sundays and holidays included, after the date fixed for delivery during which time the contract shall remain incomplete, and any such damages and expenses may be deducted by the City from any payment or payments then due or thereafter to fall due to the contractor and/or supplier.

No extension of time for completion of this contract shall be granted unless the contractor and/or supplier shall make written application to the City no later than five (5) calendar days prior to the specified delivery date for an extension of time to complete delivery and the City shall have granted such extension in writing no later than the date upon which delivery was to have been made. The granting of any such extension and the length of time thereof shall be in the sole discretion of the City.

13. NON-COLLUSIVE PROPOSAL CERTIFICATION.

If the Offeror is a corporation, the execution of the non-collusive certification in the

form of proposal shall be deemed to include the signing to non-collusion as the act and deed of the corporation.

No proposal shall be considered for an award nor will any award be made to a Offeror where the proposal does not include the statements as to non-collusion as set forth in the form of proposal herein, provided however, that if in any case the Offeror cannot make the foregoing certification, the Offeror shall so state and furnish with the proposal a signed statement which sets forth in detail the reasons therefore. In such event the proposal shall not be considered for award nor shall any award be made unless the City determines that such disclosure was not made for the purpose of restricting competition. In this connection, it should be noted that the fact that a Offeror has published price lists, rates or tariffs covering items being procured or has informed prospective customers of the proposed or pending publication of new or revised price lists for such items, or has sold the same items to other customers at the same price as being proposed, does not constitute, without more, a disclosure to any other Offeror or to any competitor within the meaning of the non-collusive certification included in the form of proposal.

14. CONFLICTS OF INTEREST

Confidentiality and lack of potential conflicts of interest is vital to maintaining the integrity of every investigation and the data gathered therein. **Therefore, the Company must disclose any potential conflicts of interests and/or relationships/connections by Principals and all employees who would have access to our account.** Such relationships may include, but are not limited to, connections to persons and organizations within the City of Buffalo through:

- a. Professional or Political associations
- b. Political donations
- c. Blood or Marriage
- d. Friendships
- e. City of Buffalo employees who currently work for your company, or come to work for your company during the RFP process, and after (should you receive a contract from the City of Buffalo) as employees or consultants
- f. Union Affiliations/Memberships
- g. Board Member

15. INQUIRIES

The City of Buffalo adheres to Article 9, State Finance Law Section 139. No Offeror may contact, lobby or otherwise discuss the RFP with any employee, union leader or elected official of the City of Buffalo or other government official, until an award has been officially made. Any contact regarding the RFP, other than allowed contact such as to discuss current business with the City of Buffalo, or during the question and answer period (via email ONLY) with the person/s identified below, may result in a vendor's immediate disqualification. All Offerors will be required to submit a Contract Certification Statement if awarded a contract.

All inquiries during the question and answer period only should be directed **via e-mail only** to:

Davis Hough at dhough@ch.ci.buffalo.ny.us

The subject line must identify the RFP by title

16. SECTION 220-E, Labor Law.

PROVISIONS IN CONTRACTS PROHIBITING DISCRIMINATION ON ACCOUNT OF RACE, CREED, COLOR OR NATIONAL ORIGIN IN EMPLOYMENT OF CITIZENS UPON PUBLIC WORKS.

Every contract for or on behalf of the state or a municipality for the construction, alteration or repair of any public building or public work or for the manufacture, sale or distribution of materials, equipment or supplies shall contain provisions by which the contractor with the state or municipality agrees:

(a) That in the hiring of employees for the performance of work under this contract or any subcontract hereunder, no contractor, subcontractor, nor any person acting on behalf of such contractor or subcontractor, shall by reason of race, creed, color, disability, sex or national origin discriminate against any citizen of the state of New York who is qualified and available to perform the work to which the employment relates;

(b) That no contractor, subcontractor, nor any person on his/her behalf shall, in any manner, discriminate against or intimidate any employee hired for the performance of work under this contract on account of race, creed, color, disability, sex or national origin;

(c) That there may be deducted from the amount payable to the contractor by the state or municipality under this contract a penalty of fifty dollars for each person for each calendar day during which such person was discriminated against or intimidated in violation of the provisions of the contract;

(d) That this contract may be canceled or terminated by the state or municipality, and all moneys due or to become due hereunder may be forfeited, for a second or any subsequent violation of the terms or conditions of this section of the contract; and

(e) The aforesaid provisions of this section covering every contract for or on behalf of the state or municipality for the manufacture, sale or distribution of materials, equipment or supplies shall be limited to operations performed within the territorial limits of the State of New York.

NAME OF BIDDER _____ PHONE NO. _____

ADDRESS _____ EMAIL _____

REMIT TO ADDRESS _____

This form must be completed and submitted as stipulated in the specifications, either TYPEWRITTEN OR PRINTED IN INK.

CASH DISCOUNT (IF ANY) TO BE DEDUCTED _____ % IN THIRTY (30) DAYS.

THIS PROPOSAL IS FAIR IN EVERY RESPECT AND NO OFFICER OF THE CITY OF BUFFALO IS DIRECTLY OR INDIRECTLY INTERESTED IN SAID PROPOSAL, OR IN THE WORK TO WHICH IT RELATES, OR IN ANY PORTION OF THE PROFITS, excluding profits which may accrue as a stockholder, provided that as such stockholder he does not have supervision, control, or direction of said corporation and that he did not participate in the calculation, submission or preparation of this bid.

THIS PROPOSAL IS TENDERED BY (A) (AN) CORPORATION _____
PARTNERSHIP _____ INDIVIDUAL _____

PARTNERS _____ CONSTITUTING

_____ PARTNERSHIP

INCORPORATED IN WHAT STATE, IF CORPORATION?

IF FOREIGN CORPORATION, STATE IF AUTHORIZED TO DO BUSINESS IN NEW YORK STATE _____

* CORPORATE OFFICERS' NAMES TITLES ADDRESSES

* PRINCIPAL STOCK HOLDERS
NAMES ADDRESSES NAMES ADDRESSES

* Note: This information is not required from nationally known corporations.

FORM 2A – OFFERORS AFFIRMATIVE ACTION STATEMENT

The _____
(Company Name)

hereby states that we will make good faith efforts to ensure a diverse workforce and minority business participation for this proposal/bid in accordance with the City of Buffalo Charter, Chapter 96, Bonds and Contracts.

We will work toward a minority workforce goal of 25%, and woman workforce goal of 5%. In addition, we will work toward a business utilization goal for minority business enterprise of 25% and woman business enterprise of 5%.

(Signature of Authorized representative of Bidder)

Date _____

BIDS/PROPOSALS FAILING TO INCLUDE OR COMPLETE ANY OF THE ABOVE ITEMS WILL BE CONSIDERED NON-RESPONSIVE AND WILL NOT BE ACCEPTED.



City of Buffalo *Living Wage Commission*

APPLICATION FOR CONTRACT WITH THE CITY OF BUFFALO

The City’s Living Wage Ordinance applies to contracts for services in which the City pays – or receives – more than \$50,000 per year, and the contractor employs more than ten people. If you are bidding, responding to an RFP, or otherwise planning to make a contract with the City, you must complete this form, a copy of which will be forwarded to the City’s Living Wage Commission. Your subcontractors need not file a separate Application, but they must pay a living wage. If you win the contract, you and your subcontractors will file quarterly reports with the Living Wage Commission.

You must certify that you will pay at least the hourly wages mandated by the Ordinance. On January 1, 2021, the rates will rise to \$12.55 with health benefits and \$14.10 without. Beginning July 1, 2021, the City will use a new, single rate, equal to 150% of the federal poverty line for a family of three.

There are two exceptions to the Ordinance. Professional contracts such as legal, architectural, or engineering services are not covered by the Ordinance. Also, persons employed in construction work covered by prevailing wage laws are exempt from the Ordinance.

The City department responsible for the contract should forward the completed Application for Contract of the employer chosen for the contract to: Living Wage Commission, c/o Cornell University ILR School, 617 Main St., Suite 300, Buffalo, NY 14203

1. Company Information

Company Name:	
Executive Officer:	
Address:	
City, State, Zip:	
Phone No.:	
Total No. of Employees:	

2. Please describe the specific project or service for which the contract is sought:

3. Contract Information

Dollar Value of Your Bid/Contract:	
Identifying City Contract or Project Number:	
Start and End Dates of Contract:	

4. If you answer "Yes" to any of these, you need not complete parts 5, 6, and 7

A) Are all persons who will work under the contract construction workers covered by federal or state prevailing wage laws?	<input type="checkbox"/> Yes <input type="checkbox"/> No
B) Is this a contract for professional services such as legal, architectural, or engineering?	<input type="checkbox"/> Yes <input type="checkbox"/> No
C) Do you employ less than ten people?	<input type="checkbox"/> Yes <input type="checkbox"/> No
D) Is the total value of the contract less than \$50,000 per year?	<input type="checkbox"/> Yes <input type="checkbox"/> No

5. Please describe the employees who will work on this contract. Attach additional sheets as needed.

Job Title	Duties to be Performed	Hourly Wage	Receives Health Benefits?

6. Subcontractors

Will there be subcontractors?	<input type="checkbox"/> Yes <input type="checkbox"/> No
If yes, please provide name address, and phone for each subcontractor. Attach	

additional sheets as needed.	
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7. Please provide a signature by an official of your company with the legal authority to make binding commitments.

I certify that if awarded a City contract I will fully comply with the Living Wage Ordinance.

Signature: _____

Print: _____

Title: _____

Date: _____