CITY OF NEWTON
PURCHASING DEPARTMENT

PROJECT MANUAL:

SAFETY SHOES/SHOEMOBILE SERVICE

INVITATION FOR BID #14-57

Bid Opening Date: December 12, 2013 at 10:00 a.m.

NOVEMBER 2013

Setti D. Warren, Mayor

CITY OF NEWTON

PURCHASING DEPARTMENT

INVITATION FOR BID #14-57

The City of Newton invites sealed bids from Contractors for:

SAFETY SHOES/SHOEMOBILE SERVICE

Bids will be received until: **10:00 a.m., Thursday, December 12, 2013**
at the Purchasing Department, Room 204, Newton City Hall, 1000 Commonwealth Avenue, Newton, MA 02459. Bids will not be accepted nor may submitted bids be corrected, modified or withdrawn after the deadline for bids. Following the deadline for bids, all bids received within the time specified will be publicly opened and read aloud.

Contract Documents will be available online at the City's website: **www.newtonma.gov/bids** after: **10:00 a.m., November 27, 2013.** Bidders are responsible for downloading the specifications from the City's web site at **www.newtonma.gov/bids** . Bidders are requested to email the Purchasing Department (purchasing@newtonma.gov) their Company Name, Address, Email address, Phone & Facsimile and Bid Number (i.e. 14-57) they have downloaded.

There will be no charge for contract documents.

Work under this contract requires a contractor to provide a mobile retail outlet to various locations within the City of Newton for the purchase of safety shoes to personnel from various City departments.

The term of this contract shall extend from day of **contract execution through December 31, 2014.** The City of Newton shall have the **option to renew the contract for up to two additional one year terms** with no change in the contract conditions or bid prices. The City shall retain sole discretion to exercise each option to renew.

Award will be made to the lowest, responsible, and responsive bidder for services based on the Grand Total set forth in Bid Form #14-57. Any bidder not providing prices for all line items may be deemed unresponsive and therefore rejected. **Provision of services is required to start upon the execution of this contract.** The dollar value of the contract may be increased only in accordance with M.G.L. c.30B, §13, and then by an aggregate amount not more than twenty five percent (25%) of the contract total.

Bid Surety is not required for this bid.

All bids are subject to the provisions of M.G.L. Chapter 30B.

All bids shall be submitted as one ORIGINAL and one COPY.

All City of Newton bids are available on the City's web site, **www.newtonma.gov/bids**, Invitation for Bid. It is the sole responsibility of the contractor downloading these bids to ensure they have received any and all addenda prior to the bid opening. Addenda's will be available online within the original bid document as well as a separate file. If you download bids from the internet site and would like to make it known that your company has done so, you may e-mail purchasing@newtonma.gov or fax the Purchasing Department, (617) 796-1227 with your **NAME, ADDRESS, PHONE, FAX AND INVITATION FOR BID NUMBER.**

The City will reject any and all bids in accordance with the above referenced General Laws. In addition, the City reserves the right to waive minor informalities in any or all bids, or to reject any or all bids (in whole or in part) if it be in the public interest to do so.

CITY OF NEWTON

Nicholas Read
Chief Procurement Officer

November 27, 2013

CITY OF NEWTON

DEPARTMENT OF PURCHASING

INSTRUCTIONS TO BIDDERS

ARTICLE 1 - BIDDER'S REPRESENTATION

1.1 Each General Bidder (hereinafter called the "Bidder") by making a bid (hereinafter called "bid") represents that the Bidder has read and understands the Bidding Documents, Contract Forms, General Conditions, Conditions of the Contract, General Requirements and Project Specifications (collectively, referred to as the "Contract Documents") and the bid is made in accordance therewith.

1.2 Failure to so examine the Contract Documents will not relieve any Bidder from any obligation under the bid as submitted.

ARTICLE 2 - REQUEST FOR INTERPRETATION

2.1 Bidders shall promptly notify the City of any ambiguity, inconsistency, or error which they may discover upon examination of the Contract Documents.

2.2 Bidders requiring clarification or interpretation of the Contract Documents shall make a written request to the *Chief Procurement Officer*, at purchasing@newtonma.gov or via facsimile (617) 796-1227. The City will only answer such requests if received **by Friday, December 6, 2013 at 12:00 noon.**

2.3 Interpretation, correction, or change in the Contract Documents will be made by addendum which will become part of the Contract Documents. The City will not be held accountable for any oral communication.

2.3 Addenda will be emailed to every individual or firm on record as having taken a set of Contract Documents.

2.4 Copies of addenda will be made available for inspection at the location listed in the Invitation for Bids where Contract Documents are on file, in addition to being available online at **www.newtonma.gov/bids**.

2.5 Bidders or proposers contacting ANY CITY EMPLOYEE regarding an Invitation for Bid (IFB) or a Request for Proposal (RFP), outside of the Purchasing Department, once an IFB or RFP has been released, may be disqualified from the procurement process.

2.6 Bidders downloading information off the internet web site are solely responsible for obtaining any addenda prior to the bid opening. If the bidder makes itself known to the Purchasing Department, at purchasing@newtonma.gov or via facsimile (617) 796-1227, it shall be placed on the bidder's list. Bidders must provide the Purchasing Department with their company's name, street address, city, state, zip, phone, fax, email address and **INVITATION FOR BID #14-57**.

ARTICLE 3 - MBE PARTICIPATION

3.1 Notice is hereby given that the Mayor's Affirmative Action Plan for the City of Newton in effect at the time of this solicitation is applicable to all construction contracts in excess of $10,000.00.

3.2 Notice is hereby given that the City of Newton Minority/Women Business Enterprise Plan and the Supplemental Equal Employment Opportunity Anti-Discrimination and Affirmative Action Program in effect at the time of this solicitation are applicable to all City contracts for goods and services in excess of $50,000.00.

3.3 Copies of the Plans and Program referred to in Sections 3.1 and 3.2 are available at: **www.newtonma.gov/purchasing**.

ARTICLE 4 - PREPARATION AND SUBMISSION OF BIDS

4.1 Bids shall be submitted on the "Bid Form" as appropriate, furnished by the City.

4.2 All entries on the Bid Form shall be made by typewriter or in ink.

4.3 Where so indicated on the Bid Form, sums shall be expressed in both words and figures. Where there is a discrepancy between the bid sum expressed in words and the bid sum expressed in figures, the words shall control.

4.4 The Bid, including the bid deposit shall be enclosed in a sealed envelope with the following plainly marked on the outside:

* GENERAL BID FOR: **#14-57**
* NAME OF PROJECT: **Safety Shoe / Shoemobile Service**
* BIDDER'S NAME, BUSINESS ADDRESS, AND PHONE NUMBER

4.5 Date and time for receipt of bids is set forth in the Invitation for Bids.

4.6 Timely delivery of a bid at the location designated shall be the full responsibility of the Bidder. In the event that Newton City Hall is closed on the date or at the time that bids are due, the date and time for receipt of bids shall be on the next business day following that the Newton City Hall and the Purchasing Department are open.

4.7 Bids shall be submitted with one **original** and one **copy.**

4.8 Be advised that a new Massachusetts law has been enacted that required all employees who work on Massachusetts Public works construction sites must have no less than 10 hours of OSHA-approved safety and health training. See Chapter 306 of the Acts of 2004, which became effective July 1, 2006.

1. This requirement will apply to any general bid or sub bid submitted.
2. This law directs the Massachusetts Attorney General to restrain the award of construction contracts to any contractor who is in violation to this requirement and to restrain the performance of these contracts by non-complying contractors.
3. The contractor and all subcontractors on this project will be required to provide certification of compliance with this requirement. Non-compliance with this law will disqualify you from bidding on public contracts.

ARTICLE 5 - ALTERNATES

5.1 Each Bidder shall acknowledge alternates (if any) in Section C on the Bid Form.

5.2 In the event an alternate does not involve a change in the amount of the base bid, the Bidder shall so indicated by writing "No Change", or "N/C" or "0" in the space provided for that alternate.

5.3 Bidders shall enter on the Bid Form a single amount for each alternate which shall consist of the amount for work performed by the Contractor.

5.4 The low Bidder will be determined on the basis of the sum of the base bid and the accepted alternates.

ARTICLE 6 - WITHDRAWAL OF BIDS

6.1 Any bid may be withdrawn prior to the time designated for receipt of bids on written or electronic request. Electronic withdrawal of bids must be confirmed over the Bidder's signature by written notice postmarked on or before the date and time set for receipt of bids.

6.2 Withdrawn bids may be resubmitted up to the time designated for the receipt of bids.

6.3 No bids may be withdrawn within sixty (60) days, Saturdays, Sundays and legal holidays excluded, after the opening of the bids.

ARTICLE 7 - CONTRACT AWARD

7.1 The City will award one (1) contract to the lowest responsive and responsible Bidder within sixty (60) days, Saturdays, Sundays, and legal holidays excluded, after the opening of bids.

7.2 The City reserves the right to waive minor informalities in or to reject any or all Bids if it be in the public interest to do so.

7.3 The City reserves the right to reject any bidder who has failed to pay any local taxes, fees, assessments, betterments, or any other municipal charge, unless the bidder has a pending abatement application or has entered into a payment agreement with the collector-treasurer.

7.4 As used herein, the term "lowest responsive and responsible Bidder" shall mean the Bidder (1) whose bid is the lowest of those bidders possessing the skill, ability and integrity necessary for the faithful performance of the work; (2) who has met all the requirements of the invitation for bids; (3) who shall certify that he is able to furnish labor that can work in harmony with all other elements of labor employed or to be employed in the work; (4) who, where the provisions of section eight B of chapter twenty-nine apply, shall have been determined to be qualified thereunder.

7.5 Subsequent to the award and within five (5) days, Saturday, Sundays and legal holidays excluded, after the prescribed forms are presented for signature, the successful Bidder shall execute and deliver to the City a contract in the form included in the Contract Documents in such number of counterparts as the City may require.

7.6 In the event that the City receives low bids in identical amount from two or more responsive and responsible Bidders, the City shall select the successful Bidder by a blind selection process chosen by the City such as flipping a coin or drawing names from a hat. The low Bidders who are under consideration will be invited to attend and observe the selection process.

ARTICLE 8 - TAXES

8.1 The Bidder shall not include in this bid any tax imposed upon the sale or rental of tangible personal property in this Commonwealth, such as any and all building materials, supplies, services and equipment required to complete the work.

8.2 The City is exempt from payment of the Massachusetts Sales Tax, and the Bidder shall not include any sales tax on its bid. The City's exemption Number is E-046-001-404.

END OF SECTION

CITY OF NEWTON

DEPARTMENT OF PURCHASING

BID FORM #14-57

A. The undersigned proposes to supply and deliver the materials and/or equipment and/or supplies specified below in full accordance with the Contract Documents and Project Manual supplied by the City of Newton entitled:

SAFETY SHOES / SHOEMOBILE SERVICE

for the contract price(s) specified below, subject to additions and deductions according to the terms of the specifications.

B. This bid includes addenda number(s) _____, _____, _____, _____, _____

C. The Bidder proposes to furnish and deliver the materials specified at the following price(s):

ITEM	DESCRIPTION	Qty	STYLE	UNIT COST	TOTAL
A.	**Waterproof or Insulated Shoes & Boots**				
1.	Work Boot - 6" wheat - waterproof with 200 grams of insulation	36	_____	$ _____	$ _____
2.	Work Boot - 8" brown -waterproof with 600 grams of insulation	26	_____	$ _____	$ _____
3.	Work Boot - 8" brown -waterproof with 200 grams of insulation	2	_____	$ _____	$ _____
4.	Work Boot - 6” w/oil resistant outer sole Thinsulate 400 level or better Moisture resistant, traction sole	47	_____	$ _____	$ _____
5.	Work Boot - 8” w/oil resistant outer sole. Thinsulate 400 level or better Moisture resistant, traction sole	53	_____	$ _____	$ _____
6.	Work Shoe - black waterproof hiker	10	_____	$ _____	$ _____
7.	Work Boot - 6” brown waterproof	66	_____	$ _____	$ _____
8.	Work Boot - 6” black with TS-100 toe cap	90	_____	$ _____	$ _____

ITEM	DESCRIPTION	Qty	STYLE	UNIT COST	TOTAL
B.	**Non- Waterproof Shoes & Boots**				
1.	Supervisor's Dress Shoe – black or brown comfort sole, oil resistant outer sole.	7	_____	$_____	$_____
2.	Supervisor's Walking shoe –Hiker Style, Light weight construction	8	_____	$_____	$_____
3.	Work Shoe – 8" w/oil resistant chevron or other traction style outer shoe.	12	_____	$_____	$_____
4.	Work Boot - 6" black	5	_____	$_____	$_____
5.	Work Shoe - athletic shoe	5	_____	$_____	$_____
6.	Work Shoe - white athletic shoe	7	_____	$_____	$_____
7.	Work Shoe - brown pro hitop hiker	4	_____	$_____	$_____
C.	**Rubber Safety Boots**				
1.	Industrial Pac Rubber Bottom Cold Weather Safety Boot, traction sole.	25	_____	$_____	$_____

All prices shall remain firm for the term of the contract including any/all extensions.

GRAND TOTAL $_____

D. The undersigned has completed and submits herewith the following documents:

- Signed Bid Form, 3 pages
- Bidder's Qualifications and References Form, 2 pages
- Certificate of Non-Collusion, 1 page
- Debarment Letter, 1 page
- IRS Form W-9, 1page

E. Prompt Payment Discounts. Bidders are encouraged to offer discounts in exchange for an expedited payment. Payments may be issued earlier than the general goal of within 30 days of receipt of the invoice only when in exchange for discounted prices. Discounts will not be considered in determining the lowest responsible bidder.

Prompt Payment Discount _____%_____Days
Prompt Payment Discount_____%_____ Days
Prompt Payment Discount _____%_____Days

F. The undersigned agrees that, if selected as contractor, s/he will within five days, Saturdays, Sundays and legal holidays excluded, after presentation thereof by the City of Newton, execute a contract in accordance with the terms of this bid. The undersigned hereby certifies that s/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's/he will comply fully with all laws and regulations applicable to awards made subject to M.G.L. Chapter 30B.

The undersigned further certifies under the penalties of perjury that this bid has been made and submitted in good faith and without collusion or fraud with any other person. As used in this section the word "person" shall mean any natural person, business, partnership, corporation, union, committee, club or other organization, entity, or group of individuals. The undersigned further certifies under penalty of perjury that the said undersigned is not presently debarred from public contracting or subcontracting in the Commonwealth under the provisions of M.G.L. 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.

Date _____ _____
(Name of Bidder)

BY: _____ _____
(Printed Name and Title of Signatory)

_____ _____
(Business Address (City, State Zip)

_____/_____ _____
(Telephone) (FAX) (E-mail address)

END OF SECTION

CITY OF NEWTON

BIDDER'S QUALIFICATIONS AND REFERENCES FORM

All questions must be answered, and the data given must be clear and comprehensive. Please type or print legibly. If necessary, add additional sheet for starred items. This information will be utilized by the City for purposes of determining bidder responsiveness and responsibility with regard to the requirements and specifications of the Contract.

1. FIRM NAME: _____

2. WHEN ORGANIZED: _____

3 INCORPORATED? _____ YES _____ NO DATE AND STATE OF INCORPORATION: _____

4. IS YOUR BUSINESS A **MBE**? _____YES _____NO **WBE**? _____YES _____NO or **MWBE**? _____YES _____NO

* 5. LIST ALL CONTRACTS CURRENTLY ON HAND, SHOWING CONTRACT AMOUNT AND ANTICIPATED DATE OFCOMPLETION:

_____
_____
_____
_____
_____

* 6. HAVE YOU EVER FAILED TO COMPLETE A CONTRACT AWARDED TO YOU?
_____ YES _____ NO
IF YES, WHERE AND WHY?

_____
_____

* 7. HAVE YOU EVER DEFAULTED ON A CONTRACT? _____ YES _____ NO
IF YES, PROVIDE DETAILS.

_____
_____

* 8. LIST YOUR VEHICLES/EQUIPMENT AVAILABLE FOR THIS CONTRACT:

_____
_____
_____
_____
_____
_____
_____

* 9. IN THE SPACES FOLLOWING, PROVIDE INFORMATION REGARDING CONTRACTS COMPLETED BY YOUR FIRM SIMILAR IN NATURE TO THE PROJECT BEING BID. A MINIMUM OF FOUR (4) CONTRACTS SHALL BE LISTED. PUBLICLY BID CONTRACTS ARE PREFERRED, BUT NOT MANDATORY.

PROJECT NAME: _____
OWNER: _____
CITY/STATE: _____

DOLLAR AMOUNT: $ _____ DATE COMPLETED: _____
PUBLICLY BID? _____YES _____ NO
TYPE OF WORK?: _____
CONTACT PERSON: _____ TELEPHONE #: ____)_____
CONTACT PERSON'S RELATION TO PROJECT?: _____
(i.e., contract manager, purchasing agent, etc.)

_____

PROJECT NAME: _____
OWNER: _____
CITY/STATE: _____
DOLLAR AMOUNT: $ _____ DATE COMPLETED: _____
PUBLICLY BID? _____YES _____ NO
TYPE OF WORK?: _____
CONTACT PERSON: _____ TELEPHONE #: (____)_____
CONTACT PERSON'S RELATION TO PROJECT?: _____
(i.e., contract manager, purchasing agent, etc.)

_____

PROJECT NAME: _____
OWNER: _____
CITY/STATE: _____
DOLLAR AMOUNT: $ _____ DATE COMPLETED: _____
PUBLICLY BID? _____YES _____ NO
TYPE OF WORK?: _____
CONTACT PERSON:_____ TELEPHONE #: (____)_____
CONTACT PERSON'S RELATION TO PROJECT?:_____
(i.e., contract manager, purchasing agent, etc.)

_____

PROJECT NAME: _____
OWNER: _____
CITY/STATE: _____
DOLLAR AMOUNT: $ _____ DATE COMPLETED: _____
PUBLICLY BID? _____YES _____ NO
TYPE OF WORK?: _____
CONTACT PERSON: _____ TELEPHONE #:(____)_____
CONTACT PERSON'S RELATION TO PROJECT?: _____
(i.e., contract manager, purchasing agent, etc.)

10. The undersigned certifies that the information contained herein is complete and accurate and hereby authorizes and requests any person, firm, or corporation to furnish any information requested by the City in verification of the recitals comprising this statement of Bidder's qualifications and experience.

DATE: _____ BIDDER: _____

SIGNATURE: _____

PRINTED NAME: _____ TITLE: _____

END OF SECTION

CERTIFICATE OF NON-COLLUSION

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

_____
(Signature of individual)

_____
Name of Business

City of Newton

Mayor
Setti D. Warren

Purchasing Department
Nicholas Read ⊕ *Chief Procurement Officer*
1000 Commonwealth Avenue
Newton Centre, MA 02459-1449
purchasing@newtonma.gov

Telephone
(617) 796-1220
Fax:
(617) 796-1227
TDD/TTY
(617) 796-1089

Date

Vendor

Re: Debarment Letter for Invitation For Bid #_____

As a potential vendor on the above contract, the City requires that you provide a debarment/suspension certification indicating that you are in compliance with the below Federal Executive Order. Certification can be done by completing and signing this form.

Debarment:

Federal Executive Order (E.O.) 12549 "Debarment and Suspension" requires that all contractors receiving individual awards, using federal funds, and all sub-recipients certify that the organization and its principals are not debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded by any Federal department or agency from doing business with the Federal Government.

I hereby certify under pains and penalties of perjury that neither I nor any principal(s) of the Company identified below is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any federal department or agency.

_____ (Name)
_____ (Company)
_____ (Address)
_____ (Address)
PHONE _____ FAX _____
EMAIL _____

_____Signature

_____Date

.

If you have questions, please contact Nicholas Read, Chief Procurement Officer at (617) 796-1220.

Form **W-9**
(Rev. October 2007)
Department of the Treasury
Internal Revenue Service

Request for Taxpayer Identification Number and Certification

Give form to the requester. Do not send to the IRS.

Print or type
See Specific Instructions on page 2.

Name (as shown on your income tax return)

Business name, if different from above

Check appropriate box: ☐ Individual/Sole proprietor ☐ Corporation ☐ Partnership
☐ Limited liability company. Enter the tax classification (D=disregarded entity, C=corporation, P=partnership) ▶
☐ Other (see instructions) ▶

X Exempt payee

Address (number, street, and apt. or suite no.)

Requester's name and address (optional)

City, state, and ZIP code

List account number(s) here (optional)

Part I Taxpayer Identification Number (TIN)

Enter your TIN in the appropriate box. The TIN provided must match the name given on Line 1 to avoid backup withholding. For individuals, this is your social security number (SSN). However, for a resident alien, sole proprietor, or disregarded entity, see the Part I instructions on page 3. For other entities, it is your employer identification number (EIN). If you do not have a number, see *How to get a TIN* on page 3.

Note. If the account is in more than one name, see the chart on page 4 for guidelines on whose number to enter.

Social security number

or

Employer identification number

Part II Certification

Under penalties of perjury, I certify that:

1. The number shown on this form is my correct taxpayer identification number (or I am waiting for a number to be issued to me), and
2. I am not subject to backup withholding because: (a) I am exempt from backup withholding, or (b) I have not been notified by the Internal Revenue Service (IRS) that I am subject to backup withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified me that I am no longer subject to backup withholding, and
3. I am a U.S. citizen or other U.S. person (defined below).

Certification instructions. You must cross out item 2 above if you have been notified by the IRS that you are currently subject to backup withholding because you have failed to report all interest and dividends on your tax return. For real estate transactions, item 2 does not apply. For mortgage interest paid, acquisition or abandonment of secured property, cancellation of debt, contributions to an individual retirement arrangement (IRA), and generally, payments other than interest and dividends, you are not required to sign the Certification, but you must provide your correct TIN. See the instructions on page 4.

Sign Here **Signature of U.S. person ▶** **Date ▶** Name

General Instructions

Section references are to the Internal Revenue Code unless otherwise noted.

Purpose of Form

A person who is required to file an information return with the IRS must obtain your correct taxpayer identification number (TIN) to report, for example, income paid to you, real estate transactions, mortgage interest you paid, acquisition or abandonment of secured property, cancellation of debt, or contributions you made to an IRA.

Use Form W-9 only if you are a U.S. person (including a resident alien), to provide your correct TIN to the person requesting it (the requester) and, when applicable, to:

1. Certify that the TIN you are giving is correct (or you are waiting for a number to be issued),

2. Certify that you are not subject to backup withholding, or

3. Claim exemption from backup withholding if you are a U.S. exempt payee. If applicable, you are also certifying that as a U.S. person, your allocable share of any partnership income from a U.S. trade or business is not subject to the withholding tax on foreign partners' share of effectively connected income.

Note. If a requester gives you a form other than Form W-9 to request your TIN, you must use the requester's form if it is substantially similar to this Form W-9.

Definition of a U.S. person. For federal tax purposes, you are considered a U.S. person if you are:

- An individual who is a U.S. citizen or U.S. resident alien,
- A partnership, corporation, company, or association created or organized in the United States or under the laws of the United States,
- An estate (other than a foreign estate), or
- A domestic trust (as defined in Regulations section 301.7701-7).

Special rules for partnerships. Partnerships that conduct a trade or business in the United States are generally required to pay a withholding tax on any foreign partners' share of income from such business. Further, in certain cases where a Form W-9 has not been received, a partnership is required to presume that a partner is a foreign person, and pay the withholding tax. Therefore, if you are a U.S. person that is a partner in a partnership conducting a trade or business in the United States, provide Form W-9 to the partnership to establish your U.S. status and avoid withholding on your share of partnership income.

The person who gives Form W-9 to the partnership for purposes of establishing its U.S. status and avoiding withholding on its allocable share of net income from the partnership conducting a trade or business in the United States is in the following cases:

- The U.S. owner of a disregarded entity and not the entity,

Cat. No. 10231X Form **W-9** (Rev. 10-2007)

CONTRACT FORMS

The awarded bidder will be required to complete and submit documents substantially similar in form to the following.

These forms may need to be modified on account of changed circumstances, and are provided for informational purposes only.

CITY - CONTRACTOR AGREEMENT

CONTRACT NO. _____

THIS AGREEMENT made this ___ day of _____ in the year Two Thousand and Thirteen by and between the CITY OF NEWTON, a municipal corporation organized and existing under the laws of the Commonwealth of Massachusetts, hereinafter referred to as the CITY, acting through its Chief Procurement Officer, but without personal liability to him, and

hereinafter referred to as the CONTRACTOR.

The parties hereto for the considerations hereinafter set forth agree as follows:

I. **SCOPE OF WORK.** The Contractor agrees to furnish and to deliver to the City at such times, at such place or places, in such manner, and in such quantities as the City may direct, and at the unit prices quoted in the Contractor's bid the following item or items:

SAFETY SHOES / SHOEMOBILE SERVICE

II. **CONTRACT DOCUMENTS.** The Contract Documents consist of the following documents which are either attached to this Agreement or are incorporated herein by reference:

a. This CITY-CONTRACTOR Agreement;

b. The City's Invitation for Bid #14-57 issued by the Purchasing Department;

c. The Project Manual for Safety Shoes / Shoemobile Service including Specifications, and if included or referenced therein, any Standard Terms and Conditions, Special Conditions, Wage Rate Requirements, Wage Rate Schedule(s);

d. Addenda Number(s) _____;

e. The Bid Response of the CONTRACTOR submitted for this Project and accompanying documents and certifications;

f. Certificate(s) of Insurance and surety bond(s), if any, submitted by the CONTRACTOR in connection with this Project;

g. Duly authorized and executed Amendments, Change Orders or Work Orders issued by the CITY after execution of this CITY-CONTRACTOR Agreement.

This CITY-CONTRACTOR Agreement, together with the other documents enumerated in this Article, constitute the entire Agreement between the CITY and the CONTRACTOR.

III. **PRIORITY OF DOCUMENTS.** In the event of inconsistency between the terms of this CITY -CONTRACTOR Agreement and the Project Manual, the terms of this Agreement shall prevail.

IV. **APPLICABLE STATUTES.** All applicable federal, state and local laws and regulations are incorporated herein by reference and the Contractor agrees to comply with same.

V. **CONTRACT TERM**. The term of this contract shall extend from day of **contract execution through December 31, 2014**. The City of Newton shall have the option to renew the contract for up to two additional one year terms with no change in the contract conditions or bid prices. The City shall retain sole discretion in the exercise of each option to renew.

VI. **QUANTITIES.** The quantities specified in the Project Manual are approximate and are based on previous consumption. It is specifically understood the City does not agree to purchase any specific quantity, and purchases will be made to cover actual requirements only. The City may increase or decrease the quantity of any item specified without change in price per unit of quantity as stated in the Contractor's Bid Response.

VII. **MATERIALS.** The Contractor agrees, unless otherwise specified, that all equipment, materials and supplies furnished under this contract are to be first quality, new and unused.

VIII. **AUTHORIZATION OF AND PAYMENT FOR WORK PERFORMED.** The execution of this contract does not constitute a notice to proceed or authorization to perform work or make deliveries. No work shall be commenced or deliveries made unless authorized by a written Work Order issued by the City specifying the equipment, materials or supplies to be delivered. The Contractor will be paid following completed delivery and acceptance of the equipment, materials or supplies ordered in accordance with the Contract. The City will use best efforts to pay within thirty (30) days of receipt of an invoice for the delivered equipment, materials or supplies or acceptance of same whichever date is later.

IX **CLAIMS FOR MATERIALS OR LABOR.** In the event any claims have been filed with the City for material or labor delivered or performed pursuant to this contract, the City shall be under no obligation to make any payment until such claims are adjusted to the satisfaction of the City. Any and all liens for supplies may be paid off by the City within twenty (20) days after the filing for record as provided by law of a notice of such liens, except where the claim on which the lien is filed is being litigated by the Contractor, and in such case the City may pay the amount of any final judgment or decree on any such claim. All money paid by the City in settlement of liens and claims as aforesaid, with the costs and expenses incurred by the City in connection therewith shall be charged to the Seller, bearing interest at the rate of six percent (6%) per annum, and be deducted from the next payment falling due the Seller under the terms of this contract.

X. **UNIT PRICES.** It is agreed that the unit prices listed are maximum prices and that the City shall be entitled to take advantage of any decreasing market conditions, decreases to be governed by the manufacturers' price listing as might be generally adopted in the trade, or by the same percentage that the Seller may reduce prices to others who purchase in similar quantities and under similar conditions.

XI. **RESPONSIBILITY FOR THE WORK/INDEMNIFICATION.** In the performance of any work, including the delivery of equipment, materials or supplies, pursuant to this Contract, the Contractor shall take all responsibility for the work, and shall take all precautions for preventing injuries to persons and property in or about the work and shall defend, indemnify and hold the City harmless from all loss, cost, damage or expense arising from injuries to persons or property in or about the work. The Contractor shall be responsible for any damage which may be caused by the failure or insufficiency of any temporary works. He shall effectively protect his work and shall be liable for all damage and loss by delay or otherwise caused by his neglect or failure so to do.

XII. **WARRANTY.** Except as may be otherwise provided in the Project Manual, the Contractor shall replace, repair or make good, without cost to the City, any defects or faults arising within one (1) year after date of acceptance of equipment, materials or supplies furnished hereunder (acceptance not to be unreasonably delayed) resulting from imperfect or defective work done or materials furnished by the Contractor.

XIII. **PATENT INDEMNIFICATION.** The Contractor agrees to assume the defense of and shall indemnify and save harmless the City and all persons acting for or on behalf of it from all suits and claims against them, or any of them, arising from or occasioned by the use of any material, equipment or apparatus, or any part thereof which infringes or is alleged to infringe on any patent rights. In case such material, equipment or apparatus, or any part thereof, in any such suit is held to constitute infringement, the Contractor, within a reasonable time, shall at its own expense, and as the City may elect, replace such material, equipment or apparatus with non-infringing material, equipment or apparatus, or remove the material, equipment, or apparatus and refund the sums paid therefor.

XIV. **INSPECTION.** For the purposes of inspection of the equipment, materials and supplies covered by this contract, the Contractor shall give the City free access to his works and furnish every facility for properly inspecting such equipment, materials and supplies, and shall furnish full information, whenever requested, relating thereto. Approval by any inspector of the City shall not relieve the Contractor from his obligation to comply in all respects with the contract.

XV. ASSIGNMENT/SUB-CONTRACTING. The Contractor agrees that he will not sell, assign or transfer this Contract or any part thereof or interest therein without the prior written consent of the City.

XVI. INSTALLATION. If any of the equipment, materials and supplies covered by this contract is to be installed by either the Contractor or the City, the Contractor shall, upon request of the City, furnish a competent employee to supervise the installation without expense to the City, unless otherwise provided herein. Such supervisor, or other employees furnished by the Contractor, shall be the agents of the Contractor and not of the City, and the Contractor hereby agrees to indemnify the City and hold it harmless from and against any and all loss, costs, damage, and expense sustained as the result of negligence or other conduct on the part of such supervisor or employee.

XVII. TERMINATION. The City of Newton may, by written notice of default to the Contractor, terminate the whole or any part of this Contract or any Shipping of Purchase Order issued pursuant thereto in any one of the following circumstances:

a. If the Contractor fails to make delivery of the equipment, goods or supplies or to perform the services within the time specified herein or any extension thereof;

b. If the Contractor fails to perform any of the other provisions of this contract or, if in the opinion of the City, Contractor so fails to make progress as to endanger performance of this contract in accordance with its terms, and in either of these two circumstances does not correct such failure within thirty (30) days (or such longer period as the City may authorize in writing) after receipt of notice from the City specifying such failure.

XVIII. GOVERNING LAW. This Contract shall be governed by and construed in accordance with the laws of the Commonwealth of Massachusetts.

XIX. SEVERABILITY. The provisions of this Contract are severable. If any section, paragraph, clause or provision of this Contract shall be finally adjudicated by a court of competent jurisdiction to be invalid, the remainder of this Contract shall be unaffected by such adjudication and all of the remaining provisions of this Contract shall remain in full force and effect as though such section, paragraph, clause or provision, or any part thereof so adjudicated to be invalid, had not been included herein, unless such remaining provisions, standing alone, are incomplete and incapable of being executed in accordance with the intent of the parties to this Contract.

XX. AMENDMENTS TO THIS CONTRACT. This Contract may not be amended except in writing executed in the same manner as this CITY-CONTRACTOR Agreement.

IN WITNESS WHEREOF, the parties have caused this instrument to be executed under seal the day and year first above written.

CONTRACTOR

By_____

Printed Name_____

Title_____

Date_____

Affix Corporate Seal Here

No City monies are obligated by this Agreement. No delivery of material or service is to be made except on Work Orders, each of which must show the certification of the Comptroller of Accounts that an appropriation is available therefore.

By_____
Comptroller of Accounts

Date _____

CITY OF NEWTON

By_____
Chief Procurement Officer

Date_____

Approved as to Legal Form and Character

By_____
Associate City Solicitor

Date_____

CONTRACT AND BONDS APPROVED

By_____
Mayor or his designee

Date_____

CERTIFICATE OF AUTHORITY - CORPORATE

1. I hereby certify that I am the Clerk/Secretary of _____
(insert full name of Corporation)

2. corporation, and that _____
(insert the name of officer who signed the **contract and bonds**.)

3. is the duly elected _____
(insert the title of the officer in line 2)

4. of said corporation, and that on _____
(insert a date that is ***ON OR BEFORE*** the date the officer signed the **contract and bonds**.)

at a duly authorized meeting of the Board of Directors of said corporation, at which all the directors were present or waived notice, it was voted that

5. _____ the _____
(insert **name** from line 2) (insert **title** from line 3)

of this corporation be and hereby is authorized to execute contracts and bonds in the name and on behalf of said corporation, and affix its Corporate Seal thereto, and such execution of any contract of obligation in this corporation's name and on its behalf, with or without the Corporate Seal, shall be valid and binding upon this corporation; and that the above vote has not been amended or rescinded and remains in full force and effect as of the date set forth below.

6. ATTEST: _____ *AFFIX CORPORATE SEAL HERE*
(Signature of **Clerk or Secretary**)*

7. Name: _____
(Please print or type name in line 6)*

8. Date: _____
(insert a date that is ***ON OR AFTER*** the date the officer signed the **contract and bonds**.)

* The name and signature inserted in lines 6 & 7 must be that of the Clerk or Secretary of the corporation.

CERTIFICATION OF TAX COMPLIANCE

Pursuant to M.G.L. c.62C, §49A and requirements of the City, the undersigned acting on behalf of the Contractor certifies under the penalties of perjury that the Contractor is in compliance with all laws of the Commonwealth relating to taxes including payment of all local taxes, fees, assessments, betterments and any other local or municipal charges (unless the Contractor has a pending abatement application or has entered into a payment agreement with the entity to which such charges were owed), reporting of employees and contractors, and withholding and remitting child support.*

_____ _____

**Signature of Individual
or Corporate Contractor (Mandatory)

*** Contractor's Social Security Number
(Voluntary) or Federal Identification Number

Print Name:_____

By: _____
Corporate Officer
(Mandatory, if applicable)

Date: _____

Print Name:_____

* The provision in this Certification relating to child support applies only when the Contractor is an individual.

** Approval of a contract or other agreement will not be granted until the City receives a signed copy of this Certification.

*** Your social security number may be furnished to the Massachusetts Department of Revenue to determine whether you have met tax filing or tax payment obligations. Providers who fail to correct their non-filing or delinquency will not have a contract or other agreement issued, renewed, or extended.

CITY OF NEWTON, MASSACHUSETTS

PURCHASING DEPARTMENT

GENERAL TERMS AND CONDITIONS

1. The right is reserved to reject any and all bids, to waive informalities, and to make award as may be determined to be in the best interest of the City of Newton.

2. Prices quoted must include delivery to the City, as specified on the Purchase Order.

3. No charges will be allowed for packing, crating, freight, Express or cartage unless specifically stated and included in the bid.

4. The award to the successful bidder may be canceled if successful bidder shall fail to prosecute the work with promptness and diligence.

5. Time in connection with discount offered will be computed from the date of delivery to the City, as specified on purchase order, or from date correct invoice is received by the City, if the latter date is later than the date of delivery.

6. The sucessful bidder shall replace, repair or make good, without cost to the City, any defects or faults arising within one (1) year after date of acceptance of articles furnished hereunder (acceptance not to be unreasonably delayed) resulting from imperfect or defective work done or materials furnished by the Sellor.

7. The Sellor shall indemnify and save harmless the City and all persons acting for on behalf of it from all suits and claims against them, or any of them, arising from or occasioned by the use of any material, equipment or apparatus, or any part thereof, which infringes or is alleged to infringe on any patent rights. In case such material, equipment or apparatus, or any part thereof, in any such suit is held to constitute infringement, the Seller, within a reasonable time, will at it's expense, and as the City may elect, replace such material, equipment or apparatus with non-infringing material, equipment or apparatus, or remove the material, equipment or apparatus, and refund the sums paid therefor.

8. The successful bidder shall comply with all applicable Federal State and Local laws and regulations.

9. Purchases made by the City are exempt from Federal excise taxes and bid prices must exclude any such taxes. Tax exemption certificates will be furnished upon request.

10. If so stated in the Invitation for bid the successful bidder will be required to furnish a performance and/or a labor and material payment bond, in an amount, in a form and with a surety satisfactory to the City. The bidder shall be responsible for the cost of the bond(s).

11. If the Invitation for Bids requires bid surety, this surety shall be in the form of a cash, bid bond, cahsier's check, treasurer's check, or certified check on a responsible bank, payable to the City of Newton, and must be filed with the original bid in the Office of the Purchasing Agentt. Failure to do so eill lead to rejection of bid. The bid surety will be returned to the sucessful bidder within seven (7) days execution of awarded, and approval by the City of performance and/or payment bond(s). In case of default, the bid surety shall be forfeited to the City.

12. Verbal orders are not binding on the City and deliveries made or work done without formal Purchase Order or Contract are at the risk of the Sellor or Contractor and may result in an unenforceable claim.

13. The Sellor shall agree to indemnify, defend and hold the City harmless from any and all claims arising out of the performance of this contract.

14. "Equality - An item equal to that named or described in the specifications of the contract may be furnished by the Contractor and the naming of any commercial name, trademark or other identification shall not be construed to exclude any item or manufacturer not mentioned by name or as limiting competition but shall establish a standard of equality only. An item shall be considered equal to the item so named or described if (1) it is at least equal in quality, durability, appearance, strength and design; (2) it will perform at least equally the function imposed by the general design for the work being contracted for or the material being purchased; and (3) it conforms substantially, even with deviations, to the

detailed requirements for the item in the specifications. The name and identification of all materials other than the one specifically named shall be submitted to the City in writing for approval, prior to purchase, use or fabrication of such items. Subject to the provisions of M.G.L., Ch. 30, Sec. 39J, approval shall be at the sole discretion of the City, shall be in writing to be effective, and the decision of the City shall be final. The City may require tests of all materials so submitted to establish quality standards at the Contractor's expense. All directions, specifications and recommendations by manufacturers for installation, handling, storing, adjustment and operation of their equipment shall be complied with; responsibility for proper performance shall continue to rest with the Contractor.

For the use of material other than the one specified, the Contractor shall assume the cost of and responsibility for satisfactorily accomplishing all changes in the work as shown. If no manufacturer is named, the Contractor shall submit the product he intends to use for approval of the City.

Except as otherwise provided for by the provisions of M.G.L., Ch. 30, Sec. 39J, the Contractor shall not have any right of appeal from the decision of the City condemning any materials furnished if the Contractor fails to obtain the approval for substitution under this clause. If any substitution is more costly, the Contractor shall pay for such costs."

15. Notice is hereby given that the City of Newton Minority/Women Business Enterprise Plan dated December 1999 is applicable to all City of Newton contracts for materials and supplies. A copy of this plan may be obtained from the Purchasing Department.

16. Right To Know:

Any contractor who receives an order or orders resulting from this invitation agrees to submit a Material Safety Data Sheet (MSDS) for each toxic or hazardous substance or mixture containing such substance, pursuant to M.G.L., Ch. 111F, SS8, 9 and 10 and the regulations contained in 441 CMR SS 21.06 when deliveries are made. The contractor agrees to deliver all containers properly labeled pursuant to M.G.L. Ch. 111F, SS 7 and the regulations contained in 441 CMR SS 21.05. Failure to submit an MSDS and/or label on each container will place the contractor in noncompliance with the purchase order. Failure to furnish MSDSs and/or labels on each container may result in civil or criminal penalties, including bid debarment and action to prevent the contractor from selling said substances or mixtures containing said substances within the Commonwealth. All contractors furnishing substances or mixtures subject to Chapter 111F of the M.G.L. are cautioned to obtain and read the law and rules and regulations referred to above. Copies can be obtained from the State House Book Store, Secretary of State, State House, Room 117, Boston, MA 02133, (617-727-2834) for $2.00 plus $.65 postage.

17. Insurance Requirements

A. The Contractor shall provide insurance coverage as listed below. This insurance shall be provided at the Contractor's expense and shall be in full force and effect during the full term of this Contract inlcuding options, if excercised.

WORKER'S COMPENSATION

Worker's Compensation: Per M.G.L. c.. l49, s. 34 and c.. l52 as amended.

COMMERCIAL GENERAL LIABILITY

Personal Injury	$500,000 each occurrence $1,000,000 aggregate
Property Damage	$500,000 each occurrence $1,000,000 aggregate

VEHICLE LIABILITY

Personal Injury	$500,000 each person $1,000,000 aggregate
Property Damage	$300,000 each occurrence $500,000 aggregate

B. The Owner shall be named as additional insured on the Contractor's Liability Policies.

C. The Contractor shall not commence the work until proof of compliance with this section has been furnished to the Owner by submitting one copy of a properly endorsed insurance certificate issued by a company authorized to write insurance in the Commonwealth. This certificate shall indicate that all required coverage is in force.

D. Cancellation of any insurance required by this contract, whether by the insurer or the insured, shall not be valid unless written notice thereof is given by the party proposing cancellation to the other party and Owner at least thirty days prior to the effective date thereof, which shall be expressed in said notice. If the Owner is damaged by the Contractor's failure to maintain insurance and to so notify the Owner, then the Contractor shall be responsible for all reasonable costs attributable thereto.

FAILURE TO COMPLY WITH THESE TERMS AND CONDITIONS COULD RESULT IN THE CANCELLATION OF YOUR CONTRACT.

CITY OF NEWTON, MASSACHUSETTS

PURCHASING DEPARTMENT

Specifications for Safety Shoes - FY 14

The vendor shall provide safety shoes to personnel from various departments within the City of Newton. Those departments will include, but is not limited to, the following: Public Works, Library, Parks and Recreation, Building, Inspectional Services and Engineering, and Weights & Measures. The provision of these safety shoes shall be per the following specifications:

1. Safety shoes must meet appropriate Federal and OSHA specifications. The vendor shall be responsible for verifying correct sizes and for providing shoes of acceptable and proper fit according to *Specification*, *Quotation Sheet*, and *Terms and Conditions* attached hereto.

2. Styles of shoes provided are to be those specified. Men's shoes shall be available in sizes from 7 1/2 to 13, and widths to EEE. The Women's shoe specified shall be available in sizes from 6 to 10, and widths medium to wide.

3. Protective toe material shall be steel unless the vendor is able to provide a lighter material that offers similar protection at the same, or a lower price.

4. Shoes are to be provided by a shoemobile or van during scheduled visits to locations within the City. The shoemobile shall be fully stocked for each day of its visit to the City. Several shoemobiles per visit may be required. Pricing for shoes listed on Bid Form #14-57 shall be shoemobile pricing. The dates and times for these shoemobile visits will be those indicated in **Appendix A** unless another schedule, in writing, is established upon mutual agreement between the City and the vendor. Two weeks prior to the shoe mobile visit, the vendor will supply the City Purchasing Department with ten (10) notification posters. The posters will be sent to Purchasing for distribution.

5. Safety shoes will also be provided by --mail. The vendor should quote any price differential between shoes delivered by mail vs. those purchased at the shoemobile.

6. The vendor shall furnish, with bid, a price list of other styles, beyond those specified, which may be purchased by City departments for their personnel.

7. Billing and accounting for safety shoes shall be done individually by the vendor for each department that orders shoes. **Appendix B** provides the name and telephone number of a contact person for each of the departments listed above for both the ordering of shoes, and the payment of invoices. The vendor shall provide the City's Purchasing Department with the name, address and telephone number of the vendor's representative who will be the departmental contact for orders, the resolution of problems, returns, the delivery of replacements or exchanges, credits and invoices.

8. Each City employee must submit to the Vendor a "Shoe Authorization" sheet (**Appendix C**) in their name signed by his or her Department Head prior to receiving a pair of shoes. A copy of the "Authorization" must accompany each invoice. **City employees may only obtain the shoes as specified on the Bid Form. Exceptions from the shoe style and price will be made for the unavailability of certain sizes, widths and relevant medical conditions as approved by the Department Head.**

9. The vendor shall be required to provide a sales report in the format of a Microsoft Excel spreadsheet or Microsoft Word document. The report shall include a list of all shoes purchased within the contract year. The report shall include a full description of each pair of shoes purchased, whether it is from the shoemobile or by mail, the cost, and list-which department purchased the shoe.

Appendix A - Visits

Shoemobile Wednesday, March 26, 2014

Parks & Recreation	10:30 am - 12:00 pm
Crafts St. Yard	1:00 pm - 2:30 pm

Shoemobile Thursday, March 27, 2014

City Hall	7:30 am - 9:30 am
Elliot St. Yard	12:00 pm - 1:00 pm

Shoemobile Wednesday, November 19, 2014

Parks & Recreation	10:30 am - 12:00 pm
Crafts St. Yard	1:00 pm - 2:30 pm

Shoemobile Thursday, November 20, 2014

City Hall	7:30 am - 9:30 am
Elliot St. Yard	1:00 pm - 2:30 pm

Appendix B – Contact Listing

- Building Department: Arthur Cabral
  617-796-1600
- Engineering Department: Lou Taverna
  617-796-1025
- Inspectional Services: John Lojek
  617-796-1060
- Parks and Recreation: Bob Derubeis
  617-796-1500
- Public Works Department: Ron Mendes
  617-796-1013
- Library: Ryan Hanson
  617-796-1400
- Weights & Measures: Mitch Baker
  617-796-1090

Appendix C

CITY OF NEWTON
SAFETY SHOE AUTHORIZATION

The following employee: _____

of the _____ Department

has been approved for a new pair of safety shoes.

As specified in the bid, City employees may only obtain the shoes specified

on the Bid Form unless permission is granted by the Department/Division Head.

_____
Department / Division Head

_____
Date