

**WASHINGTON METROPOLITAN TRANSIT AUTHORITY
600 FIFTH STREET, NW
WASHINGTON, DC 20001**

Tender Number:	IFB-FQ18004/KKB
Date of Issuance:	September 20, 2017
Tender Due Date:	September 27, 2017

**ADDENDUM NO. 01
TO
INVITATION FOR BIDS
FOR
Replacement of Farragut North Condenser Piping
IFB FQ18004/KKB**

TO WHOM IT MAY CONCERN:

The Invitation for Bids for Bid Documents accompanying IFB FQ18004/KKB requesting proffers for above procurement action are herewith changed in part as listed below. The changes are bolded and denoted with ## signs.

1. SECTION 00010, TABLE OF CONTENTS

<u>DELETE</u>	<u>SUBSTITUTE</u>	<u>DESCRIPTION</u>
Section 00010, Table of Contents, Pages 1-00010, 3-00010, and 4-00010 in its entirety	Section 00010, Table of Contents, Pages 1-00010, 3-00010, and 4-00010, Addendum No. 01	Added a Revised Table of Contents

2. SECTION 00300, INFORMATION AVAILABLE TO BIDDER

<u>DELETE</u>	<u>SUBSTITUTE</u>	<u>DESCRIPTION</u>
Article 00360, Criminal Background Check Requirement, Page 2-Section 00300, in its entirety	Article 00360, Criminal Background Check Requirement, Page 2-Section 00300, Addendum No. 01	Deleted Article 00360 from Section 00300 and included in Section 00451, Representations and Certifications

3. SECTION 00400, BID FORMS AND SUPPLEMENTS

<u>DELETE</u>	<u>SUBSTITUTE</u>	<u>DESCRIPTION</u>
Section 00451, Representations and Certification, Page 13-Section 00451, in its entirety	Section 00451, Representation and Certifications, Pages 13-14 Section 00451, Addendum No. 01	Added Criminal Background Screen Certification and Certification Required

4. SECTION 00700, GENERAL CONDITIONS

<u>DELETE</u>	<u>SUBSTITUTE</u>	<u>DESCRIPTION</u>
Section 00700, Pages 4-Section 00700 thru 74-Section 00700, in its entirety	Section 00700, Pages 4-Section 00700 thru 75-Section 00700, Addendum No. 01	Added Sections 00779, 00785 Notification of Bankruptcy or Insolvency, Drug and Alcohol Testing (For Safety Sensitive Functions Only)-FTA, Respectively. Page Numbers Repagination

5. SECTION 00800, SUPPLEMENTARY CONDITIONS

<u>DELETE</u>	<u>SUBSTITUTE</u>	<u>DESCRIPTION</u>
Section 00800, Pages Appendix A-Index of Drawings-19 thru 22- Appendix A-Index of Drawing, in its entirety	Section 00800, Pages Appendix A-Index of Drawings thru 4-Appendix A-Index of Drawings, Addendum No. 01	Page Numbers Repagination

6. SECTION 00800, SUPPLEMENTARY CONDITIONS

<u>DELETE</u>	<u>SUBSTITUTE</u>	<u>DESCRIPTION</u>
Section 00800, Pages Appendix B-Disadvantaged Business Enterprise-23 thru Appendix A-Index of Drawings-47, in its entirety	Section 00800, Pages Appendix B-Disadvantaged Business Enterprise-1 thru 25 -Appendix B-Disadvantaged Business Enterprise, Addendum No. 01	Page Numbers Repagination

7. SECTION 00800, SUPPLEMENTARY CONDITIONS

<u>DELETE</u>	<u>SUBSTITUTE</u>	<u>DESCRIPTION</u>
Section 00800, Pages 48-Appendix D-Wage Determination of the Secretary of Labor thru Appendix C-Authority Furnished Permits-49,	Section 00800, Pages 1-Appendix C-Authority Furnished Permits thru Appendix C-Authority Furnished Permits-2, Addendum No. 01	Page Numbers Repagination

in its entirety

8. SECTION 00800, SUPPLEMENTARY CONDITIONS

DELETE

Section 00800, Pages
50-Appendix D-Wage
Determination of the
Secretary of Labor thru
Appendix D-Wage
Determination of the
Secretary of Labor-57,
in its entirety

SUBSTITUTE

Section 00800, Pages
1-Appendix D-Wage Determination
of the Secretary of Labor thru
Appendix D-Wage Determination of
the Secretary of Labor-8,
Addendum No. 01

DESCRIPTION

Added a New
Wage Rate. It
revised the
Ironworker, Skilled
Laborer, and deleted
Ironworker,
Reinforcing. Page
Numbers
Repagination

9. DIVISION 01, TITLE PAGE

DELETE

Page 58-DIVISION 01

SUBSTITUTE

Page Title Page-Division 01,
Addendum No. 01

DESCRIPTION

Page Number
Repagination

10. DIVISION 01

DELETE

Section 01110,
Summary of Work,
in its entirety

SUBSTITUTE

Section 01110, Summary of Work,
Addendum No. 01

DESCRIPTION

Re-phased Phase
1 to Phases 1A & 1B

DELETE

Section 01111,
Contractor Key Staff,
Page 2-Section 01111,
in its entirety

SUBSTITUTE

Section 01111, Contractor Key
Staff, Page 2-Section 01111,
Addendum No. 01

DESCRIPTION

Corrected Typo in the
Page Header

DELETE

Section 01113, System
Integration Testing,
Page 2-Section 01113,
in its entirety

SUBSTITUTE

Section 01113, System Integration
Testing, Page 2-Section 01113,
Addendum No. 01

DESCRIPTION

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Page Header

DELETE

Section 01114, Safety/
Environmental Requirements,
Pages 2, 4, 6, & 8-Section
01114, in its entirety

SUBSTITUTE

Section 01114, Safety/
Environmental, Pages 2, 4, 6, & 8-
Section 01114, Addendum No. 01

DESCRIPTION

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Page Header

DELETE

Section 01115, Safety and

SUBSTITUTE

Section 01115, Safety and

DESCRIPTION

Corrected Typo in the

Security Certification,
Page 2-Section 01115,
in its entirety

Security Certification, Page 2-
Section 01115, Addendum No. 01

Page Header

DELETE

Section 01116, Identification
and Security, Page 2-Section
01116, in its entirety

SUBSTITUTE

Section 01116, Identification and
Security, Page 2- Section 01116,
Addendum No. 01

DESCRIPTION

Corrected Typo in the
Page Header

DELETE

Section 01141, Access to Site,
Page 2-Section 01115,
in its entirety

SUBSTITUTE

Section 01141, Access to Site,
Page 2-Section 01141,
Addendum No. 01

DESCRIPTION

Corrected Typo in the
Page Header

DELETE

Section 01180, Project
Utility Interface,
Page 2-Section 01180,
in its entirety

SUBSTITUTE

Section 01115, Project Utility
Interface, Page 2- Section 01180,
Addendum No. 01

DESCRIPTION

Corrected Typo in the
Page Header

DELETE

Section 01250, Contract
Modification Procedures,
Pages 2, 4, 6, & 8-Section
01250, in its entirety

SUBSTITUTE

Section 01250, Contract
Modification Procedures, Page 2,
4, 6, & 8 Section 01250,
Addendum No. 01

DESCRIPTION

Corrected Typo in the
Page Header

DELETE

Section 01312, Project
Meetings, Page 2-Section
01312, in its entirety

SUBSTITUTE

Section 01312, Project Meetings,
Page 2- Section 01312,
Addendum No. 01

DESCRIPTION

Corrected Typo in the
Page Header

DELETE

Section 01321, Construction
Photographs, Pages 2 & 4-
Section 01321, in its entirety

SUBSTITUTE

Section 01321, Construction
Photographs, Pages 2 & 4-
Section 01321, Addendum No. 01

DESCRIPTION

Corrected Typo in the
Page Header

DELETE

Section 01550, Maintenance
Of Traffic, Access, and Parking,
Pages 1 & 2-Section 01550,
in its entirety

SUBSTITUTE

Section 01550, Maintenance Of
Traffic, Access, and Parking,
Pages 2 & 4-Section 01550,
Addendum No. 01

DESCRIPTION

Revised Articles 1.04,
1.05, Maintenance Of
Traffic, Construction
Sequence and
Staging, respectively

11. DRAWINGS

DELETE

Drawing Nos. CWPA01-M-104

SUBSTITUTE

Drawing Nos. CWPA01-M-104-105,


DESCRIPTION

Revised Key Notes

respectively, in its entirety Addendum No. 01

drawing nos.
CWPA01-M-104,
CWPA01-M-105
Sheet nos. 47, 48,
respectively

12. There are no further changes.
13. THE SOLICITATION PROVISIONS ENTITLED "SOLICITATION AMENDMENT" IS APPLICABLE TO THIS ADDENDUM. THE CHANGES SET FORTH ARE HEREWITH INCORPORATED INTO THE ABOVE CITED SOLICITATION. THE HOUR AND DATE SPECIFIED FOR RECEIPT OF PROFFERS IS NOT EXTENDED AND WILL REMAIN September 27, 2017 AT 2:00 PM EST.
14. Acknowledgement: Offerors are required to acknowledge receipt of this addendum on Proposal Form in the space provided. Failure to acknowledge all Addenda may cause the proffer to be considered non-responsive to the invitation, which may cause its rejection.

Issued By: 
Norie A. Calvert, Contracting Officer, Office of Procurement and Materials

SECTION 00010
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 - 00611 Performance Bond
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 - 00728 Termination for the Convenience of the Authority
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00892 Notification of Federal Participation
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Appendix A ## Index of Drawings
Appendix B ## Disadvantaged Business Enterprise
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Appendix D ## Wage Determination of the Secretary of Labor

00900 Amendments and Modifications

00910 Amendments
00920 Claims
00930 Clarifications and Proposals
00940 Modifications

END OF SECTION

1. WMATA Construction Safety and Environmental Manual Requirements: A compilation of the safety and reporting requirements for the Project.
2. WMATA Safety and Security Certification Program Plan: A compilation of the safety and security certification requirements for the Project.

00350 QUALITY ASSURANCE AND QUALITY CONTROL

- A. Section 01470, QUALITY MANAGEMENT SYSTEM, establishes the quality requirements for the development of the Quality Management Plan by the Contractor for execution of the Project.

00360 CRIMINAL BACKGROUND CHECK REQUIREMENT (DELETED)

END OF SECTION

- 17.3** The certifications required by 17.1 and 17.2 above shall be included in all subcontracts. The prime contractor shall furnish copies of certifications to the Contracting Officer and retain a copy for inspection upon his or her request.

Name	Signature
Title	Company
Date	

18. CRIMINAL BACKGROUND SCREENING CERTIFICATION (QUARTERLY)

The Contractor hereby certifies that:

- 18.1** The Contractor has contracted with or otherwise engaged a reputable third-party vendor to conduct criminal background screenings of all Contractor personnel who would work on WMATA's premises or otherwise have access to WMATA's customers, property, or confidential information in connection with the Contractor's contract with WMATA (the "WMATA contract").
- 18.2** The Contractor screened for criminal conviction histories all Contractor personnel who have worked on WMATA's premises or otherwise have had access to WMATA's customers, property, or confidential information during the following calendar quarter: _____ to _____
[specify the calendar quarter to which this Certification applies, i.e., Jan. 1, 2017-Mar. 31, 2017]
(the "Calendar Quarter").
- 18.3** The Contractor conducted the screenings identified in paragraph (2) above according to standards that complied with the requirements of the WMATA contract taking into consideration (1) the nature of the services or work being performed with particular regard for the individual's access to, and interaction with, WMATA's customers, property, and confidential information; (2) the nature or gravity of the offense or conduct resulting in the criminal conviction; and (3) the time that has lapsed since the offense, conduct and/or completion of the sentence.
- 18.4** The Contractor determined that all Contractor personnel working on the WMATA contract during the Calendar Quarter passed the Contractor's criminal background screening and were in good standing and otherwise fit to work on the WMATA contract.
- 18.5** In making the determination discussed in paragraph (4), the Contractor relied on the results of criminal background screenings conducted no earlier than one (1) year prior to the beginning of the Calendar Quarter.
- 18.6** The Contractor has not obtained or otherwise been made aware of any information about any Contractor personnel working on the WMATA contract that contradicts or otherwise impacts the Contractor's determination that such persons passed the Contractor's criminal background screening and/or are fit to work on the WMATA contract.

Name	Signature
Title	Company
Date	

19. CERTIFICATION REQUIRED FOR ALL SAFETY-SENSITIVE¹ CONTRACTS.

- 19.1** By submission of this offer, the offeror represents and certifies that it will comply with the Federal Transit Administration (FTA) regulations, "Prevention of Alcohol Misuse and Prohibited Drug Use in Transit Operations," 49 C.F.R. Part 655, and applicable provisions of the U.S. Department of Transportation (DOT) regulations, "Procedures for Transportation Workplace Drug and Alcohol Testing Programs," 49 C.F.R. Part 40.
- 19.2** Offeror agrees that its employees and agents, including but not limited to, safety-sensitive subcontractors will be enrolled in a drug and alcohol testing program that meets the policy and procedural requirements listed in Appendix A of this document.
- 19.3** Offeror understands that Washington Metropolitan Area Transit Authority (WMATA) will perform oversight during the contract's period of performance to ensure that the successful offeror complies with the DOT/FTA regulations.
- 19.4** Failure to comply with this certification may result in WMATA issuing sanctions and pursuing available contractual remedies.

Name	Signature
Title	Company
Date	

¹ See the Combined Glossary for a definition of "safety-sensitive."

44. Substantial Completion: Work or a portion thereof that has progressed to the point where it is sufficiently complete in accordance with the Contract Documents (including receipt of test and inspection reports) so that the Work, or a specified portion thereof, can be utilized for the purpose for which it is intended, and only incidental work remains for physical completion of the Work in accordance with the Contract Documents.
45. Substitution: An item offered by the Contractor of significant difference in material, equipment, or configuration, which functionally meets the requirements of the Contract Documents but is submitted in lieu of item specified therein.
46. Supplementary Conditions: The term Supplementary Conditions means modifications to the General Conditions for requirements unique to a specific project.
47. Supplier: A Subcontractor who is a manufacturer, fabricator, supplier, distributor, or vendor having a contract with the Contractor or with any Subcontractor to furnish materials or equipment to be incorporated in the Work of the Contractor or any Subcontractor.
48. Utility: A public and private facility or installation, other than a WMATA system facility, which relates to (1) the conveyance and supply of water, sewage, gas, chemicals, steam, petroleum products, and other piped installations, or (2) electrical energy, telephone, telegraph communications, radio, television, and cellular or wireless communications.
49. Utility Standards: Drawings and specifications for Utilities published or issued by municipalities or Utility companies.
50. WMATA CAD Manual: Document that establishes drafting criteria for drawings and electronic files that provide templates for drawing/plotter configuration to Bidders and Contractor.
51. WMATA Manual of Design Criteria: Document that outlines the design criteria and process requirements that must be followed for the submittal of project information to WMATA, and measures that are required when constructing a project in the vicinity of, or impacting WMATA systems and facilities.
52. WMATA Safety Manual: A compilation of the appropriate safety and reporting requirements for the Project as specified in Section 00370, WMATA SAFETY AND SECURITY REQUIREMENTS.
53. WMATA Safety and Security Certification Program Plan: A compilation of the appropriate System safety and security certification requirements for the Project.
54. Work: All design and construction services, including supervision, quality control and quality assurance, labor, materials, machinery, equipment, tools, supplies and facilities required to complete the Project, or the various separately identifiable parts thereof including but not limited to Safety, Security, System Safety Certification and Commissioning requirements, in accordance with the terms of the Contract.
55. Working Drawings: Plans prepared by the Contractor for temporary structures such as decking, temporary bulkheads, support of excavation, support of utilities, groundwater control systems, and forming and falsework; for underpinning; and for such other work as may be required for construction but which do not become an integral part of the completed Project as specified in Section 01330, SUBMITTAL PROCEDURES.

00702 ORDER OF PRECEDENCE

- A. Any inconsistency in this invitation or Contract shall be resolved by giving precedence in the following order:

1. Contract Modifications (only) in Section 00904, AMENDMENTS AND MODIFICATIONS
 2. The Agreement Form and Attachments in Section 00500, AGREEMENT, Section 00600, BONDS AND CERTIFICATES, and Amendments (only) in Section 00900, AMENDMENTS AND MODIFICATIONS
 3. Representations and Certifications in Section 00451, REPRESENTATIONS AND CERTIFICATIONS FORM
 4. Supplementary Conditions in Section 00800, SUPPLEMENTARY CONDITIONS.
 5. General Conditions in Section 00700, GENERAL CONDITIONS.
 6. General Requirements - Division 1
 7. Specifications
 8. Drawings
 9. Reports and Studies
- B. In the event of a conflict within, between, or among the above listed order of precedence, the more stringent requirement shall apply.

00703 GENERAL REQUIREMENTS, DRAWINGS, AND SPECIFICATIONS

- A. During the construction of the Project, the Contractor shall keep at the jobsite a copy of the Contract Documents. The Contractor shall at all times give the Contracting Officer Representative access thereto.
- B. The Sections of Division 1, General Requirements, procedures shall govern the execution of the Work of the Contract.
- C. Anything mentioned in the Contract Specifications and not shown on the Contract Drawings, or shown on the Contract Drawings and not mentioned in the Contract Specifications, shall be of like effect as if shown or mentioned in both.
- D. In case of discrepancy between the Contract Specifications and Contract Drawings, the Contract Specifications shall govern. In case of discrepancy among the figures within the Contract Drawings, the matter shall be promptly submitted in writing to the Contracting Officer Representative in accordance with Section 01330, SUBMITTAL PROCEDURES, who will promptly make a determination in writing. Notification of conflicts among the requirements and criteria either indicated in the Contract Specifications, Contract Drawings, or required by local, State, or Federal jurisdictions or Utilities, that affect the scope, cost, or quality of the Work, shall be promptly submitted in writing to the Contracting Officer Representative for a written determination in accordance with Section 01330, SUBMITTAL PROCEDURES. Any adjustment by the Contractor without such a determination shall be at the Contractor's own risk and expense.
- E. Wherever in the Specifications the imperative form is used such as the words "directed," "ordered," "designated," "prescribed," or words of like import, it shall be understood that the "direction," "requirement," "order," "designation," or "prescription" of the Contracting Officer Representative is intended, and similarly the words "approved," "acceptable," "satisfactory," or words of like import, shall mean "approved by," "acceptable to," or "satisfactory to" the Contracting Officer Representative.

- F. Should it appear that the Work to be performed is not sufficiently detailed or explained in the Contract Documents, then the Contractor shall promptly apply to the Contracting Officer Representative in writing in accordance with Section 01330, SUBMITTAL PROCEDURES, for such written explanations as may be necessary and shall conform to the explanation provided. The Contractor shall promptly notify the Contracting Officer Representative in accordance with Section 01330, SUBMITTAL PROCEDURES, of all errors, omissions, inconsistencies, or other defects including inaccuracies, which it may discover in the Contract Documents, and shall provide options to the Contracting Officer Representative to remedy such errors, omissions, or other defects, and shall obtain in writing from the Contracting Officer Representative specific instruction regarding any such error, omission, or defect before proceeding with the design work affected thereby. Omission of details of the Work from the Contract Documents or the mis-description of details of work, which are necessary to carry out the intent of the Contract Documents, or which are customarily preformed, shall not relieve the Contractor from performing such omitted work, no matter how extensive, or mis-described details of the Work, and they shall be performed as if fully and correctly set forth and described in the Contract Documents, without entitlement to a Modification hereunder.

00704 INTENT OF CONTRACT

- A. The Contractor shall, upon execution of this Contract and receipt of the Notice to Proceed (NTP), perform all work as defined herein to complete the Project as described in this Contract.
- B. It is the intent of the Contract Documents to describe a functionally complete Project to be constructed in accordance with the Contract Documents. All work, materials, or equipment that may reasonably be inferred from the Contract Documents, from prevailing custom, or from trade usage as being required to produce the intended results will be furnished and performed whether or not specifically called for. Unless otherwise defined in the Contract, when words or phrases having a well-known technical, construction industry, or trade meaning are used to describe work, labor, services, materials, tools, or equipment, such words or phrases shall be interpreted in accordance with that meaning.
- C. The Contractor accepts the relationship of trust and confidence established between it and the Authority by the Contract. The Contractor agrees to furnish the architectural, engineering, and construction services set forth herein, and agrees to furnish efficient business administration and superintendence, including quality control and quality assurance, and use its best efforts to complete the Project in the best and soundest way and in the most expeditious and economical manner consistent with the requirements of the Contract Documents.
- D. The Contractor shall be responsible for performing or furnishing construction services and related services and require its Subcontractors to perform the services in accordance with the best general practice as specified in Section 01111, KEY CONTRACTOR STAFF. Only new materials and workmanship of best standard quality shall be used. Unless otherwise specified, the Contractor shall furnish all work, services, labor, materials, tools, equipment, and incidentals, which are necessary to complete the Work in a proper, substantial, and workmanlike manner in accordance with the Contract Documents.
- E. Nothing contained in these Contract Documents shall create a contractual relationship between the Authority and any party other than the Contractor. However, it is understood and agreed that the Authority is an intended third party beneficiary of all contracts for design, engineering, or construction services and all such Subcontracts, purchase orders, and other agreements between the Contractor and third parties related to those services. The Contractor shall incorporate the obligations of this Contract into its respective Subcontracts, supply agreements, and purchase orders.

00705 LEGAL REQUIREMENTS

- A. The Contractor shall perform the Work in accordance with all Legal Requirements as specified in Section 01420, REFERENCES, and in Section 00706, PERMITS AND RESPONSIBILITIES. The Contract Price and Period of Performance will be adjusted to compensate the Contractor for the effects of changes in the Legal Requirements enacted after the date of the Agreement affecting the performance of the Work. Such effects may include, without limitation, revisions the Contractor is required to make to the Contract Documents because of changes in Legal Requirements.
- B. The Contractor's failure to construct the Work in conformance with all applicable Legal Requirements in force as of the Notice to Proceed shall not be the basis for a change to either the Contract Price or Period of Performance. The Contractor shall remedy all such failures construct the Work in conformance with all such Legal Requirements at its own expense.
- C. The Contractor shall be responsible for remaining informed of all changes in the Legal Requirements that may occur after the Notice to Proceed and shall perform the Work in accordance with such changed Legal Requirements.

00706 PERMITS AND RESPONSIBILITIES

- A. The Contractor shall, without additional expense to the Authority, be responsible for obtaining necessary licenses, permits not provided by the Authority, and easements and for complying with applicable International, Federal, State, local, or municipal laws, codes, or regulations in connection with the prosecution of the Work. Permits provided by the Authority are noted and attached in Section 00806, PERMITS AND RESPONSIBILITIES.
- B. The Contractor shall be responsible for understanding the requirements, review, and approval processes of the Project's related governmental and regulatory agencies. The Contractor acknowledges that governmental and regulatory agencies may require a significant amount of time to review, process, and approve permit applications. Consequently, the Contractor's Project Schedule shall include adequate time to address review of permits, and even then adjustments to the Contractor's work plan may be needed due to the actual requirements, review, processing, and inspection times.
- C. The Contractor further recognizes the necessity to schedule permit-related inspections well in advance and make all reasonable accommodation necessary to facilitate said inspections so as to avoid delay in progressing or completing the Work. Any delay resulting from scheduling permit-related inspections of any kind will not be a basis for a delay Claim.
- D. For delays in obtaining the necessary permits, which exceed scheduled durations, are beyond the control and without the fault or negligence of the Contractor and will result in a delay of the commencement of work, the Contractor may be granted a non-compensable extension of time for the performance of the Contract corresponding to the delay, provided the Contractor notifies the Contracting Officer Representative immediately upon first encountering the delay. The Contractor shall keep the Contracting Officer Representative informed as to the estimated length of the requested delay.
- E. The Contractor shall be responsible for all damages to persons or property that occur as a result of its fault or negligence or that of its Subcontractors or anyone directly or indirectly employed by the Contractor, or anyone for whose acts the Contractor may be liable, subject to an allocation or proportion of any such liability, loss, cost, or expense if caused in part by a party indemnified hereunder. The Contractor shall take proper safety and health precautions to protect the Work, the workers, the public, and the property of others. The Contractor shall also be responsible for all materials delivered and work performed until completion and Acceptance of the entire Work, except

for any completed unit of construction thereof, which theretofore may have been Accepted in writing by the Authority.

00707 NOT USED

00708 REQUIREMENTS FOR PROFESSIONAL REGISTRATION

- A. All architecture, engineering, and other design services rendered by or through the Contractor under this Contract shall be accomplished, reviewed, and approved by Designers licensed to practice in the particular professional field involved in the jurisdiction in which the Project being designed will be constructed. The Contractor shall comply with local laws regarding the licensing of design firms and personnel providing services for the Project.

00709 PROJECT MANAGEMENT AND SUPERINTENDENCE AND KEY STAFF

- A. The Contractor shall provide project management and direct superintendence of the Work.
- B. The Contractor shall provide personnel for the positions specifically identified by the Authority in this Contract as required Key Staff, and for any other positions the Contractor deems necessary for the successful execution during performance of the Work. Also, see Section 01111, CONTRACTOR KEY STAFF, for responsibilities of key personnel. All positions shall be filled by competent personnel satisfactory to the Contracting Officer Representative. Each position shall be held by a separate full-time employee unless otherwise specifically approved by the Authority. Individuals holding these, or any key position, shall not be changed without permission of the Contracting Officer Representative. The Contractor shall acquire written Authority approval for substitutions of key personnel as specified in Section 01111, CONTRACTOR KEY STAFF. The Contractor shall provide the Authority with all information as may be reasonably requested regarding substitutions and proposed substitutions. The substitutions and proposed substitutions shall share similar or better qualities than the personnel being substituted. The Authority shall be entitled to satisfactory performance of all services described in this Contract, and the Contractor shall promptly remove from the Project any employee or other person performing services hereunder in an unsatisfactory manner.
- C. The Contractor shall present, as specified in Section 00725, COMMENCING THE WORK, and Section 01111, CONTRACTOR KEY STAFF, credentials of the Key Staff to the Contracting Officer Representative for the Contracting Officer Representative's review and acceptance in accordance with Section 01330, SUBMITTAL PROCEDURES.

00710 WORK BY CONTRACTOR

- A. The Contractor shall perform, with its own organization, work equivalent to at least the percentage specified in Section 00810, WORK BY CONTRACTOR, for the construction work.
- B. The percentage shall be determined by the dollar value of the construction work done by its own organization in comparison to total value of construction work in the Contract. The cost of the work performed by skilled and unskilled labor carried on the Contractor's own payroll, together with the cost of materials installed, may be included in the above percentage. The Contractor's markup for overhead and profit on work performed by Subcontractors shall not be included in determining the percentage.
- C. If, during the progress of the Work, the Contractor requests a reduction in such percentage, and if the Contracting Officer Representative determines that it would be to the Authority's advantage, the Contracting Officer Representative may approve such a reduction at its sole discretion.

00711 SUBCONTRACT AGREEMENTS

- A. After Contract award, the Contractor will be required to submit copies of a conformed and signed Subcontract agreements with all Subcontractors to be used on the Contract to the Contracting

Officer or designee with the price deleted. The terms of payment shall be in conformance with Section 00744, Method of Payment. The Divisions or Sections of the Specifications are not intended to control the Contractor in dividing the Work among Subcontractors or to limit the Work performed by a trade.

1. The Contractor shall not enter into Subcontracts totaling in amount more than the percentage of the total Contract Price permissible under Section 00710, WORK BY CONTRACTOR, without the written permission of the Contracting Officer.
2. No Subcontractor will be permitted to perform work at the Site until the Subcontractor, or the Contractor, in compliance with the provisions of Section 00777, INDEMNIFICATION AND INSURANCE REQUIREMENTS, has furnished satisfactory evidence of insurance as required.
3. The Authority or its representatives will not undertake to settle any difference between the Contractor and its Subcontractor or between Subcontractors.

00712 OTHER CONTRACTS

- A. The Authority may undertake or award other contracts for additional work, and the Contractor shall fully cooperate with such other contractors and Authority employees and carefully fit its own work to such additional work as may be directed by the Contracting Officer Representative. The Contractor shall not commit or permit any act, which will interfere with the performance of work by any other contractor or by Authority employees.
- B. The Contractor shall conduct all work in a manner that will minimize interference with the operations of other contractors and Authority employees, if any, involved in the performance of related work. All work shall be brought to a stage of completion that will conform to the Contract Documents.

00713 CONFIDENTIALITY

- A. The Contractor or its Subcontractors shall not divulge any confidential information, which is so designated by the Authority to Contractor or its Subcontractors or acquired in the course of performance of the Work under this Contract.

00714 CONDITIONS AFFECTING THE WORK

- A. The Contractor shall be responsible for having taken steps reasonably necessary to ascertain the nature and location of the Work, and the general and local conditions, which can affect the Work or the cost thereof as described in Section 01711, ACCEPTANCE OF CONDITIONS. Any failure by the Contractor to do so will not relieve the Contractor from responsibility for successfully performing work without additional expense to the Authority. The Authority assumes no responsibility for any understanding or representations concerning conditions made by any of its officers or agents prior to the execution of this Contract, unless such understanding or representations are expressly stated in the Contract.

00715 SITE INVESTIGATION

- A. The Contractor acknowledges that it has investigated and satisfied itself as to the conditions affecting the Work including, but not restricted to, those bearing upon transportation, disposal, handling, and storage of materials; availability of labor, water, electric power, and roads; and uncertainties of weather, river stages, tides, or similar physical conditions at the Site, the conditions of the ground, and the character of equipment and facilities needed preliminary to and during prosecution of the Work as described in Section 01711, ACCEPTANCE OF CONDITIONS. The Contractor further acknowledges that it has satisfied itself as to the character, quality, and quantity of surface and subsurface materials or obstacles to be encountered insofar as this information is

reasonably ascertainable from an inspection of the Site, including all exploratory work done by the Authority, as well as from information provided by the Authority and made a part of this Contract, the character and extent of existing work within or adjacent thereto, and any other work being performed thereon at the time of the submission of its Bid as described in Section 01711, ACCEPTANCE OF CONDITIONS. Nothing in this requirement shall be construed as being determinative of the character, scope, or extent of the Work required under this Contract. Any failure by the Contractor to acquaint itself with the available information will not relieve it from responsibility for estimating properly the difficulty or cost of successfully performing the Work. The Authority assumes no responsibility for any conclusions or interpretations made by the Contractor on the basis of the information made available by the Authority.

00716 PRECONSTRUCTION INSPECTION

- A. Conditional inspection of buildings or structures in the immediate vicinity of the Project, which may reasonably be expected to be affected by the Work, will be performed by and be the responsibility of the Contractor.
- B. Prior to beginning excavation or any other work, the Contractor shall inform the Authority of buildings or structures on which it intends to perform work or which performance of the Work will affect.
- C. The Authority shall be provided sufficient notice of this inspection and afforded an opportunity to participate in the inspection. The Contractor shall submit for Approval the preconstruction inspection records as specified in Section 01711, ACCEPTANCE OF CONDITIONS, to the Authority prior to beginning work.

00717 DIFFERING SITE CONDITIONS

- A. The Contractor shall promptly, and before such conditions are disturbed, notify in writing as described in Section 01711, ACCEPTANCE OF CONDITIONS, the Contracting Officer, through the Contracting Officer Representative, of subsurface or latent physical conditions at the Site differing materially from those indicated in this Contract or unknown physical conditions at the Site, of an unusual nature, differing materially from those ordinarily encountered and generally recognized as inherent in work of the character provided for this Contract.
- B. The Contracting Officer Representative will promptly investigate the conditions, and if the Contracting Officer Representative finds that such conditions do materially so differ and cause an increase or decrease, in the Contractor's cost of, or the time required for, performance of any part of the Work under this Contract, whether or not changed as a result of such conditions, an equitable adjustment will be made and the Contract modified in writing accordingly.
- C. No claim of the Contractor under this Section will be allowed unless the Contractor has given the notice required in Paragraph A above; provided, however, the time prescribed therefore may be extended by the Contracting Officer Representative.
- D. No claim by the Contractor for an equitable adjustment hereunder will be allowed if asserted after Final Payment under this Contract.

00718 ROLE OF THE AUTHORITY

- A. The character and extent of the Work to be performed by the Contractor shall be subject to the general oversight and general approval of the Authority.
- B. The Authority will not supervise, direct, or have control over, or be responsible for, the Contractor's means, methods, techniques, sequences, or procedures of construction or the safety precautions and programs incidental to the Work, or for any failure of the Contractor to comply with Legal Requirements as specified in Section 00705, LEGAL REQUIREMENTS. The Authority will not be

responsible for the Contractor's failure to perform or furnish the Work in accordance with the Contract Documents.

00719 AUTHORITY REVIEWS

- A. The Authority will review information submitted by the Contractor, furnish required information and required approvals, and render decisions pertaining thereto, all in a timely manner in order to facilitate the orderly progress of the Work in cooperation with the Contractor and in accordance with the planning, scheduling, and budgetary requirements and constraints of the Project.
- B. The Authority will review and Approve Submittals solely for the purpose of establishing their conformance to the Contract Documents. Such review and Approval shall not be deemed to transfer any liability from the Contractor to the Authority.
- C. The Authority will review and Approve identified construction Submittals solely to determine if the items covered by the Submittal will, after installation or incorporation in the construction, conform to the requirements set forth in the Contract Documents and be compatible with the design concept of the completed Project as a functioning whole as indicated by the Contract Documents. Construction Submittals requiring Authority review and Approval are specified in Contract Specifications. Construction Submittals not so specified shall be submitted to the Authority for information only. The Authority's review and Approval of construction Submittals will not extend to means, methods, techniques, sequences, or procedures of construction (except where a particular means, method, technique, sequence, or procedure of construction is specifically and expressly called for by these Contract Documents) or to safety precautions or programs incidental thereto. The Authority's Approval will be general and shall not be construed as: (1) permitting any departure from the Contract Documents; (2) relieving the Contractor of the responsibility for any errors including details, dimensions, and materials; or, (3) approving departures from details furnished by the Contractor or the Authority except as otherwise specified.
- D. The Authority reserves the right to review Submittals and to disapprove any Submittal when, in its sole judgment, the Submittal deviates from the requirements of the Contract Documents and compromises the integrity of the construction element. The Authority's review, Approval, or acceptance of any Submittal required under this Contract shall not be construed to operate as a waiver of the Contractor's responsibility for the professional quality, technical accuracy, and the coordination of all designs, drawings, specifications, construction, and other services provided by the Contractor under this Contract.
- E. For the Authority's procedures for reviewing and approving Submittals, refer to Section 01330, SUBMITTAL PROCEDURES, and Section 01775, CLOSEOUT.

00720 SUBMITTALS

- A. The Contractor shall Submit for review and approval a preliminary Schedule of Required Submittals, as described in Section 01330, SUBMITTAL PROCEDURES, that the Authority reserves the right to review and Approve, and the times for submitting, reviewing, and processing each Submittal.
- B. The Contractor shall maintain a Contract Document Submittal Log as described in Section 01330, SUBMITTAL PROCEDURES, to show the status of all Submittals. The submittal log and all Approved Submittals shall be kept at the Project Site and shall at all times be made available for Authority inspection. Approved Submittals and certificates shall be turned over to the Authority at the completion of the Project as part of the Project records in accordance with Section 01775, CLOSEOUT.
- C. The Authority will, in a timely manner, review and Approve those Submittals that it deems necessary and as described in Section 01330, SUBMITTAL PROCEDURES, and Section 01775 CLOSEOUT,

during the construction and closeout of the Project. The Authority's review of Submittals shall be solely for the purposes stated in Section 00719, AUTHORITY REVIEWS. The Authority's review and Approval of separate items, as such, will not indicate Approval of the assembly in which the item functions. The Contractor shall make corrections to Submittals as required and shall return corrected copy for additional review and Approval.

- D. The Authority's review and Approval of any Submittal that it deems necessary to review and Approve will not relieve the Contractor from responsibility for any variations from the requirements of the Contract Documents unless the Contractor has in writing called the Authority's attention to each such variation at the time of submission in the Submittal letter of transmittal, and the Authority has given written Approval of each such variation by specific written notation thereof incorporated in or accompanying the Submittal.
- E. Where a Submittal is required by the Contract Documents, any related work provided prior to the appropriate review and Approval of a Submittal shall be at the sole risk, expense, and responsibility of Contractor.

00721 VALUE ENGINEERING INCENTIVE

- A. This Section applies to those Value Engineering Change Proposals (VECPs), which are initiated and developed by the Contractor during the performance of the Contract to modify requirements of this Contract. In order to be accepted under this Section, each VECP shall:
 - 1. Be identified by the Contractor at the time of submittal to the Contracting Officer Representative as submitted pursuant to this Section using the prescribed Authority VECP Proposal form;
 - 2. Require a significant change to this Contract;
 - 3. Decrease the Contract Price;
 - 4. Maintain the Contract requirements such as safety, service life, reliability, economy of operation, ease of maintenance, and necessary standardized and architectural features of the facility or system;
 - 5. Not require an unacceptable extension of original Period of Performance; and
 - 6. Be reviewed and evaluated by way of a two-phase process.
- B. Phase One - Conditional Approval: In addition to the use of the Authority VECP Proposal form, all VECPs the Contractor submits shall be in sufficient detail to clearly define the proposed change including the following items:
 - 1. A description of the difference between the existing and the proposed Contract requirements and the comparative advantages and disadvantages of each;
 - 2. Contract requirements recommended by the Contractor to be changed;
 - 3. Separate detailed cost estimates for both the basic Contract requirement and the proposed change, and an estimate of the change in Contract Price including an accounting of the costs of development and implementation and Authority review of the VECP and the sharing arrangement as set forth in the following Paragraph E;
 - 4. A statement from the Contractor predicting all effects the proposed VECP will have on the life-cycle cost of the Work to include and identify separately the cost for increased or decreased maintenance and operations;

5. A statement of the time by which the proposal must be accepted so as to obtain the maximum price reduction affect and not delay the original Period of Performance. The time required for VECP review shall be considered and included in this statement and in a separate bar chart;
 6. A list of codes and the Authority standards applicable to the work to be carried out by the VECP and a statement that the proposed VECP will be in compliance with the requirements set forth in listed codes and standards;
 7. The identification of a project where the materials, methods of construction, and special equipment where required, and have been previously and successfully performed on construction similar to that which is being proposed for implementation on this Contract;
 8. Preliminary architectural and engineering analysis, including calculations and 11 x 17-inch drawings in sufficient detail for each requirement of the Contract, which must be changed if the VECP is accepted, with recommendations for accomplishing each change and its affect on unchanged work.
- C. The Contracting Officer Representative may at any time during the two-phase review and evaluation process reject part or all of the VECP by giving the Contractor written notice thereof. Until final approval is issued, the Contractor shall remain obligated to perform in accordance with the terms of the original Contract. VECPs will be processed expeditiously, however, the Authority shall not be liable for any delay in acting upon any proposal submitted pursuant to this Section. The decision of the Contracting Officer Representative about acceptance or rejection of any such proposal shall be final and shall not be subject to Section 00730, DISPUTE RESOLUTION.
1. The Contractor has the right to withdraw part or all of the VECP at any time prior to acceptance or rejection by the Authority. Such withdrawal shall be made in writing to the Contracting Officer through the Contracting Officer Representative. If the Contractor desires to withdraw the proposal, it shall be liable for the cost incurred by the Authority in reviewing the proposal.
- D. Upon notice of conditional approval of the concept of the VECP, the Contractor shall proceed with final VECP design in accordance with the agreed schedule.
- E. Phase Two - Final Approval: Final Approval of the VECP by the Authority will be contingent upon the following items:
1. The Contractor shall address, to the Authority's satisfaction, all design issues and review comments and submit the VECP to the Authority for Approval.
 2. An equitable adjustment in the Contract Price and appropriate changes in all other affected provisions of the Contract shall be made, and the Contract will be modified in accordance with Section 00748, CHANGES, or other applicable Sections of this Contract.
 3. The net savings resulting from the change shall be shared between the Contractor and the Authority on the basis of 50 percent for the Contractor and 50 percent for the Authority. Net savings shall be determined by deducting from the estimated gross savings, the Contractor's costs of developing and implementing the proposal, including any amount attributable to a Subcontractor and the estimated amount of increased costs to the Authority resulting from the change, such as costs for review, implementation, inspection, related items, and Authority-furnished property. Estimated gross savings shall include Contractor's labor, material, equipment, overhead, profit, and bond. The Contract Price shall be reduced by the sum of the Authority's costs and share of the net savings.
 4. The Contractor is entitled to share in instant contract savings only, to the full extent provided for in this Section. For purposes of sharing, the term 'instant contract' shall not include any

supplemental agreements to or other Modifications of this Contract, executed subsequent to acceptance of the particular VECP, by which the Authority increases the quantity of any item or adds any item.

5. Notwithstanding any review, Approval, or acceptance of any VECP by the Authority, the Contractor agrees to be liable to the Authority for all costs of any kind whatsoever caused by or resulting from any error, omission, deficiency, negligence, or combination thereof, of any kind in the design, drawings, or specifications submitted to the Authority in connection with any VECP proposal under this Contract. The rights and remedies of the Authority provided in this Section are in addition to any other rights or remedies provided by law or under this Contract.
- F. The Contractor shall use its best efforts to include Value Engineering arrangements in any Subcontract, which in its judgment, appears to offer sufficient value engineering potential.
- G. A VECP identical to one submitted under any other contract, by this or any other contractor, may also be submitted under this Contract.
- H. The Contractor may restrict the Authority's right to use any VECP data by marking it with the following statement:
 1. "This data, furnished pursuant to the VALUE ENGINEERING INCENTIVE Section of this Contract, shall not be duplicated, used, or disclosed, in whole or in part, for any purpose except to evaluate the VECP, unless the proposal is accepted by the Authority. This restriction does not limit the Authority's right to use information contained in this data if it is or has been obtained, or is otherwise available, from the Contractor or from other source, without limitations. When this proposal is accepted by the Authority, the Authority shall have the right to duplicate, use, and disclose any data in any manner and for any purpose whatsoever, and have others do so whether under this or any other Authority contract."

00722 QUALITY ASSURANCE / QUALITY CONTROL

- A. The Contractor shall be responsible for conducting an ongoing Quality Plan as described in Section 01470, QUALITY MANAGEMENT SYSTEM, during the entire term of the Contract based on the approved detailed Quality Plan. The purpose of the Quality Plan is to effectively and economically ensure technical quality in deliverables and construction of the Work, thus reducing the potential for:
 1. Adverse construction schedule and cost impacts;
 2. Personal and public safety problems and incidents and their attendant costs;
 3. Those operational and maintenance problems, disruptions, and costs that result from design errors and omissions;
 4. Poor construction quality, and
 5. Deliverables and completed work, which do not comply with applicable codes and regulations.
- B. Submit for Approval in accordance with Section 01330, SUBMITTAL PROCEDURES, all required quality Submittals as specified in Section 01470, QUALITY MANAGEMENT SYSTEM.
- C. An effective Quality Program is fundamental to all work performed by the Contractor and will be considered by the Authority in assessing the Contractor's progress, performance, and earnings entitlement.

00723 PROGRESS SCHEDULES AND REQUIREMENTS FOR MAINTAINING PROGRESS RECORDS

- A. Prepare and submit to the Contracting Officer Representative for Approval progress schedules showing the order in which the Contractor proposes to carry on the Work, the dates on which it will start the several major features of the Work, including procurement of materials, plant, and equipment, and the contemplated dates for completing the same for construction. The schedules shall be in a form acceptable to the Authority, and as described in Section 01322, CONTRACT PROGRESS REPORTING, and shall be in such detail that, in conjunction with the progress reports hereinafter required, the Authority will be able to chart the status and progress of the Work while it is being performed. If actual progress deviates from the schedule, update the schedule to show the accurate progress. Failure to comply with the terms of this Section may affect the processing of progress payment requests submitted by the Contractor as provided for in this Contract.
- B. If, in the opinion of the Contracting Officer Representative, the Contractor falls significantly behind the Approved progress schedule for construction, take any and all steps necessary to improve the progress of the Work. In this event, without cost to the Authority, the Contracting Officer Representative may require the Contractor to submit for Approval supplemental progress schedules detailing the specific operational changes to be instituted to regain the Approved schedule. Additionally, the Contracting Officer Representative may require the Contractor to increase the number of shifts, initiate or increase overtime operations, increase days of work in the work week, or increase the amount of the construction plant. Such requirements by the Authority shall not be construed or interpreted to imply that the Authority is in any way responsible for the means, methods, or sequencing of the Work. The additional cost of such requirements shall be borne solely by the Contractor.
- C. Failure of the Contractor to comply with the requirements of the Progress Schedule under this Section shall be grounds for determination that the Contractor is not prosecuting the Work with such diligence as will ensure completion within the time specified. Upon such determination, the Authority may terminate the Contractor's right to proceed with the Work, or any separate part thereof, in accordance with Section 00727, TERMINATION FOR DEFAULT, DAMAGES FOR DELAY, AND TIME EXTENSIONS.

00724 PERIOD OF PERFORMANCE AND PROJECT SCHEDULE

- A. Perform, complete, and advance all work under this Contract in accordance with the schedule set out in Section 00824, PERIOD OF PERFORMANCE AND PROJECT SCHEDULE.
- B. The Authority may modify the Contract, pursuant to Section 00748, CHANGES, to extend the Period of Performance as often and in periods as deemed necessary until completion of the Work under this Contract.
- C. Early Completion: If the Contractor submits a schedule or expresses an intention to complete the Work earlier than any required milestone, interim, or final completion date, the Authority shall not be liable for any costs incurred because of delay or hindrance should the Contractor be unable to complete the Work before such milestone, interim, or final completion date. The duties, obligations, and warranties of the Authority to the Contractor shall be consistent with and applicable only to the completion of the Work and completion dates set forth in this Contract.

00725 COMMENCING THE WORK

- A. Commence the Work within 10 Days after the date of receipt of the Notice to Proceed (NTP) and prosecute the Work diligently to complete it within the time specified in the Contract to meet all specified interim milestone dates.

- B. A Pre-Construction Conference attended by the Authority and the Contractor and others as appropriate will be held to establish a working understanding among the parties as to the Work and to discuss the schedules, procedures for handling Submittals, processing Applications for Payment, maintaining required records, quality control, and other matters. For a more complete agenda, refer to Section 01312, PROJECT MEETINGS.
- C. The following items require approval prior to commencement of construction activities, or offsite fabrication associated with the Project. Submit in accordance with Section 01330, SUBMITTAL PROCEDURES:
 - 1. Executed Contract as specified in Section 00521, CONSTRUCTION CONTRACT FORM, with Power of Attorney as specified in Section 00541, POWER OF ATTORNEY, and Power of Execution as specified in Section 00542, POWER OF EXECUTION; Required Performance Bond as specified in Section 00611, PERFORMANCE BOND, and Payment Bond, as specified in Section 00612, PAYMENT BOND; Insurance Certificates as specified in Section 00778, INDEMNIFICATION AND INSURANCE REQUIREMENTS, within 10 Days after Award of Contract.
 - 2. Major Subcontractors and Key Project Personnel Confirmation as specified in Section 00709, PROJECT MANAGEMENT AND SUPERINTENDENCE AND KEY PERSONNEL, and Section 01111, CONTRACTOR KEY STAFF, within 10 Days after Award of Contract.

00726 SUSPENSION OF WORK

- A. The Authority may order the Contractor in writing to suspend, delay, or interrupt all or any part of the Work for such period as it may determine to be appropriate for the convenience of the Authority.
- B. If the performance of all or any part of the Work is, for an unreasonable period, suspended, delayed, or interrupted by an act of the Contracting Officer or other delegated Contracting Officer's Representative in the administration of this Contract, or by its failure to act within the time specified in this Contract, or if no time is specified, within a reasonable time, an adjustment will be made for any increase in the cost of performance of this Contract, excluding profit, necessarily caused by such unreasonable suspension, delay, or interruption and the Contract modified in writing accordingly. However, no adjustment will be made under this Section for any suspension, delay, or interruption to the extent:
 - 1. that performance would have been so suspended, delayed, or interrupted by any other cause including the fault or negligence of the Contractor, or
 - 2. for which an equitable adjustment is provided for or excluded under any other provision of this Contract.
- C. No Claim under this Section will be allowed:
 - 1. For any costs incurred more than 20 Days before the Contractor shall have notified the Contracting Officer or other delegated Contracting Officer's Representative in writing of the act or failure to act involved, but this requirement will not apply as to a Claim resulting from a suspension order, and
 - 2. Unless the Claim, in an amount stated, is asserted in writing as soon as practicable after the termination of such suspension, delay, or interruption, but no later than the date of Final Payment under this Contract.
- D. Failure to agree to any adjustment shall be a dispute concerning a question of fact within the meaning of Section 00730, DISPUTE RESOLUTION.

00727 TERMINATION FOR DEFAULT, DAMAGES FOR DELAY, AND TIME EXTENSIONS

- A. If the Contractor refuses or fails to prosecute the Work, or any separable part thereof, with such diligence as will ensure its completion within the time specified in this Contract, or any extension thereof, or fails to complete said Work within such time, the Contracting Officer may, by written notice to the Contractor, terminate its right to proceed with the Work or such part of the Work as to which there has been delay. In such event, the Contracting Officer may take over the Work and prosecute the same to completion, by contract or otherwise, and may take possession of and utilize in completing the Work such design product, materials, appliances, plant, and other work product as may be on the Site of the Work and necessary therefore, all of which shall become the property of the Authority. Whether or not the Contractor's right to proceed with the Work is terminated, the Contractor and its sureties shall be liable for all damage to the Authority resulting from its refusal or failure to complete the Work in the specified time.
- B. If fixed and agreed liquidated damages are provided in the Contract, and if the Contracting Officer so terminates the Contractor's right to proceed, the resulting damage shall consist of such liquidated damages until such reasonable time as may be required for final completion of the Work together with any increased costs occasioned the Authority in completing the Work.
- C. If fixed and agreed liquidated damages are provided in the Contract, and if the Contracting Officer does not so terminate the Contractor's right to proceed, the resulting damage shall consist of such liquidated damages until the Work is completed or accepted.
- D. The Contractor's right to proceed shall not be so terminated or the Contractor charged with resulting damage under the following circumstances:
 - 1. If the delay in the completion of the Work arises from unforeseeable causes beyond the control and without the fault or negligence of the Contractor, including, but not restricted to, acts of God, acts of the public enemy, acts of the Authority in its contractual capacity, acts of another contractor in the performance of a contract with the Authority, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, unusually severe weather, or delays of Subcontractors or Suppliers at any tier arising from causes other than normal weather beyond the control and without the fault or negligence of both the Contractor and such Subcontractors or Suppliers.
 - 1. Unusually severe weather conditions:
 - a.) Pursuant to Paragraph D.1 above, the Authority will use the following table as the basis for determining allowable time extensions to the Contract for unusually severe weather conditions and the impact of such weather at the construction Site.

- b.) The column below labeled WORKING DAYS represents working-day delays, which may be expected in each month named within the Washington Metropolitan Area, based on a 5-day work week:

<u>Month</u>	<u>Working Days</u>
January	4
February	4
March	4
April	5
May	5
June	2
July	2
August	3
September	2
October	3
November	4
December	4

- c.) Time extensions for weather delays during a given month will be allowed only for actual working days in excess of the numbers listed above and only when those excess days of delay affect the current critical path(s) leading to specified Contract completion or milestone dates.
2. If the Contractor, within 10 Days from the beginning of any such delay, unless the Contracting Officer grants a further period before the date of Final Payment under the Contract, notifies the Contracting Officer in writing of the causes of delay. The Contracting Officer will ascertain the facts and the extent of the delay and extend the time for completing the Work when, in the Contracting Officer's judgment, the findings of fact justify such an extension. The Contracting Officer's findings of fact shall be final and conclusive on the parties, subject only to appeal as provided Section 00729, DISPUTE RESOLUTION.
 3. If, after notice of termination of the Contractor's right to proceed under the provisions of this Section, it is determined for any reason that the Contractor was not in default under the provisions of this Section, or that the delay was excusable under the provisions of this Section, the rights and obligations of the parties shall be the same as if the notice of termination had been issued pursuant to Section 00728, TERMINATION FOR CONVENIENCE OF THE AUTHORITY.
 4. The rights and remedies of the Authority provided in this Section are in addition to any other rights and remedies provided by law or under this Contract.

00728 TERMINATION FOR THE CONVENIENCE OF THE AUTHORITY

- A. The Authority may terminate this Contract in whole or, from time to time, in part, for the convenience of the Authority. The performance of work under this Contract may be terminated by the Authority in accordance with this subsection, in whole, or from time to time in part, whenever the Contracting Officer determines that such termination is in the best interest of the Authority. Any such termination will be effected by delivery to the Contractor of a Notice of Termination specifying the nature, extent to which performance of work under the Contract is terminated, and the date upon which such termination becomes effective.

- B. After receipt of a Notice of Termination, and except as otherwise directed by the Contracting Officer:
1. Immediately discontinue all services and stop work under the Contract on the date and to the extent specified in the Notice of Termination;
 2. Place no further orders or Subcontracts for materials, services, or facilities, except as may be necessary for completion of such portion of the Work under the Contract as is not terminated;
 3. Terminate all orders and Subcontracts to the extent that they relate to the performance of work terminated by the Notice of Termination;
 4. Assign to the Authority, in the manner, at the times, and to the extent directed by the Contracting Officer, all of the right, title, and interest of the Contractor under the orders and Subcontracts so terminated, in which case the Contracting Officer shall have the right to settle or authorize payments on any or all Claims arising out of the termination of such orders and Subcontracts;
 5. Settle all outstanding liabilities and all Claims arising out of such termination of orders and Subcontracts, with the approval or ratification of the Contracting Officer, to the extent it may require, which approval or ratification shall be final for all the purposes of this Section;
 6. Transfer title and deliver the following to the Authority in the manner, at the times, and to the extent, if any, directed by the Contracting Officer:
 1. The fabricated or unfabricated parts, work in process, completed work, supplies, and other material procured as a part of, or acquired in connection with the performance of, the work terminated by the Notice of Termination.
 2. All data, record drawings and specifications, reports, estimates, summaries, and other information and materials accumulated in performing this Contract, whether completed or in process.
 7. Use best efforts to sell, in the manner, at the times, to the extent, and at the price or prices directed or authorized by the Contracting Officer, any property of the types referred to in Paragraph B.6 above, provided, however, that the Contractor:
 1. Will not be required to extend credit to any purchaser, and
 2. May acquire any such property under the conditions prescribed by and at a price or prices approved by the Contracting Officer; and provided further that the proceeds of any such transfer or disposition shall be applied in reduction of any payments to be made by the Authority to the Contractor under this Contract or shall otherwise be credited to the price or cost of the Work covered by this Contract or paid in such other manner as the Contracting Officer may direct.
 8. Complete performance of such part of the Work as shall not have been terminated by the Notice of Termination; and
 9. Take such action as may be necessary, or as the Contracting Officer may direct, for the protection and preservation of the property related to this Contract, which is in the possession of the Contractor and in which the Authority has or may acquire an interest.
- C. After receipt of a Notice of Termination, submit to the Contracting Officer through the Contracting Officer Representative its termination Claim in the form and with certification prescribed by the Contracting Officer. Such Claim shall be submitted promptly but in no event later than 1 year from the effective date of termination, unless one or more extensions in writing are granted by the

Contracting Officer, upon request of the Contractor made in writing within such 1-year period or authorized extension thereof. However, if the Contracting Officer determines that the facts justify such action, the Contracting Officer may receive and act upon any such termination Claim at any time after such 1-year period or any extension thereof. Upon failure of the Contractor to submit its termination Claim within the time allowed, the Contracting Officer may determine, on the basis of information available to the Contracting Officer, the amount, if any, due to the Contractor by reason of the termination and shall thereupon authorize payment to the Contractor the amount so determined.

- D. Subject to the provisions of Paragraph C above, the Contractor and the Contracting Officer may agree upon the whole or any part of the amount or amounts to be paid to the Contractor by reason of the total or partial termination of work pursuant to this Section, which amount or amounts may include a reasonable allowance for profit on work done; provided, that such agreed amount or amounts, exclusive of settlement costs, shall not exceed the total Contract Price as reduced by the amount of payments otherwise made and as further reduced by the Contract Price of work not terminated. The foregoing notwithstanding, the Contracting Officer will not allow anticipated profit on services not performed by the Contractor.
- E. The Contract shall be amended accordingly, and the Contractor will be paid the agreed amount. Nothing in Paragraph F below, prescribing the amount to be paid to the Contractor in the event of failure of the Contractor and the Contracting Officer to agree upon the whole amount to be paid to the Contractor by reason of the termination of work pursuant to this Section, will be deemed to limit, restrict, or otherwise determine or affect the amount or amounts, which may be agreed upon to be paid to the Contractor pursuant to Paragraph D above.
- F. In the event of the failure of the Contractor and the Contracting Officer to agree, as provided in Paragraph D above, upon the whole amount to be paid to the Contractor by reason of the termination of work pursuant to this Section, the Contracting Officer will authorize payment to the Contractor the amounts determined by the Contracting Officer as follows, but without duplication of any amounts agreed upon in accordance with Paragraph D:
 - 1. With respect to all Contract Work performed prior to the effective date of the Notice of Termination, the total, without duplication of any items, of the following:
 - 1. The cost of such Work;
 - 2. The cost of settling and paying Claims arising out of the termination of work under Subcontracts or orders as provided in Paragraph B.5 above, exclusive of the amount paid or payable on account of supplies or materials delivered or services furnished by the Subcontractors or Suppliers prior to the effective date of Notice of Termination of work under this Contract, which amounts shall be included in the cost on account of which payment is made under Paragraph D above; and
 - 3. A sum, as profit on Paragraph D above, determined by the Contracting Officer to be fair and reasonable, provided, however, that the Contracting Officer allows no anticipated profit on design services not performed by the Contractor, and, further, if it appears that the Contractor would have sustained a loss on the entire Contract had it been completed, no profit will be included or allowed, and an appropriate adjustment will be made reducing the amount of the settlements to reflect the indicated rate of loss; and
 - 2. The reasonable cost of the preservation and protection of property incurred pursuant to Paragraph B.9 above; and any other reasonable cost incidental to termination of work under this Contract, including expense incidental to the determination of the amount due to the Contractor as the result of the termination of work under this Contract.
- G. The total sum to be paid to the Contractor under Paragraph F above shall not exceed the total Contract Price as reduced by the amount of payments made and as further reduced by the Contract

- Price of work not terminated. Except for normal spoilage, and except to the extent that the Contracting Officer shall have otherwise expressly assumed the risk of loss, there will be excluded from the amounts payable to the Contractor under this Section 00728, TERMINATION FOR THE CONVENIENCE OF THE AUTHORITY, the fair value, as determined by the Contracting Officer, of property, which is destroyed, lost, stolen, or damaged so as to become undeliverable to the Authority, or to a buyer pursuant to Paragraph B.7 above.
- H. The Contractor shall have the right of appeal, under Section 00730, DISPUTE RESOLUTION, from any determination made by the Contracting Officer under Paragraphs C or E above, except that if the Contractor has failed to Submit its Claim within the time provided in Paragraph C above and has failed to request extension of such time, it shall have no such right of appeal. In any case where the Contracting Officer has made a determination of the amount due under Paragraphs C or E above, the Authority will pay to the Contractor the following:
1. If there is no right of appeal hereunder or if no timely appeal has been taken, the amount so determined by the Contracting Officer; or
 2. If an appeal has been taken, the amount finally determined on such appeal.
- I. In arriving at the amount due the Contractor under this Section, the following will be deducted:
1. All un-liquidated advance or other payments on account theretofore made to the Contractor, applicable to the terminated portion of this Contract.
 2. Any claim, which the Authority may have against the Contractor in connection with this Contract.
 3. The agreed price for, or the proceeds from sale of any materials, supplies, or other things acquired by the Contractor or sold, pursuant to the provisions of this Section, and not otherwise recovered by or credited to the Authority.
- J. If the termination hereunder be partial, prior to the settlement of the terminated portion of this Contract, the Contractor may file with the Contracting Officer Representative, a request in writing for an equitable adjustment of the price or prices specified in the Contract relating to the continued portion of the Contract, i.e., the portion not terminated by the Notice of Termination, and such equitable adjustment as may be agreed upon shall be made in such price or prices in accordance with Section 01330, SUBMITTAL PROCEDURES.
- K. The Authority may from time to time, under such terms and conditions as it may prescribe, make partial payments and payments on account against costs incurred by the Contractor in connection with the terminated portion of this Contract whenever in the opinion of the Contracting Officer the aggregate of such payments shall be within the amount to which the Contractor will be entitled hereunder. If the total of such payments is in excess of the amount finally agreed or determined to be due under this Section, such excess shall be payable by the Contractor to the Authority upon demand for the period from the date such excess payment is received by the Contractor to the date on which such excess payment is repaid to the Authority upon demand, together with interest computed at the rate of 6 percent per annum, for the period from the date such excess payment is received by the Contractor to the date on which such excess payment is repaid to the Authority; provided, however, that no interest shall be charged with respect to any such excess, payment attributable to a reduction or other disposition of termination inventory until 10 Days after date of such retention or disposition, or such later date as determined by the Contracting Officer by reason of the circumstances.
- L. Unless otherwise provided for in this Contract, or by applicable statute, the Contractor, from the effective date of termination and for a period of 3 years after final settlement under this Contract, shall preserve and make available to the Authority at all reasonable times at the office of the

Contractor but without direct charge to the Authority, all its books, records, documents, and other evidence bearing on the costs and expenses of the Contractor under this Contract and relating to the Work terminated hereunder, or to the extent determined by the Contracting Officer, photographs, microphotographs, or other authentic reproduction thereof.

00729 ASSIGNMENT

- A. The Contractor shall not transfer or assign this Agreement or any portion thereof or any of the rights and obligations of the Contract to any other party. The Contracting Officer may recognize a third party as successor in interest to the Contract where the third party's interest is incidental to the transfer of all the assets of the Contractor, i.e., sales of assets, transfer of assets pursuant to merger or consolidation, or incorporation of a proprietorship or partnership. Such recognition of the transfer shall be within the sole discretion of the Authority after review of the facts and circumstances surrounding each request submitted in accordance with Section 01330, SUBMITTAL PROCEDURES, but the assignment will not be approved unless the surety, in writing, agrees to that assignment and accepts the assignee as the Contractor and principal on the payment and performance bonds.
- B. If this Contract provides for payments aggregating \$1,000 or more, Claims for moneys due or to become due the Contractor from the Authority, this Contract may be assigned to a bank, trust company, or other financing institution, including any Federal lending agency, and may thereafter be further assigned and reassigned to any such institution. Notice of such assignment shall be made to the Contracting Officer and submitted through the Contracting Officer Representative in accordance with Section 01330, SUBMITTAL PROCEDURES, but the assignment will not be approved unless the surety, in writing, agrees to that assignment and accepts the assignee as the Contractor and principal on the payment and performance bonds. Such assignment or reassignment shall cover all amounts payable under this Contract and not already paid, and shall not be made to more than one party, except that any such assignment or reassignment may be made one party as agent or trustee for two or more parties participating in such financing. It is the Authority's intent to recognize assignments only to bona fide lending institutions; therefore, assignment to any private corporation, business, or individual, which does not qualify as such, is specifically prohibited.
- C. Any attempt to transfer by assignment not authorized by this Section shall constitute a breach of the Contract, and the Contracting Officer may for such cause terminate the right of the Contractor to proceed as provided in Section 00726, TERMINATION FOR DEFAULT, DAMAGES FOR DELAY AND TIME EXTENSIONS, and the Contractor and its sureties shall be liable to the Authority for excess costs incurred by the Authority.

00730 DISPUTE RESOLUTION

- A. Except as otherwise provided in this Contract, any dispute arising under or related to this Contract including allegations of breach of contract or similar allegations, which are not disposed of by agreement, will be decided by the Contracting Officer, who will reduce a decision to writing and mail or otherwise furnish a copy thereof to the Contractor. The decision of the Contracting Officer is final and conclusive unless, within 30 Days from the date of receipt of such copy, the Contractor mails or otherwise furnishes to the Contracting Officer a written notice of appeal in accordance with Section 01330, SUBMITTAL PROCEDURES, addressed to the Authority Board of Directors. Such notice shall indicate that an appeal is intended and shall reference the decision and Contract number. The decision of the Board of Directors or its duly authorized representative for the determination of such appeals shall be final and conclusive unless in proceedings initiated by either party for review of such decision in a court of competent jurisdiction, the court determines the decision to have been fraudulent, or capricious, or arbitrary, or so grossly erroneous as necessarily to imply bad faith, or is not supported by substantial evidence. In connection with any appeal proceeding under this Section, the Contractor will be afforded an opportunity to be heard and to offer evidence in support of its appeal. Pending final decision of a dispute hereunder, the Contractor shall proceed diligently with the performance of the Contract and in accordance with the Contracting

Officer's decision. The Armed Services Board of Contract Appeals is the authorized representative of the Board of Directors for finally deciding appeals to the same extent as could the Board of Directors.

- B. This Section does not preclude consideration of questions of law in connection with decisions provided for in Paragraph A above. Nothing in this Contract, however, shall be construed as making final the decisions of the Board of Directors or its representative on a question of law.

00731 USE AND POSSESSION PRIOR TO COMPLETION

- A. The Authority shall have the right to take possession of or use any completed or partially completed part of the work. Such possession or use shall not be deemed an acceptance of any work not completed in accordance with the Contract. While the Authority is in such possession, the Contractor, notwithstanding the provisions of Section 00706, PERMITS AND RESPONSIBILITIES, will be relieved of the responsibility for loss or damage to the Work other than that resulting from the Contractor's fault or negligence or that of its Subcontractors or agents. If such prior possession or use by the Authority delays the progress of the Work or causes additional expense to the Contractor, an equitable adjustment in the Contract Price or the time of completion may be made and the Contract shall be modified in writing accordingly.

00732 ACCEPTANCE AND INSPECTION OF WORK

- A. "Acceptance," as used in this Section, means the act of the Contracting Officer Representative by which the Authority approves specific services as partial or complete performance of the Contract. As used in this Section, "Correction" means the elimination of a defect.
- B. Unless otherwise provided in this Contract, Acceptance by the Authority will be made as promptly as practicable after completion and inspection of all Work required by this Contract. Acceptance shall be final and conclusive except as regards latent defects, fraud, or such gross mistakes as may amount to fraud, or as regards to the Authority's right under any warranty or guarantee. All Punch List items identified during final inspections and noted at the time of Acceptance shall be corrected by the Contractor as soon as is practicable as specified in Section 01775, CLOSEOUT.
- C. The Contracting Officer Representative will give written notices of defects or non-conformances to the Contractor if and when discovered, but no later than Acceptance of the construction work designed under this Contract as specified in Section 01775, CLOSEOUT, except for latent defects, which may be discovered following such Acceptance. This notice will state either:
 - 1. That the Contractor shall correct or re-perform defective or nonconforming services; or,
 - 2. That the Authority does not require correction or re-performance. The Contractor shall be liable to the Authority for all costs incurred of any kind caused by or resulting from the Contractor's defective workmanship or noncompliance with the Contract Documents.
- D. Should it be considered necessary or advisable by the Contractor or Authority at any time before Acceptance of the entire Work to make an examination of work already completed, by removing or tearing out same, the Contractor shall, on request, promptly furnish all necessary facilities, labor, and material. If such work is found to be defective or nonconforming in any material respect, the Contractor shall defray all the expenses of such examination and of satisfactory reconstruction and pay all delay damages. If, however, such work is found to meet the requirements of the Contract Documents, an equitable adjustment will be made in the Contract Price to compensate the Contractor for the additional services involved in such examination and reconstruction and, if completion of the Work has been delayed thereby, the Contractor will, in addition, be granted a suitable extension of time.

- E. All Work, which term includes but is not restricted to materials, workmanship, and manufacture and fabrication of components, shall be subject to inspection and test by the Authority, if it so deems, at all reasonable times prior to Acceptance as specified in Section 01470, QUALITY MANAGEMENT SYSTEM, and Section 01820, DEMONSTRATION AND TRAINING. Any such inspection and testing is for the sole benefit of the Authority and shall not relieve the Contractor of the responsibility of providing quality control measures to ensure that the Work strictly complies with the Contract Documents. No inspection or test by the Authority shall be construed as constituting or implying Acceptance. Inspection or testing shall not relieve the Contractor of responsibility for damage to or loss of the material prior to Acceptance, or in any way affect the continuing rights of the Authority after Acceptance of the completed Work.
- F. The Contractor shall furnish promptly, without additional charge, all services, work, labor, materials, tools, equipment, and facilities reasonably needed for performing such safe and convenient inspections and tests as may be required. All inspections and tests will be performed in such manner as not to unnecessarily delay the Work. The Authority shall receive adequate advance notice submitted in accordance with Section 01330, SUBMITTAL PROCEDURES, to conduct inspections and witness all tests as part of its overall quality oversight of the Project as specified in Section 01470, QUALITY MANAGEMENT SYSTEM, and Section 01820, DEMONSTRATION AND TRAINING. Tests performed that the Authority does not witness, due to the Contractor's failure to provide timely notice to the Authority of such tests, shall have no effect. Special, full scale and performance tests shall be performed as described in the Contract Documents.
- G. If the Contractor is required to correct or re-perform, it shall be without additional cost or fee to the Authority, and services corrected or re-performed by the Contractor shall be subject to this Section to the same extent as work initially performed. If the Contractor fails or refuses to correct or revise errors or deficiencies in its performance within 30 Days of the Authority's request, the Authority may, by contract or otherwise, correct or replace with similar services and charge to the Contractor the cost incurred by the Authority thereby, or make an equitable adjustment to the Contract Price.
- H. Failure to agree to the responsibility for costs, either those incurred by the Contractor or by the Authority, for corrective actions required by this Section, shall constitute a dispute and shall be subject to the provisions of Section 00730, DISPUTE RESOLUTION.
- I. The rights and remedies of the Authority provided in this Section are in addition to any other rights or remedies provided by law or under this Contract.
- J. The Contractor shall give the Contracting Officer Representative at least 14 Days advance notice of the date the Work, or separate portion thereof, will be fully completed and ready for final inspection, testing, and Acceptance as specified in Section 01470, QUALITY MANAGEMENT SYSTEM, Section 01775, CLOSEOUT, and Section 01820, DEMONSTRATION AND TRAINING.

00733 AUTHORITY-FURNISHED PROPERTY

- A. The Authority will make available to the Contractor, for use only in connection with this Contract, the property, if any, described in the Section 00833, AUTHORITY-FURNISHED PROPERTY, hereinafter referred to as Authority-furnished property, at the times and locations stated therein. If the Authority-furnished property, suitable for its intended use, is not made available to the Contractor, the Contracting Officer will, upon timely written request from the Contractor to the Contracting Officer Representative, if the facts warrant such action, equitably adjust any affected provision of this Contract pursuant to any procedures of Section 00748, CHANGES.
- B. Title to Authority-furnished property shall remain with the Authority. The Contractor shall maintain adequate property control records of Authority-furnished property in accordance with sound industrial practice.
- C. Unless otherwise provided in this Contract, the Contractor, upon acceptance of Authority-furnished property, assumes the risk of and shall be responsible for loss thereof or damage thereto except for

reasonable wear and tear and except to the extent that such property is consumed in the performance of this Contract.

- D. The Contractor shall, upon completion of this Contract, prepare for shipment, deliver FOB origin, or dispose of all Authority-furnished property not consumed in the performance of this Contract or not delivered to the Authority as directed. The net proceeds of such disposal will be credited to the Contractor price or paid in such other manner as may be directed.

00734 MATERIAL, WORKMANSHIP AND EQUIPMENT

- A. Unless otherwise specifically provided in this Contract, all equipment, material, and articles incorporated in the Project covered by this Contract shall be new and of the most suitable grade for the purpose intended. Notwithstanding the Authority's review and Approval of any substitution, nothing herein relieves the Contractor of its obligations to satisfy its requirements under the Contract.
- B. Unless otherwise specifically provided in this Contract, reference to any equipment, material, or article to be incorporated in the Project and any patented process, by trade name, make, or catalog number in the Contract Documents shall be regarded as establishing a standard of quality and shall not be construed as limiting competition, and the Contractor may, at its option, use any equipment, material, article, or process which, in the judgment of the Authority, is equal to that named. When required by this Contract or when called for by the Authority, the Contractor shall furnish to the Authority for Approval in accordance with Section 01330, SUBMITTAL PROCEDURES, the name of the manufacturer, the model number, and other identifying data and information respecting the performance, capacity, nature, and rating of the machinery and mechanical and other equipment, which the Contractor contemplates incorporating in the Work. The Contractor shall furnish the Authority for Approval in accordance with Section 01330, SUBMITTAL PROCEDURES, full information concerning the material or articles, which are contemplated to be incorporated into the Work. When required by the Contract or when so directed by the Authority, Samples shall be submitted for approval in accordance with Section 01330, SUBMITTAL PROCEDURES, at the Contractor's expense, with all shipping charges prepaid. Machinery, equipment, material, and articles installed or used without required Approval shall be at the risk of subsequent rejection.
- C. The Contractor shall provide construction equipment in first class working order and safe condition, of sufficient quantities and sizes to complete the Work as specified and detailed in the Contract Documents within the Period of Performance, and shall provide adequate maintenance of this equipment throughout the duration of the Project.
- D. Items of equipment that, at any time, prove ineffectual or hazardous to personnel or property, shall be promptly brought to acceptable condition or shall be removed from the Site as directed by the Authority or by any Jurisdictional Authority.

00735 HAZARDOUS MATERIALS

- (a) The Contractor agrees to submit a Material Safety Data Sheet (U.S. Department of Labor Form OSHA-20), as prescribed in Federal Standard No. 313B, for all hazardous materials five (5) days before delivery of the material, whether or not listed in Appendix A of the Standard. This obligation applies to all materials delivered under this Contract that involve exposure to hazardous materials or items containing these materials.
- (b) "Hazardous material," as used in this clause, is defined in Federal Standard No. 313B, in effect on the date of this Contract.
- (c) Neither the requirements of this clause nor the Authority's acts or omissions shall relieve the Contractor of any responsibility or liability for the safety of Authority's, personnel or property.

- (d) Nothing contained in this article shall relieve the Contractor from complying with applicable Federal, state, and local laws, codes, ordinances, and regulations (including the requirement to obtain licenses and permits) in connection with hazardous materials.
- (e) The Authority's rights in data furnished under this Contract regarding hazardous materials are as follows:
 - (1) To use, duplicate and disclose any data to which this clause is applicable. The purposes of this right are to (a) apprise personnel of the hazards that they may be exposed to in using, handling, packaging, transporting, or disposing of hazardous materials (b) obtain medical treatment for those affected by the materials; and (c) have others use, duplicate, and disclose the data for the Authority for these purposes.
 - (2) To use, duplicate, and disclose data furnished under this article in precedence over any other provision of this Contract providing for rights in data.
 - (3) The Authority is not precluded from using similar or identical data acquired from other sources.
 - (4) The data shall not be duplicated, disclosed, or released outside of the Authority, in whole or in part, for any acquisition or manufacturing purpose, if the following legend is marked on each piece of data to which this clause applies -

"This data furnished under this Contract shall not be used, duplicated, or disclosed for any acquisition or manufacturing purpose without the Contracting Officer's permission. This legend shall be marked on any reproduction of this data."
 - (5) The Contractor shall not place any restrictive legend on any data that (i) the Contractor or any subcontractor previously delivered to the Authority without limitations; or (ii) should be delivered without limitations under the "Rights in Technical Data" clause.
 - (6) The Contractor shall insert this article including this paragraph, with appropriate changes in the designation of the parties, in subcontracts at any tier (including purchase designations or purchase orders) under this Contract involving hazardous materials.

00736 PROTECTION OF EXISTING VEGETATION, STRUCTURES, UTILITIES, AND IMPROVEMENTS

- A. The Contractor shall preserve and protect all existing vegetation such as trees, shrubs, and grass on or adjacent to the Site of the Work, which is not to be removed and which does not unreasonably interfere with the Work. Care shall be taken in removing trees authorized for removal to avoid damage to vegetation to remain in place. The Contractor shall be obligated to replace or restore all existing vegetation that is destroyed, removed, or damaged in the performance of the Work to the condition that existed before work commenced.
- B. The Contractor shall protect from damage all adjacent property including, but not limited to, land, existing structures, improvements, and utilities at or near the Site of the Work and shall repair or restore damage to such facilities resulting from failure to comply with the requirements of this Contract or the failure to exercise reasonable care in the performance of the Work. If the Contractor fails or refuses to repair any such damage promptly, the Contracting Officer Representative may have the necessary work performed and charge the cost thereof to the Contractor.
- C. Protection is more fully described in Section 01723, PROTECTION OF ADJACENT CONSTRUCTION.

00737 OPERATIONS AND STORAGE AREAS

- A. All operations of the Contractor, including storage of materials, shall be confined to areas authorized or approved by the Contracting Officer Representative. Temporary buildings such as storage sheds, shops, and offices may be erected by the Contractor only with the Approval of the Contracting Officer Representative and shall be built with labor and materials furnished by the Contractor without expense to the Authority. Such temporary buildings and utilities shall remain the property of the Contractor and shall be removed by the Contractor at its expense upon the completion of the Work. With the written consent of the Contracting Officer Representative, such buildings and utilities may be abandoned and need not be removed. Temporary construction facilities are more fully described in Section 01520, TEMPORARY CONSTRUCTION FACILITIES.
- B. The Contractor shall, under regulations prescribed by the Contracting Officer Representative, use only established roadways or construct and use such temporary roadways as may be authorized by the Contracting Officer Representative. Where materials are transported in the prosecution of the Work, vehicles shall not be loaded beyond the loading capacity recommended by the manufacturer of the vehicle or prescribed by any Federal, State, or local law or regulation. When it is necessary to cross curbs or sidewalks, protection against damage shall be provided by the Contractor, and damaged roads, curbs, or sidewalks shall be repaired by or at the expense of the Contractor.

00738 ACCIDENT PREVENTION

- A. To provide safety controls for protection to the life and health of employees and other persons, for prevention of damage to property, materials, supplies, equipment, and for avoidance of work interruptions in the performance of this Contract, the Contractor shall comply with all pertinent provisions of Authority safety requirements as specified in Section 01114, SAFETY/ENVIRONMENTAL REQUIREMENTS, and shall also take or cause to be taken such additional measures as the Contracting Officer Representative may determine to be reasonably necessary for that purpose.
- B. All construction work under this Contract shall be performed in a skillful and workmanlike manner. The Contracting Officer Representative may, in writing, require the Contractor to remove from the Project any employee the Contracting Officer Representative deems to be incompetent, careless, or objectionable on other reasonable grounds related to the advancement of the Project.
- C. The Contractor shall maintain an accurate record of and shall report to the Contracting Officer Representative in the manner and on the forms prescribed by the Contracting Officer Representative in accordance with Section 01330, SUBMITTAL PROCEDURES, exposure data and all accidents resulting in death, traumatic injury, occupational disease, and damage to property, materials, supplies, and equipment incidental to work performed under this Contract immediately after of such incident.
- D. The Contracting Officer Representative will notify the Contractor of noncompliance with the foregoing provisions and the action to be taken. The Contractor shall, after receipt of such notice, immediately take corrective action. Such notice, when delivered to the Contractor or its representative at the Site of the Work, shall be deemed sufficient for the purpose. If the Contractor fails or refuses to comply promptly, the Contracting Officer Representative may issue an order stopping all or part of the Work until satisfactory corrective action has been taken. No part of the time lost due to any such stop orders shall be made the subject of Claim for extension of time or for excess costs or damages by the Contractor.
- E. Compliance with the provisions of this Section by Subcontractors shall be the responsibility of the Contractor.
- F. Prior to commencement of the Work, the Contractor shall:

1. Submit in writing in accordance with Section 01330, SUBMITTAL PROCEDURES, proposals for effectuating this provision for accident prevention;
2. Meet in conference in accordance with Section 01312, PROJECT MEETINGS, with the Authority to discuss and develop mutual understanding relative to administration of the overall safety program.

00739 FIRE PROTECTION EQUIPMENT AND LIFE SAFETY AGREEMENT

- A. The Contractor shall submit, in accordance with Section 01330, SUBMITTAL PROCEDURES, a plan for a temporary fire protection system with provisions for fire protection systems and equipment as specified in Section 01114, SAFETY/ENVIRONMENTAL REQUIREMENTS, for use during the term of the Contract.

00740 PROTECTION OF PERSONS AND PROPERTY

- (a) The Contractor shall be responsible for ensuring compliance with the most stringent provisions of the applicable statutes and regulations of the District of Columbia, State of Maryland, Commonwealth of Virginia or political subdivision where the work is being performed, as well as the METRO Construction Safety and Environmental Manual (1984, as amended) issued by the Authority, and the U.S. Department of Labor OSHA standards pertaining to the safe performance of the work. In the absence of a specific construction industry standard, the Contractor is required to comply with either an established OSHA General Industry Standard, National Institute for Occupational Safety and Health (NIOSH) guidelines, American Conference of Governmental Industrial Hygienists (ACGIH) guidelines, American National Standards Institute (ANSI) guidelines, the WMATA System Safety Program Plan, the WMATA Construction Safety and Environmental Manual, or the Metrorail Safety Rules and Procedures Handbook. For contracts where work will be performed on, or will interface with the Metrorail System, the Contractor shall also comply with the publication entitled "Metrorail Safety Rules and Procedures Handbook." In the event of a conflict between these guidelines and applicable Federal, State or local health and safety laws, regulations or standards, the more stringent standard shall apply. Further, the Contractor shall ensure that all methods of performing the work do not involve danger to the personnel working at the site, the public and private property, whether or not these methods are cited or indicated in the Contract. The Contractor shall immediately provide to the Contracting Officer, a copy of all citations and/or warnings of safety violations received from any Federal, State or local jurisdiction or agency thereof, and/or all notifications of safety violations from insurance companies. The Contractor shall also provide to the Contracting Officer, copies of any and all subpoenas, complaints or other documents relating to any law suit alleging safety violations.
- (b) The Contractor shall employ and assign a full-time Safety Superintendent for Contracts involving "safety sensitive" functions (See Combined Glossary attached hereto for a definition). The Safety Superintendent shall have a minimum of three (3) years of construction safety experience and hold an OSHA thirty (30) hour course card. He or she shall have the ability to develop and conduct safety training courses. He or she shall be familiar with industrial hygiene equipment and testing as required for the protection of all employees. The Safety Superintendent shall be employed exclusively for the purpose of supervising the safety of persons on or about the worksite and the property affected thereby. The Safety Superintendent shall also be responsible for providing first aid at the worksite and must have a current Red Cross First Aid Certificate. The Contractor shall notify the Contracting Officer a reasonable amount of time beforehand, any time that the Safety Superintendent will not be on site during work hours. If, at any time, the worksite is without the services of an approved Safety Superintendent for a period of three (3) calendar days or more, the work may be closed down at the Contracting Officer's discretion. The Safety Superintendent must be acceptable to the Contracting Officer and his or her performance will be reviewed on a continuing basis. If the Safety Superintendent's effectiveness is below standard, the Contractor shall provide immediate replacement at the Contracting Officer's direction. Once employed, the

Safety Superintendent shall not be changed without the Contracting Officer's permission. The Safety Superintendent can be terminated at any time, at the Contracting Officer's discretion.

- (c) The Contractor shall provide, at the site of the work, a first aid kit which shall be fully equipped to meet the needs of the anticipated work force.
- (d) The Contractor shall follow all appropriate RAIL Operational Rules, Operational Administrative Procedures (OAPs), Standard Operational Procedures (SOPs) and General and Special Orders while on the operational railroad and all Start-Up Rules and Manager's Notices when in declared start-up areas.

00741 CONSIDERATION AND BASIS OF PAYMENT

- A. In consideration of its undertaking under this Contract, the Contractor will be paid the sums set forth in this Contract, which shall constitute complete payment for all work and services required to be performed under this Contract and for all expenditures, which may be made and expenses incurred. The basis of payment will be the Contract Price, as shown on Section 00521, CONSTRUCTION CONTRACT FORM, and which shall constitute complete compensation for performance of all work required by the Contract.
- B. The Approved Monthly Progress Report and updated 90-Day Schedule as specified in Section 01322, CONTRACT PROGRESS REPORTING, and the Approved Quality Manager's Statement of Compliance Quality Certification for Payment Verification shall be the basis for progress payments to the Contractor.
- C. The basis of payment will be the Total Base Price as negotiated and accepted. The basis of payment will include any Options exercised and any Modifications to the Contract in addition to the Total Base Price, which shall constitute complete compensation for performance of all Work required by the Contract.

00742 CONTRACT PRICES AND BID SCHEDULE

- A. Payment for the various Bid items listed in the Bid Schedule shall constitute full compensation for furnishing all plant, labor, equipment, appliances, and material and for performing all operations required to complete the Work in conformity with the Contract Documents. All costs for work not specifically mentioned in the Bid Schedule shall be included in the Contract prices for the items listed.

00743 VARIATION IN ESTIMATED QUANTITIES

- A. Where the quantity of a pay item in this Contract is an estimated quantity provided by the Authority, and where the actual quantity of such pay item varies more than 15 percent above or below the estimated quantity stated in this Contract, an equitable adjustment in the Contract Price shall be made upon demand of either party. The equitable adjustment shall be based upon any increase or decrease in costs due solely to the variation above 115 percent or below 85 percent of the estimated quantity. If the quantity variation is such as to cause an increase in the time necessary for completion, the Contracting Officer Representative will, upon receipt of a written request submitted in accordance with Section 01330, SUBMITTAL PROCEDURES, for an extension of time within 10 Days from the beginning of such delay, or within such further period of time, which may be granted by the Contracting Officer Representative prior to the date of Final Payment of the Contract, ascertain the facts and make such adjustment for extending the Period of Performance as in the Contracting Officer Representative's judgment the findings justify.

00744 METHOD OF PAYMENT

- A. The Authority will make progress payments monthly as the Work proceeds on estimates approved by the Contracting Officer Representative for design related work and by estimates reviewed and approved by the Contracting Officer Representative for construction-related work. At least 5 Days before submission of any Application for Payment, a Preliminary Monthly Progress and Quality Status Report Review meeting will be held to review for acceptability of the schedules and the Quality System. The Contractor shall have an additional 5 Days to make corrections and adjustments and to complete and resubmit the schedules. A Formal Progress and Quality Status Report Review meeting will be held to approve the schedules. No progress payment will be made to Contractor until the schedules are provided and accepted by the Contracting Officer Representative, whose acceptance will not be unreasonably withheld. The progress schedule shall be acceptable to Authority as providing an orderly progression of the Work to completion within any specified Milestones and the Period of Performance, but acceptance of the progress schedule shall neither impose on Authority responsibility for the sequencing, scheduling, or work progress nor interfere with or relieve the Contractor from Contractor's full responsibility for the Work. The format and structure of the progress schedule shall be as set forth in Section 01322, CONTRACT PROGRESS REPORTING. The Authority's acceptance shall not be deemed to confirm that the schedule is a reasonable plan for performing the Work.
- B. The Contractor's progress payment requests will be reviewed based on the scheduled and actual progress of the Work as reflected on the construction schedule, cost-loaded progress schedule or bar graph as applicable, and monthly updates. The Contractor shall not be entitled to progress payments, and the Authority shall have no obligation to review or approve progress payment requests if the Contractor has failed to submit or update the schedules, if the applicable schedule or update submitted by the Contractor fails to accurately reflect the actual progress of the Work, or if the Contracting Officer Representative declines to approve the submitted schedules for any of the reasons stated in this Contract. A decision not to approve a request for progress payments based upon the Contractor's failure to comply with the schedule and update submission requirements as committed under this Contract shall be at the sole and absolute discretion of the Contracting Officer Representative.
- C. Furnish a breakdown of the total Contract Price showing the amount included therein for each principal category of the Work, in such detail as requested, to provide a basis for determining progress payments. In the preparation of estimates, the Contracting Officer Representative may authorize material delivered to the Site and preparatory work completed to be taken into consideration. Material delivered to the Contractor at locations other than the Site may also be taken into consideration if the Contractor furnishes satisfactory evidence that the Contractor has acquired title to such material and that it will be utilized on the Work covered by this Contract.
- D. If the Contract Price is more than \$50,000, material delivered that will be incorporated into the Project will be taken into consideration in computing progress payments, provided the material is delivered on the Site, or is delivered to the Contractor and properly stored in a warehouse, storage yard, or similar suitable place within 25 miles of the Site or such reasonable distance in excess of 25 miles as may be approved by the Contracting Officer Representative, provided, however, that the Contractor has the proper storage facilities, security, and insurance for the stored material as Approved by the Contracting Officer Representative. Before each such payment is made for delivered material on the Site, furnish to the Contracting Officer Representative such evidence as may be required as proof of the ownership, quantity, and value of such materials. Before each such payment is made for delivered materials off the Site, furnish the Contracting Officer Representative evidence of ownership and properly executed bills of sale to the Authority for the delivered material upon which payment is being made.
- E. In determining progress accomplished, the Authority will allow as an element of work accomplished, i.e., progress toward completion, only 50 percent of the invoiced cost of materials or equipment

delivered to the Site, or suitable location as described in Paragraph D above, but not incorporated in the construction up to the time the materials or equipment are actually incorporated in the Work.

- F. In making such progress payments, 5 percent of the estimated amount of work completed will be retained until final completion and Acceptance of the Contract Work. Also, whenever the Work is substantially complete, and the Contractor is in compliance with all provisions of the Contract, if the Contracting Officer Representative considers the amount retained to be in excess of the amount adequate for the protection of the Authority, the Contracting Officer Representative may use discretion in releasing to the Contractor all or a portion of such excess amount.
- G. Where the time originally specified for completion of this Contract exceeds 1 year, the Contracting Officer Representative, at any time after 50 percent of the Work has been completed, if the Contracting Officer Representative finds that satisfactory progress (satisfactory progress includes prosecution of physical work, adherence to DBE requirements if applicable, quality assurance, and all other provisions of the Contract) is being made, may reduce the total amount retained from progress payments to the minimum level necessary to protect the interest of the Authority.
- H. All material and work covered by progress payments made shall thereupon become the sole property of the Authority but this provision shall not be construed as relieving the Contractor from the sole responsibility for all material and work upon which payments have been made or the restoration of any damaged work, or as waiving the right of the Authority to require the fulfillment of all of the terms of the Contract.
- I. See Section 01775, CLOSEOUT, for Final Inspection requirements.
- J. Upon completion and Acceptance of all work, the amount due the Contractor under this Contract will be paid upon the presentation of a properly executed voucher as specified in Section 01775, CLOSEOUT, and after the Contractor shall have furnished the Authority with a release of all Claims against the Authority arising by virtue of this Contract other than Claims in stated amounts as may be specifically excepted by the Contractor from the operation of the release. If the Contractor's claim to amounts payable under the Contract has been assigned, a release may also be required of the assignee.
- K. The Authority may, at its sole discretion, withhold payment to the Contractor at the appropriate percentage for work, or portions thereof, that it deems to be defective or in nonconformance with the requirements of the Contract Documents.
- L. Satisfactory records for design, inspection, testing, or other quality elements required under the approved Quality System; operation and maintenance manuals; As-Built Drawings and As-Built Specifications; electronic media; as-built Project Schedule; spare parts list, delivery information and distribution of spare parts; configuration management system; training manual, lesson plans, and student's training manual and electronic media of such, as applicable; survey record log; correspondence file; releases; vouchers; request for Final Payment; certifications, affidavits and warranties and guarantees; and must be submitted in order to receive payment for the completed Work. Final Payment will be made in accordance with this Section and Section 00755, FINAL PAYMENT.

00745 PROGRESS PAYMENTS FOR LUMP SUM ITEMS

- A. If requested, the Contractor shall furnish to the Contracting Officer Representative a breakdown of the total Contract Price for every lump sum item on the Bid Schedule, showing the amount included therein for each principal category of the Work, in such detail as to provide a basis for determining progress payments. The breakdown shall be supported by such data to substantiate its correctness as the Contracting Officer Representative may require.

- B. When satisfactory progress has not been achieved by a Contractor during any period for which a progress payment is to be made, a percentage of the progress payment may be retained. Retainage should not be used as a substitute for good contract management, and the Contracting Officer should not withhold funds without cause. Determinations to retain and the specific amount to be withheld shall be made by the Contracting Officer on a case-by-case basis. Such decisions will be based on the Contracting Officer's assessment of past performance and the likelihood that such performance will continue. The amount of retainage withheld shall not exceed ten percent (10%) of the approved, estimated amount in accordance with the terms of this Contract and may be adjusted as the Contract approaches completion to recognize better than expected performance, the ability to rely on alternative safeguards, and other factors. Upon completion of all Contract requirements, retained amounts shall be paid promptly.

00746 GARNISHMENT OF PAYMENTS

- A. Payment under this Contract shall be subject to any garnishment attachment orders and/or levies issued pursuant to the laws of the United States, Maryland, Virginia, and the District of Columbia.

00747 SUBCONTRACT PAYMENTS

- A. The Contractor shall establish procedures to ensure timely payment of amounts due pursuant to its terms of the Subcontracts. The Contractor shall pay each Subcontractor for satisfactory performance of its contract, no later than 10 Days from the date of the Contractor's receipt of payment from the Authority for work by that Subcontractor. Release, within 10 Days of satisfactory completion of all work required by the Subcontractor, any retention withheld from the Subcontractor.
- B. The Contractor shall certify on each payment request submitted to the Authority that payment has been or will be made to all Subcontractors in accordance with Paragraph A above. The Contractor shall notify the Contracting Officer Representative with each payment request, of any situation in which scheduled Subcontractor payments have not been made.
- C. If a Subcontractor alleges that the Contractor has failed to comply with this Section, the Contractor agrees to support any Authority investigation, and, if deemed appropriate by the Authority, to consent to remedial measures to ensure future compliance.
- D. The Contractor agrees that the Authority may provide appropriate information to interested Subcontractors who want to determine the status of Authority payments to the Contractor.
- E. Nothing in this Section is intended to create a contractual obligation between the Authority and any Subcontractor to make the subcontractor an intended beneficiary of this Contract or to alter or affect traditional concepts of privity of contract between all parties.

00748 CHANGES

- A. The Contracting Officer Representative (or Contracting Officer, depending on the level of authority required) may, at any time, and without notice to the sureties, by written order designated or indicated to be a Modification, make any change in the Work within the general scope of the Contract including, but not limited to, changes:
 - 1. In the Scope of the Work or Contract Documents;
 - 2. In the method or manner of performance of the Work;
 - 3. In the Authority-furnished facilities, equipment, materials, services, or Site; or
 - 4. Directing acceleration in the performance of work

- B. Any other written order or an oral order, which terms as used in this Paragraph B, shall include direction, instruction, interpretation, or determination from the Contracting Officer Representative or Contracting Officer, which causes any such change, shall be treated as a Modification under this Section, provided that the Contractor gives the Contracting Officer Representative written notice in accordance with Section 01330, SUBMITTAL PROCEDURES, stating the date, circumstances, and source of the order and that the Contractor regards the order as a Modification.
- C. Except as herein provided, no order, statement, or conduct of the Contracting Officer Representative or Contracting Officer shall be treated as a change under this Section or entitle the Contractor to an equitable adjustment hereunder.
- D. If any change under this Section causes an increase or decrease in the Contractor's cost of, or the time required for, the performance of any part of the Work under this Contract, whether or not changed by any order, an equitable adjustment will be made and the Contract modified in writing accordingly: Provided, however, that no Claim for any change under Paragraph B above will be allowed for any costs incurred more than 20 Days before the Contractor gives written notice as therein required. This 20-Day limitation will be strictly applied regardless of whether the Authority is prejudiced by any lack of notice.
- E. If the Contractor intends to request an equitable adjustment under this Section, it must, within 30 Days after receipt of a written Modification under Paragraph A above or furnishing of a written notice under Paragraph B above, submit to the Contracting Officer Representative in accordance with Section 01330, SUBMITTAL PROCEDURES, a written proposal in accordance with this CHANGES Section, unless this period is extended by the Contracting Officer Representative. The proposal hereunder may be included in the notice under Paragraph B above.
- F. No Claim by the Contractor or an equitable adjustment hereunder will be allowed if asserted after Final Payment under this Contract.

Disagreement regarding either party's right to any adjustment in price or time for performance as the result of a change implemented pursuant to this Section shall be subject to adjudication in accordance with the "Disputes" Section of this Contract. Notwithstanding the pendency of any such dispute, the Contractor expressly acknowledges that it shall remain fully obligated to perform the Contract as so changed. For additional Modification procedures see Section 01250, CONTRACT MODIFICATION PROCEDURES.

- G. The Contractor shall promptly notify the Contracting Officer of matters, whether implemented as change orders or otherwise, that the Contractor believes may reasonably result in either an increase or decrease in the Contract price or the time required for performance of any part of the Contract and shall take action as the Contracting Officer directs. The Contractor's failure to provide such notification shall constitute a waiver of its right to seek an adjustment in the Contract price or time required for such performance.

In no event shall the Contractor be entitled to payment for change orders, additional or extra supplies or services or other modifications to this Contract, unless the Contracting Officer authorizes, it in writing.

00749 PRICING OF ADJUSTMENTS

- A. When costs are a factor in any determination of a Contract Price adjustment pursuant to Section 00748, CHANGES, or any other Section of this Contract, such costs shall be in accordance with the contract cost principles and procedures in Subpart 31.1 of the Federal Acquisition Regulations (48 CFR 31.1). Where general and administrative expense is recoverable as part of any pricing adjustment under this Contract, the adjustment shall be based on the relationship between the entity's total general and administrative expenses allowable under FAR cost principles for all

construction-type operations during the fiscal or calendar year covering the actual performance period of the work included in this pricing adjustment, and the entity's total cost input (excluding General and Administrative costs) for construction-type operations during the same period, expressed as a percentage, applied to the direct and overhead Contract costs included in the pricing adjustment; i.e., general and administration expenses will be paid on a percentage of cost basis, not on a daily rate type basis.

- B. Notwithstanding any interpretation of the aforementioned contract cost principles and procedures to the contrary, the Authority shall not be liable for interest, however represented, on or as a part of any Claim, request, proposal, or adjustment (including equitable adjustments) whether said Claim, request, proposal or adjustment (including equitable adjustments) arises under the Contract or otherwise.

00750 ACCOUNTING AND RECORD KEEPING

- A. Applicability: This Section shall become effective for and shall apply to any adjustment in the price of this Contract initiated by the Contractor or the Authority. However, where the original amount of this Contract is less than \$1,000,000, Paragraph C of this Section does not apply unless the adjustment is expected to exceed \$50,000.
- B. Forward Price Adjustments: Unless expressly waived in writing in advance by the Contracting Officer Representative, the Contractor shall furnish to the Contracting Officer Representative in accordance with Section 01330, SUBMITTAL PROCEDURES, a cost proposal in advance of performance of any work for which a price adjustment is requested under this Contract. The proposal format shall be as detailed in Section 00748, CHANGES. The Contractor shall initiate such records as are necessary to substantiate all elements of the pricing proposal. Such records supporting the costs of each pricing adjustment request shall be specifically segregated and identified in the Contractor's accounting system as being applicable to the pricing adjustment request.
- C. Post-Pricing Adjustments
 - 1. In addition to the records required to be originated under Paragraph B above, in the event pricing of an adjustment under this Contract is not agreed upon between the Contractor and the Contracting Officer Representative prior to the commencement of work for which the pricing adjustment is requested, the Contractor and any Subcontractor engaged in work for which the pricing adjustment is requested, shall maintain accounts and original cost records specifically segregated and identified by job order or other appropriate accounting procedures approved by the Contracting Officer Representative of all incurred separated costs related to the work for which the pricing adjustment is requested. Proposed cost records and accounting procedures shall be submitted to the Contracting Officer Representative in accordance with Section 01330, SUBMITTAL PROCEDURES, for approval. The Contractor shall maintain accounts and records, which segregate and account for the costs of all work associated with that part of the Project for which the pricing adjustment is requested and shall allocate among:
 - 1. Work required under the base Contract or under any Option if applicable;
 - 2. Work requested to be reimbursed under the pricing adjustment; and
 - 3. Other claim, including but not limited to, changes, differing Site conditions, and the like.
 - 2. In addition to the accounting system established to segregate and account for Contract Price adjustments, which shall accumulate such costs by work activity under logical cost groups, such as material, labor, equipment, Subcontracts, field overhead, and the like, the Contractor shall maintain field records associated with these costs on a form approved by the Contracting Officer Representative. Subject to agreement between the Contractor and the Contracting Officer Representative, or upon direction of the Contracting Officer Representative for work under Section 00748, CHANGES, the Contractor shall use Authority Forms (Daily Report - Labor,

Materials, and Equipment), to be supplied by the Authority at the request of the Contractor and submitted in accordance with Section 01330, SUBMITTAL PROCEDURES. The terms of Section 00748, CHANGES, shall apply regardless of the form used. The use of Authority Forms to segregate Modification costs does not, in and of itself, invoke the provisions of Section 00748, CHANGES.

- D. Availability: The accounts, records, and costs information required to be originated under Paragraphs B and C above together with all other accounts, records, and costs information related to this Contract, shall be maintained and made available by the Contractor or Subcontractor(s):
1. At the office of the Contractor or Subcontractor(s) at all reasonable times for inspection, audit, reproduction, or such other purposes as may be required by the Contracting Officer Representative, or pursuant to any other Sections of this Contract;
 2. Until the expiration of three years from the date of payment of the final \$100 (Final Payment) under this Contract or such lesser time as is specified in Contractor Records Retention, Subpart 4.7 of the Federal Acquisition Regulations (48 C.F.R. 4.7) and for such longer period, if any, as is required by applicable statute, or by any other Sections of this Contract, or by Paragraphs D.2.1 and D.2.2 below:
 1. If the Contract is completely or partially terminated, for a period of 3 years from the date of Final Payment; and
 2. If a pricing adjustment is involved in any appeal under Section 00730, DISPUTE RESOLUTION, or in any litigation related to this Contract, for a period of 1 year following the final disposition of the appeal or litigation.
- E. When asserting a Claim under the various Sections of this Contract, the Contractor shall grant the Authority access to review and ascertain the validity of the accounting records being maintained for segregation of costs, including base cost records, and to audit such costs as are deemed appropriate by the Contracting Officer Representative. No payment will be made to the Contractor on its Claim until such records are made available and access is permitted.
- F. Limitation on Pricing Adjustment
1. In the event the Contractor or any Subcontractor fails to originate or to maintain, or to make available any accounts or records as required under this or any other Section of the Contract, any pricing adjustment or portion thereof previously granted by the Contracting Officer Representative for which records are not available, shall be rescinded and re-computed, or if a pricing adjustment has not yet been granted, shall be computed, in an amount not to exceed the direct costs for which accounts or records are not available, plus a single markup for indirect expenses not to exceed 10 percent of the direct costs so determined by the Contracting Officer Representative. The adjustment will be established by the Contracting Officer Representative based upon, at its election, one of the following:
 1. An audit of any existing books and records of the Contractor or Subcontractor; or
 2. An Authority estimate adopted by the Contracting Officer Representative; or
 3. A combination of Paragraphs F.1 and F.2 above.
 2. The Contractor and Subcontractors will not be allowed any profit for the work for which the Contractor or Subcontractor fails to originate, maintain, or to make available any accounts or records as required under this Contract.

- G. The Contractor shall insert a clause containing all the provisions of this Section in all Subcontracts issued under this Contract, modified as necessary, for proper identification of the contracting parties and the Contracting Officer Representative under this Contract.

00751 AUDIT - PRICE ADJUSTMENTS

- A. General: The Authority shall have the audit and inspection rights described in the applicable Paragraphs B, C, and D below.
- B. Examination of costs: If this is a cost-reimbursement type, incentive, time and materials, labor-hour or price re-determinable contract, or any combination thereof, the Contractor shall maintain, and the Authority shall have the right to examine books, records, documents, and other evidence and accounting procedures and practices, sufficient to reflect properly all direct and indirect costs of whatever nature claimed to have been incurred for the performance of this Contract. Such right of examination shall include inspection at all reasonable times of the Contractor's plant, or such parts thereof, as may be engaged in the performance of this Contract.
- C. Cost or pricing data: If the Contractor submitted cost or pricing data in connection with the pricing of this Contract or any change or modification thereto submitted in accordance with Section 01330, SUBMITTAL PROCEDURES, unless such pricing was based on adequate price competition, established catalog, market prices of commercial items sold in substantial quantities to the public, prices of commercial items sold in substantial quantities to the public, or prices set by law or regulation, the Authority shall have the right to examine all books, records, documents, and other data of the Contractor related to the negotiation, pricing, or performance or such Contract change or modification, for the purpose of evaluating the accuracy, completeness and currency of the cost or pricing data submitted. The right of examination shall extend to all documents necessary to permit adequate evaluation of the cost or pricing data submitted along with the computations and projections used therein.
- D. The Contractor shall insert a clause containing all the provisions of this Section, including this Paragraph D in all Subcontracts hereunder except altered as necessary for proper identification of the contracting parties and the Contracting Officer Representative under this Contract.

00752 CERTIFICATE OF CURRENT COST OR PRICING DATA

- A. The Contractor shall provide a Certificate of Current Cost or Pricing Data to the Authority in accordance with Section 01330, SUBMITTAL PROCEDURES, on a form suitable to the Contracting Officer as required in Subpart 15.403 of the Federal Acquisition Regulations (48 CFR 15.403) in support of any negotiated contract expected to exceed \$150,000 or any modification to a formally advertised or negotiated contract on which the aggregate of the increases and decreases in cost are expected to exceed \$150,000. The Contracting Officer Representative at its discretion may request cost or pricing data for modifications on which costs are less than \$100,000 and an attendant certificate of current cost or pricing data. Cost or Pricing data submittal procedures are specified in Section 00201, GENERAL INSTRUCTIONS, and Section 00748, CHANGES.

00753 PRICE REDUCTION FOR DEFECTIVE COST OR PRICING DATA - PRICE ADJUSTMENTS

- A. If the Contracting Officer determines that any price, including profit or fee, previously negotiated in connection with any modification to this Contract involving changes in cost plus applicable profit in excess of \$100,000 was based upon the Contractor's or subcontractor's cost or pricing data that was not complete, accurate or current, such that the amount the Authority paid to the Contractor for such price adjustment was greater than the Contractor would have been entitled to, based upon accurate and complete data, the Authority shall be entitled to an adjustment in an amount equal to such overpayment. The Authority's rights hereunder shall be in addition to any other rights it may have under this Contract, at law or in equity. If any price, including profit or fee, negotiated in connection with any price adjustment under this Contract was increased by any significant sums because:

1. The Contractor furnished cost or pricing data in accordance with Section 01330, SUBMITTAL PROCEDURES, which was not complete, accurate, and current as certified in the Contractor's Certificate of Current Cost or Pricing Data;
2. A Subcontractor, pursuant to the Section 00754, SUBCONTRACTOR COST OR PRICING DATA, or any Subcontract provision therein required, furnished cost or pricing data in accordance with Section 01330, SUBMITTAL PROCEDURES, which was not complete, accurate, and current as certified in the Subcontractor's Certificate of Current Cost or Pricing Data;
3. A Subcontractor or prospective Subcontractor furnished cost or pricing data in accordance with Section 01330, SUBMITTAL PROCEDURES, which was required to be complete, accurate, and current and to be submitted to support a Subcontract cost estimate furnished by the Contractor in accordance with Section 01330, SUBMITTAL PROCEDURES, but which was not complete, accurate, and current as of the date certified in the Contractor's Certificate of Current Cost or Pricing Data; or
4. The Contractor or a Subcontractor or prospective Subcontractor furnished any data, not within Paragraphs A.1, A.2, or A.3 above in accordance with Section 01330, SUBMITTAL PROCEDURES, which was not accurate, as submitted; then the price shall be reduced accordingly and the Contract shall be modified in writing as may be necessary to reflect such reduction. However, any reduction in the Contract Price due to defective Subcontract data of a prospective Subcontractor, when the Subcontract was not subsequently awarded to such Subcontractor, will be limited to the amount, plus applicable overhead and profit markup, by which the actual Subcontract, or actual cost to the Contractor if there was not a Subcontract, was less than the prospective Subcontract cost estimate submitted by the Contractor in accordance with Section 01330, SUBMITTAL PROCEDURES, provided the actual Subcontract price was not affected by defective cost or pricing data. (Note: Since the Contract is subject to reduction under this Section by reason of defective cost or pricing data submitted in connection with certain Subcontracts, it is expected that the Contractor may wish to include an article in each such Subcontract requiring the Subcontractor to appropriately indemnify the Contractor. However, the inclusion of such an article and the terms thereof are matters of negotiation and agreement between the Contractor and the Subcontractor, provided that they are consistent with disputes provisions in Subcontracts. It is also expected that any Subcontractor subject to such indemnification will generally require substantially similar indemnification for defective cost or pricing data required to be submitted by its lower tier Subcontractors.)

00754 SUBCONTRACTOR COST OR PRICING DATA

- A. The Contractor shall require Subcontractors hereunder to submit cost or pricing data in accordance with Section 01330, SUBMITTAL PROCEDURES, prior to award of any negotiated lump sum or cost-reimbursement type, incentive, or price re-determinable Subcontract over \$100,000. The Contractor shall require Subcontractors to certify that to the best of their knowledge and belief, the cost and pricing data submitted under this Paragraph is accurate, complete, and current as of the date of execution, which date shall be as close as possible to the date of agreement on the negotiated price of the Subcontract. The Contractor shall insert the substance of this Section in each of its negotiated lump sum or cost reimbursement type, price re-determinable, or incentive Subcontracts over \$100,000 hereunder. The Contractor also shall insert the substance of this Section in each Subcontract with respect to any change or other modification made pursuant to one or more Sections of this Contract, which involves a price adjustment greater than \$150,000. The Contractor shall conduct a cost analysis of all negotiated Subcontracts.
- B. The requirements that follow shall become operative only with respect to any change or other modification made pursuant to one or more Sections of this Contract, which involves a price

adjustment in excess of \$150,000. The requirements of this Section shall be limited to such price adjustments:

1. The Contractor shall require Subcontractors hereunder to submit cost or pricing data in accordance with Section 01330, SUBMITTAL PROCEDURES:
 1. Prior to award of any cost-reimbursement type, incentive, or price re-determinable Subcontract;
 2. Prior to the award of any Subcontract the price of which is expected to exceed \$100,000; or,
 3. Prior to the pricing of any Subcontract change or other modification for which the price adjustment is expected to exceed \$100,000; except where the price is based on adequate price competition, established catalog or market prices of commercial items sold in substantial quantities to the general public or prices set by law or regulation.
 2. The Contractor shall require Subcontractors to certify that to the best of their knowledge and belief the cost and pricing data submitted under this Paragraph B is accurate, complete, and current as of the date of execution, which date shall be as close as possible to the date of agreement on the negotiated price of the Contract Modification.
- C. The Contractor shall insert the substance of this Section in each Subcontract hereunder, which exceeds \$150,000.

00755 FINAL PAYMENT

- A. The Authority will make Final Payment to the Contractor following Acceptance of Work, including receipt of releases from owners of property affected by the Contractor's performance under this Contract, and submittal of a final Affidavit of Amounts Paid to all businesses participating under the Contract. Final Payment shall include the entire sum found to be due hereunder after deducting therefrom such amounts as the terms of this Contract permit. Prior estimates and payments, including those relating to extra work or work omitted, shall be subject to correction by the Final Payment. Final Payment will be made only for materials actually incorporated in the Work; and, all materials remaining for which progress payments have been made shall revert to the Contractor, unless otherwise agreed, and progress payments made for these items shall be deducted from the Final Payment for the Work.
- B. By accepting Final Payment, the Contractor will be deemed thereby to have released the Authority from all Claims of the Contractor and all liability to the Contractor for things done or furnished in connection with the Work and for every act and omission of the Authority and its employees or agent relating to or arising out of the Work.

00756 ACCESS AND EXAMINATION OF RECORDS

- A. The Contractor agrees to provide the Authority, the FTA Administrator, the Comptroller General of the United States, or any of their authorized representatives access to any books, documents, papers, and records of the Contractor, which are directly pertinent to this Contract for the purposes of making audits, examinations, excerpts, and transcriptions. The Contractor also agrees, pursuant to 49 CFR. 633.17 to provide the FTA Administrator or its authorized representatives including any PMO Contractor access to Contractor's records and construction sites pertaining to a major capital project, defined at 49 U. S. C. 5302(a)1, which is receiving Federal financial assistance through the programs described at 49 U. S. C. 5307, 5309, or 5311.
- B. The Contractor agrees to permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.

- C. The Contractor agrees to maintain all books, records, accounts and reports required under this Contract for a period of not less than three years after the date of termination or expiration of this Contract, except in the event of litigation or settlement of Claims arising from the performance of this Contract, in which case the Contractor agrees to maintain same until the Authority, the FTA Administrator, the Comptroller General, or any of their duly authorized representatives have disposed of all such litigation, appeals, Claims, or exceptions related thereto. Reference 49 CFR 18.39(i)(11).
- D. The Contractor agrees that the Contracting Officer, and the Comptroller General of the United States and the United States Secretary of Transportation if applicable, or their duly authorized representatives, shall, until the expiration of three years after Final Settlement under this Contract, have access to and the right to examine any directly pertinent books, documents, papers, and records of the Contractor involving transactions related to this Contract, for the purpose of making audits, examinations, excerpts, and transcriptions.
- E. The Contractor further agrees to include in all its Subcontracts hereunder, a provision to the effect that the Subcontractor agrees that the Contracting Officer, and the Comptroller General of the United States and the United States Secretary of Transportation if applicable, or their duly authorized representatives, shall until the expiration of 3 years after Final Settlement under this Contract, have access to and the right to examine any directly pertinent books, documents, papers, and records of the Subcontractor involving transactions related to the Subcontract, for the purpose of making audits, examinations, excerpts, and transcriptions. The term "Subcontract," as used in this Section, excludes:
 - 1. Purchase Orders Not Exceeding \$2,500 and,
 - 2. Subcontracts or purchase orders for public utility services at rates established from standard costs applicable to the public.

00757 WARRANTY/GUARANTEE OF CONSTRUCTION

- A. Unless otherwise specifically provided for in the Contract, the Contractor, notwithstanding any final inspection, acceptance, or payment guarantees that all work performed and materials and equipment furnished under this Contract are in accordance with the Contract requirements. The Contractor also guarantees that when installed all materials and equipment were free from defects and will remain so for a period of at least 2 years from the date of Acceptance by the Authority.
- B. If defects of any kind should develop during the period such guarantees are in force, the Contracting Officer will immediately notify the Contractor in writing of such defects. The Authority thereupon shall have the right, by a written notice to that effect, to require the Contractor to repair or replace all inferior or defective work, material, or equipment or permit it to remain in place and assess the Contractor the costs it (the Contractor) would have incurred had the Contractor been required to effect repair or replacement.
- C. Corrections or replacement of parts, materials, equipment, supplies or construction made pursuant to the provisions of this Section shall also be subject to the provisions of the Contract including this clause to the same extent as parts, material, equipment, supplies, or construction originally installed. The warranty, with respect to such new or corrected parts, materials, equipment, supplies, or construction, shall be equal in duration as that set forth in Paragraph A above and shall run from the date that such parts, materials, equipment, supplies, or construction are replaced or corrected and accepted by the Authority.
- D. The Contractor guarantees to reimburse the Authority for, or to repair or replace, damages to the Site, buildings, or contents thereof that are caused by inferior or defective workmanship, or the use of inferior or defective materials or equipment in the performance of this Contract. The Contracting Officer will immediately notify the Contractor in writing when such damage occurs. The Authority shall have the right to require the Contractor to repair or replace such damaged areas or equipment,

or elect to permit such damage to remain as is and assess the Contractor the costs it would have incurred had it been required to effect repair or replacement.

- E. Should the Contractor fail to proceed promptly, after notification by the Contracting Officer, to repair or replace inferior or defective work, material, or equipment, or damage to the Site, buildings, or contents, thereof, caused by inferior or defective work, or the use of inferior or defective materials, or equipment, the Authority may have such work, material, equipment, or damage repaired or replaced and charge all costs incident thereto to the Contractor.
- F. Special guarantees that may be required under the Contract shall be subject to the elections set forth above unless otherwise provided in such special guarantees.
- G. Should the Contractor fail to prosecute the Work or fail to proceed promptly to provide guarantee period services after notification by the Contracting Officer, the Authority may, subject to Section 00727, TERMINATION FOR DEFAULT, DAMAGES FOR DELAY AND TIME EXTENSIONS, contained in this Contract, and after allowing the Contractor 10 Days to correct and comply with the Contract, terminate the right to proceed with the Work (or the separable part of the Work) that has been delayed or unsatisfactorily performed. In this event, the Authority may take over the Work and complete it by contract or otherwise, and may take possession of and use any materials, appliances, and plants on the Work Site necessary for completing the Work. The Contractor and its sureties shall be liable for damages to the Authority resulting from the Contractor's refusal or failure to complete the Work within this specified time, whether or not the Contractor's right to proceed with the work is terminated. This liability includes increased costs incurred by the Authority in completing the Work.
- H. The decision of the Contracting Officer as to liability of the Contractor under this Section is subject to the appeal procedure provided for in Section 00730, DISPUTE RESOLUTION, of this Contract.
- I. All Subcontractor's, manufacturers', and Suppliers' warranties and guarantees, expressed or implied, respecting any part of the Work and any material used therein shall be deemed obtained in accordance with Section 01775, CLOSEOUT, and shall be enforced by the Contractor for the benefit of the Authority without the necessity of separate transfer or assignment thereof, provided that, if directed by the Authority, the Contractor shall require such Subcontractor's, manufacturers and Suppliers to execute such warranties and guarantees in writing to the Authority in accordance with Section 01775, CLOSEOUT. In connection therewith, the Contractor further agrees to perform the Work in such a manner or consistent with and so as to preserve all such warranties and guarantees.
- J. Certain specifications Sections and General Requirements provide for a warranty longer than the general warranty provided in this Contract, or commence from dates other than Final Completion and Acceptance of the Work. Where such warranties are specified as both in addition to the general warranty and in total years, the total years shall govern, and the warranty period shall commence from Final Completion and Acceptance of the Work.

00758 CORRECTION OF DEFICIENCIES

- A. This Section shall apply only to those deficiencies discovered by either the Authority or the Contractor within 2 years after Acceptance. Materials or equipment will be regarded as having a deficiency if a type of material or equipment in like service accumulates a failure rate greater than 5 percent within a period of 2 years following Acceptance by the Authority. Systems or subsystems will be regarded as having a deficiency if they exhibit conditions or characteristics, which are not in compliance with the Contract Documents, and intent of this Contract anytime during a period extending for 2 years following their Acceptance by the Authority.
- B. Notice of deficiency to Contractor: If the Authority determines that a deficiency exists in any of the materials, equipment, systems, or subsystems provided the Authority under this Contract, it will promptly notify the Contractor of the deficiency, in writing, within 30 Days.

- C. Recommendation for correction: Upon timely notification of the existence of such a deficiency, or if the Contractor independently discovers a deficiency in accepted materials, equipment, systems, or subsystems, the Contractor shall promptly submit to the Authority its recommendation for corrective actions, together with supporting information in sufficient detail for the Authority to determine what corrective action, if any, shall be undertaken in accordance with Section 01775, CLOSEOUT. The recommendation shall be submitted to the Authority within 15 working days of discovery or receipt of notice of the deficiency.
- D. Direction to Contractor concerning correction of deficiencies: Within 30 Days after receipt of the Contractor's recommendations for corrective action and adequate supporting information, the Contracting Officer, at its sole discretion, will give the Contractor written notice not to correct any deficiency, or to correct or partially correct any deficiency within a reasonable time and at a specified location.
- E. Schedule of deficiency corrections: The Contractor shall prepare Schedule of Deficiency Corrections and deliver it to the Authority for approval in accordance with Section 01775, CLOSEOUT, within 15 working days of discovery of deficiency by the Contractor or receipt of notice of discovery of a deficiency by the Authority.
- F. Correction of deficiencies by Contractor: The Contractor shall promptly comply with all timely written directions by the Contracting Officer to correct or partially correct a deficiency, at no increase in the Contract Price. The Contractor shall also prepare and furnish to the Authority in accordance with Section 01775, CLOSEOUT, data and reports applicable to corrections required under this Section (including revision and updating of all other affected data called for under this Contract) at no increase in the Contract Price.
- G. Modification of Contract with respect to uncorrected deficiencies: In the event of timely notice of a decision not to correct or only to partially correct a deficiency, the Contractor shall submit to the Authority within 15 working days, a technical and cost proposal to amend the Contract in accordance with Section 01775, CLOSEOUT, to permit acceptance of the affected materials, equipment, systems, or subsystems in accordance with the revised requirements, and an equitable reduction in Contract Price shall promptly be negotiated by the parties and stated in a Modification to this Contract.
- H. Failure to correct: If the Contractor fails or refuses to present a detailed recommendation for corrective action and to prepare and furnish data and reports as required in Paragraph G above, then the Contracting Officer will give the Contractor written notice specifying the failure or refusal and setting a period after receipt of the notice within which it must be corrected. If the failure or refusal is not corrected within the specified period, the Contracting Officer may, by contract or otherwise, as required:
 - 1. Obtain detailed recommendations for corrective action;
 - 2. Either:
 - 1. Correct the materials, equipment, systems or subsystems, or
 - 2. Replace the materials, equipment, systems or subsystems; and if the Contractor fails to furnish timely disposition instructions, the Contracting Officer may dispose of non-conforming materials, equipment, systems or subsystems for the Contractor's account in a reasonable manner, in which case the Authority is entitled to reimbursement from the Contractor or from the proceeds for the reasonable expense of care and disposition, as well as for excess costs incurred or to be incurred;
 - 3. and obtain applicable data and reports.

4. Charge to the Contractor the cost occasioned to the Authority thereby.
- I. Correction of deficient replacements and re-performances: Materials or equipment corrected or furnished in replacement and systems or subsystems revised pursuant to this Section shall also be subject to all the provisions of the Contract to the same extent as materials, equipment, systems, or subsystems initially accepted.
- J. The correction of materials or equipment exhibiting a failure rate greater than 5 percent means taking of any and all actions necessary to correct the deficiencies, including removal and replacement of all pieces of material or equipment in like service in a manner satisfactory to the Contracting Officer Representative. The correction of systems or subsystems exhibiting one or more deficiencies means taking any and all actions necessary to eliminate any and all deficiencies in a manner satisfactory to the Authority.
 1. Disassembly/reassembly expense: The Contractor shall be liable for reasonable cost of disassembly/reassembly of larger items necessary to remove the materials or equipment to be inspected and/or returned for correction or replacement.
 2. Transportation charges:
 1. When the Authority returns supplies to the Contractor for correction or replacement pursuant to this Section, the Contractor shall be liable for transportation charges up to an amount equal to the cost of transportation by the usual commercial method of shipment from the designated destination point under this Contract to the Contractor's plant, in addition to any charges provided for in Paragraph J.2.2 below. The Contractor shall also bear the responsibility for the supplies while in transit.
 2. When compliance with the terms of this Section by the Contractor involves shipment of corrected or replacement supplies from the Contractor to the Authority, the Contractor shall be liable for transportation charges up to an amount equal to the cost of transportation by the usual commercial method of shipment from the Contractor's plant to the designated destination point under this Contract, in addition to any charges provided for Paragraph J.2.1 above. The Contractor shall also bear the responsibility for the supplies while in transit.
- K. No extension in time for performance; no increase in Contract Price: In no event shall the Authority be responsible for extension or delays in the scheduled deliveries or Periods of Performance under this Contract as a result of the Contractor's obligations to correct deficiencies, nor shall there be any adjustment of the delivery schedule or Period of Performance as a result of such correction of deficiencies, except as may be agreed to by the Authority in a supplemental agreement with adequate consideration.
- L. The Contractor shall not be responsible under this Section for the correction of deficiencies in Authority-furnished property, except for deficiencies in installation, unless the Contractor performs or is obligated to perform any modifications or other work on such property. In that event, the Contractor shall be responsible for correction of deficiencies to the extent of such modifications or other work.
- M. The Contractor shall not be responsible under this Section for the correction of deficiencies caused by the Authority.

00759 COVENANT AGAINST CONTINGENT FEES

- A. The Contractor warrants that no person or selling agency has been employed or retained to solicit or secure this Contract upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, excepting bona fide employees or bona fide established commercial or selling agencies utilized by the Contractor for the purpose of securing business. For breach or

violation of this warranty, the Contracting Officer shall have the right to annul this Contract without liability or in his or her discretion to deduct from the Contract Price or consideration, or otherwise recover, the full amount of such commission, percentage, brokerage, or contingent fee.

00760 OFFICIALS NOT TO BENEFIT

- A. No member of or delegate to Congress, resident commissioner or member of a state or local public body shall be admitted to any share or part of this Contract, or to any benefit that may arise therefrom during his or her tenure or for two (2) years thereafter, unless his or her interest in the business entity that is awarded this Contract is placed in a blind trust in accordance with the rules and regulations of the U.S. Office of Government Ethics (OGE)..
- B. Enforcement of this clause shall be consistent with 18 U.S.C. §431.

00761 GRATUITIES

- (a) In connection with performance of this Contract, or any changes or modifications relative thereto, the giving of or offering to give gratuities (in the form of entertainment, gifts or otherwise) by the Contractor, or any agent, representative or other person deemed to be acting on behalf of the Contractor, or any supplier or subcontractor furnishing material to or performing work under this Contractor, to any Board member, employee or agent of the Authority; with a view toward securing this Contract or securing favorable treatment regarding this Contract is expressly forbidden. The terms of this "Gratuities" clause shall be strictly construed and enforced in the event of violations hereof.
- (b) Reported instances of the giving or offering to give gratuities within the context of this "Gratuities" clause will be investigated by the Authority's Board of Directors or its duly authorized representative. A preliminary investigation will be made to determine whether there is probable cause to suspect that a violation of this clause exists. If such probable cause exists, the Board of Directors, or its duly authorized representative, shall formally notify WMATA's Office of Inspector General (OIG), the U.S. Department of Transportation's Office of Inspector General (DOT-OIG), the Offices of Inspectors General of any state or Federal agency providing funding under this Contract and/or appropriate Federal, state and/or local law enforcement authorities.
- (c) The rights and remedies of the Authority provided in this clause shall not be exclusive and are in addition to any other rights and remedies provided under this Contract, at law or in equity.

00762 ORGANIZATIONAL CONFLICTS OF INTEREST

- A. Neither the Contractor nor any person affiliated with it shall have, during the term of this Contract and any extension thereof, any contractual or other financial relationship with the Authority, with any Authority prime contractor, or with any Subcontractor or Supplier to any Authority prime contractor other than the contractual relationship established under this Contract, unless an exception is granted as described below. Such exceptions will not unreasonably be withheld.
- B. Upon request of the Contractor submitted in accordance with Section 01330, SUBMITTAL PROCEDURES, and upon full disclosure and for good cause the Contracting Officer may, at its sole discretion, grant an exception to the requirement of this Section 00762, CONFLICT OF INTEREST, when in its judgment, the exception will not create a conflict between the Contractor's duties and obligations under this Contract and the duties and obligations imposed on the Contractor under the contractual or other relationship for which an exception is requested.
- C. If, during the performance of this Contract and any extension thereof, the Contractor becomes aware of any relationship, financial interest, or other activity in which it or an affiliated person or company is involved, which is not in compliance with the provisions of this Section 00762, CONFLICT OF

INTEREST, it shall promptly notify the Contracting Officer in writing in accordance with Section 01330, SUBMITTAL PROCEDURES, and fully disclose all circumstances thereof. Should the Contracting Officer not grant an exception to the requirements of this Section 00762, CONFLICT OF INTEREST, the Contractor shall, within 10 Days of written notice from the Contracting Officer to do so, take all action necessary to comply with the terms of this Section.

- D. If the Contractor fails to comply with the terms of this Section 00762, CONFLICT OF INTEREST, the Contracting Officer may withhold payments due under the Contract until such time as the Contractor is in compliance or, should the non-compliance remain uncorrected at the expiration of 10 Days from written notice from the Contracting Officer as provided in this Section, terminate the Contract for default pursuant to Section 00727, TERMINATION FOR DEFAULT, DAMAGES FOR DELAY, AND TIME EXTENSIONS, of this Contract.
- E. The Contractor, in performing this Contract, shall avoid all conduct, which might result in or give the appearance of creating for Directors, Officers, or employees of the Authority in their relationship with the Contractor any conflicts of interest or favoritism or the appearance thereof and shall avoid any conduct, which might result in a Director, Officer, or employee failing to adhere to the Standards of Conduct adopted by the Authority's Board of Directors.
- F. The Contractor shall not, during the period of performance of the Contract, engage in any other contracts where its customary role would or might:
 - 1. Impair the actual or potential ability of the Contractor to render impartial assistance or advice to the Authority;
 - 2. Impair the Contractor's objectivity in performing this Contract or any other Authority contract, and
 - 3. Give the Contractor an unfair competitive advantage with respect to the work under another proposed Authority contract.
- G. Any determination by the Contracting Officer under this Section shall be final and shall be subject to Section 00730, DISPUTE RESOLUTION.

00763 EMPLOYMENT RESTRICTION WARRANTY

- A. The Contractor warrants that it will not offer employment to any officer or employee of the Washington Metropolitan Area Transit Authority (WMATA) who has been involved, directly or indirectly, in any matter of financial interest to the Contractor until at least 1 year after the officer or employee has ceased involvement in or responsibility for the matter.
- B. The Contractor further warrants that it will not employ any WMATA officer or employee who has had direct responsibility for any matter of financial interest to the Contractor within the year prior to the retirement or termination of the officer or employee until at least 1 full year after such officer or employee has left the employment of the Authority.
- C. The 1-year restriction described in Paragraphs A and B above may be waived at the discretion of the Authority if the WMATA employee or former employee has been subject to a Reduction in Force; in such case, the Authority will provide the Contractor with a letter to that effect.
- D. If a waiver is granted, or if a former employee of WMATA is eventually hired, the Contractor shall be responsible for ensuring that the former employee is not directly involved in negotiating or otherwise dealing with WMATA on any particular matter over which such employee had responsibility during his or her period of employment at WMATA.
- E. Should the Contractor fail to comply with Paragraphs A, B, or D above, the Authority shall have the right to withhold payment under this Contract in an amount not to exceed 2 percent of the total

Contract amount as liquidated damages to the Authority, such withholding shall be in addition to any other withholding or damages available for other matters under this Contract. Further, the Authority will consider such violation in evaluating the Contractor's responsibility in connection with award of any other Authority contract.

00764 CIVIL RIGHTS REQUIREMENTS

- A. Nondiscrimination: In accordance with Title VI of the Civil Rights Act, as amended, 42 U.S.C. §2000d, section 303 of the Age Discrimination Act of 1975, as amended, 42 U.S.C. §6102, section 202 of the American with Disabilities Act of 1990, 42 U.S.C. §12132, and Federal transit law at 49 U.S.C. §5332, the Contractor agrees that it will not discriminate against any employee or applicant for employment because of race, color, creed, national origin, sex, age, or disability. In addition, the Contractor agrees to comply with applicable Federal implementing regulations and other implementing regulations that the Authority, and the FTA if applicable, may issue.
- B. Equal Employment Opportunity: The following equal employment opportunity requirements apply to this Contract.
 - 1. Race, Color, Creed, National Origin, Sex: In accordance with Title VII of the Civil Rights Act, as amended, 42 U.S.C. §2000e, and Federal transit laws at 49 U.S.C. §5332, the Contractor agrees to comply with all applicable equal opportunity requirements of the U. S. Department of Labor (U.S. DOL) regulations, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor, " 41 C.F.R. Parts 60 et seq., (which implement Executive Order No. 11246, "Equal Employment Opportunity," as amended by Executive Order No. 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," 42 U.S.C. 2000e note), and with all applicable Federal statutes, executive orders, regulations, and Federal policies that may in the future affect construction activities undertaken in the course of the Contract. The Contractor agrees to take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, creed, national origin, sex, or age. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. In addition, the Contractor agrees to comply with all implementing requirements the Authority, and the FTA if applicable, may issue.
 - 2. Age: In accordance with Section 4 of the Age Discrimination in Employment Act of 1967, as amended, 29 U.S.C. §§ 623 and Federal transit law at 49 U.S.C. §5332, the Contractor agrees to refrain from discrimination against present and prospective employees for reason of age. In addition, the Contractor agrees to comply with all implementing requirements the Authority, and the FTA if applicable, may issue.
 - 3. Disabilities: In accordance with Section 102 of the Americans with Disabilities Act, as amended, 42 U.S.C. §12112, the Contractor agrees that it will comply with the requirements of U. S. Equal Employment Opportunity Commission, "Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act," 29 C.F.R. Part 1630, pertaining to employment of persons with disabilities. In addition, the Contractor agrees to comply with all implementing requirements the Authority, and the FTA if applicable, may issue.
- C. The Contractor also agrees to include these requirements in each Subcontract financed in whole or in part with Federal assistance provided by FTA, modified only if necessary to identify the affected parties.
- D. The Contractor shall make a good faith effort to contract with businesses located in the WMATA compact jurisdiction and to recruit and employ residents of that jurisdiction.

00765 DISADVANTAGED BUSINESS ENTERPRISE.

- A. In connection with the performance of this Contract, the Contractor agrees to cooperate with the Authority in meeting its commitments and goals with regard to the maximum utilization of Disadvantaged Business Enterprises (DBE) and further agrees to exert good faith efforts to satisfy the requirements of Section 00453, DBE DATA, by subcontracting portions of the Work to disadvantaged firms, by entering into joint ventures with disadvantaged firms, or both.
- B. The DBE policy of the Authority underwent a complete revision October 1, 1999 to meet revised Federal requirements. The DBE provisions of this IFB are subject to revision by amendment.
- C. For federally funded contracts that exceed \$150,000 and to which the Disadvantaged Business Enterprise (DBE) Requirements (Appendix B) apply, the failure to perform in accordance with requirements of Appendix B may result in a partial or full suspension of payment, including progress payments, if applicable.
- D. If the Contractor is found to be in noncompliance with the DBE requirement Appendix B, the progress of the work shall also be deemed to be unsatisfactory, and an amount equal to the DBE participation in the Contract shall be retained from payment (or progress payments, if any) made to the Contractor.
- E. If the Contract value is over \$150,000, the prime Contractor will be responsible for submitting a monthly report of the status of its DBE subcontractors to the Contracting Officer.
- F. If the Contractor fails to submit the required monthly DBE reports, the Contracting Officer may suspend payments (or progress payments), until such time as the monthly reports are submitted and accepted by the Authority.
- G. The goal for this Contract is as specified in Section 00865, DISADVANTAGED BUSINESS ENTERPRISE.

00766 UTILIZATION OF SMALL BUSINESS CONCERNS

- A. It is the policy of the Authority that a fair proportion of the purchases and contracts for supplies and services for the Authority be placed with small business concerns.
- B. The Contractor agrees to accomplish the maximum amount of subcontracting to small business concerns that the Contractor finds to be consistent with the efficient performance of this Contract.

00767 DAVIS BACON AND COPELAND ANTI-KICKBACK ACTS

- A. Minimum Wages:
 - 1. All laborers and mechanics employed or working upon the Site of the Work (or under the United States Housing Act of 1937 or under the Housing-Act of 1949 in the construction or development of the project), shall be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act, 29 C.F.R. Part 3), the full amount of wages and bona fide fringe benefits (or cash equivalents thereof) due at the time of payment computed at rates not less than those contained in the Wage Determination of the Secretary of Labor, which is attached hereto and made a part hereof as specified in APPENDIX D to Section 00800, regardless of any contractual relationship which may be alleged to exist between the Contractor and such laborers and mechanics. Contributions made or costs reasonably anticipated for bona fide fringe benefits under Section 1(b) (2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of 29 C.F.R. §5.5(a)(1)(iv); also, regular contributions made or costs incurred for more than a weekly period (but not less often than

quarterly) under plans, funds, or programs that cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period. Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination for the classification of work actually performed, without regard to skill, except as provided at 29 C.F.R. §5.5(a)(4). Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein, provided that the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classification and wage rates conformed under 29 C.F.R. §5.5(a)(1)(ii) And the Davis-Bacon poster (WH-1321) shall be posted at all times by the Contractor and its Subcontractor at the Site of the Work in a prominent and accessible place where it can be easily seen by the workers.

1. The Authority will require that any class of laborers or mechanics, including helpers, which is not listed in the wage determination and which is to be employed under the Contract shall be classified in conformance with the wage determination. The Authority will approve an additional classification and wage rate and fringe benefits therefore only when the following criteria have been met:
 - a.) The work to be performed by the classification requested is not performed by a classification in the wage determination; and
 - b.) The classification is utilized in the area by the construction industry, and
 - c.) The proposed wage rate, including bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.
 2. If the Contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and the Authority agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken will be sent by the Contracting Officer Representative to the Administrator of the Wage and Hour Division, Employment Standards Administration, Washington, D.C. 20210. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 Days of receipt and so advise the Authority or will notify the Authority within the 30-Day period that additional time is necessary.
 3. In the event the Contractor, the laborers, or mechanics to be employed in the classification or their representatives, and the Authority do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), the Authority will refer the questions, including the views of all interested parties and the recommendation of the Authority to the Administrator for determination. The Administrator, or an authorized representative, will issue a determination with 30 Days of receipt and so advise the Authority or will notify the Authority within the 30-Day period that additional time is necessary.
 4. The wage rate (including fringe benefits where appropriate) determined pursuant to Paragraphs 1.a.1) and 1.a.2) above, shall be paid to all workers including helpers performing work in the classification under this Contract from the first day on which work is performed in the classification.
2. Whenever the minimum wage rate prescribed in the Contract for a class of laborers or mechanics includes a fringe benefit, which is not expressed as an hourly rate, the Contractor shall either pay the benefit as stated in the wage determination or shall pay another bona fide fringe benefit or an hourly cash equivalent thereof.

3. If the Contractor does not make payments to a trustee or other third person, the Contractor may consider as part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program, provided, that the Secretary of Labor has found, upon the written request of the Contractor submitted through the Contracting Officer Representative in accordance with Section 01330, SUBMITTAL PROCEDURES, that the applicable standards of the Davis-Bacon act have been met. The Secretary of Labor may require the Contractor to set aside in a separate account assets for the meeting of obligations under the plan or program.
- B. Withholding: The Authority will, upon its own action or upon written request of an authorized representative of the Department of Labor, withhold or cause to be withheld from the Contractor, under this Agreement or any other Authority contract with the same recipient, so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices, trainees, and helpers, employed by the Contractor or any Subcontractor the full amount of wages required by the Contract. In the event of failure to pay any laborer or mechanic, including any apprentice, trainee, or helper, employed or working on the Site of the Work (or under the United States Housing Act of 1937 or under the Housing Act of 1949 in the construction or development of the project), all or part of the wages required by the Contract, the Authority may, after written notice to the Contractor, sponsor, applicant, or owner take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee or funds until such violations have ceased.
- C. Payrolls and Basic Records
 1. Payrolls and basic records relating thereto shall be maintained by the Contractor during the course of the Work and preserved for a period of 3 years thereafter for all laborers and mechanics working at the Site of the Work (or under the United States Housing Act of 1937, or under the Housing Act of 1949, in the construction or development of the Project). Such records shall contain the name, address, and social security number of each such worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in Section 1(b)(2)(b) of the Davis-Bacon act), daily and weekly number of hours worked, deductions made and actual wages paid. Whenever the Secretary of Labor has found under 29 C.F.R. §5 5.5(a)(1)(iv) that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in Section 1(b)(2)(b) of the Davis-Bacon Act, the Contractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records, which show the costs anticipated or the actual costs incurred in providing such benefits. Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs.
 2. The Contractor shall submit weekly in accordance with Section 01330, SUBMITTAL PROCEDURES, for each week in which any Contract work is performed, a copy of all payrolls to the Authority. The payrolls submitted shall set out accurately and completely all of the information required to be maintained under 29 C.F.R. §5.5(a)(3)(i). This information may be submitted in any form desired. Optional form WH-347 is available for this purpose and may be purchased from the Superintendent of Documents (Federal Stock no. 029-005-00014-1), U.S. Government Printing Office, Washington, D.C. 20402. The Contractor is responsible for the submission of copies of payrolls by all Subcontractors in accordance with Section 01330, SUBMITTAL PROCEDURES.
 1. Each payroll submitted shall be accompanied by a "Statement of Compliance" signed by the Contractor or Subcontractor or his or her agent who pays or supervises the payment of

the persons employed under the Contract and submit in accordance with Section 01330, SUBMITTAL PROCEDURES and shall certify the following:

- a.) That the payroll for the payroll period contains the information required to be maintained under 29 C.F.R. §5.5.(a)(3)(i), and that such information is correct and complete;
 - b.) That each laborer or mechanic (including each helper, apprentice, and trainee) employed on the Contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth at 29 C.F.R. Part 3;
 - c.) That each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification of work performed, as specified in the applicable wage determination incorporated into the Contract.
2. The weekly submission in accordance with Section 01330, SUBMITTAL PROCEDURES, of a properly executed certification set forth on the reverse side of optional Form WH-347 shall satisfy the requirement for submission of the "Statement of Compliance" required by 29 C.F.R. §5.5(a)(3)(ii)(B).
 3. The falsification of any of the above certifications may subject the Contractor or Subcontractor to civil or criminal prosecution under 18 U.S.C. §1001 and 31 U.S.C. §3729.

D. Apprentices and Trainees

1. The Contractor or Subcontractor shall make the records required under 29 C.F.R. §5.5(a)(3)(i) available for inspection, copying, or transcription by authorized representatives of the Department of Labor, and shall permit such representatives to interview employees during working hours on the job. If the Contractor or Subcontractor fails to submit the required records in accordance with Section 01330, SUBMITTAL PROCEDURES, or make them available, the Authority may, after written notice to the Contractor, sponsor, applicant, or owner take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or make such records available may be grounds for debarment action pursuant to 29 C.F.R. §5.12.
1. Apprentices: Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Office of Apprenticeship, Training and Employer Labor Services, or with a State apprenticeship agency recognized by the Office, or if a person is employed in his or her first 90 Days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the Office of Apprenticeship, Training and Employer Labor Services or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice. The allowable ratio of apprentices to journeymen on the job site in any craft classification shall not be greater than the ratio permitted to the Contractor as to the entire work force under the registered program. Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated above, shall be paid not less than the applicable wage on the wage, determination for the classification of work actually performed. In addition, any apprentice performing work on the job Site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. Where a Contractor is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in

percentages of the journeyman's hourly rate) specified in the Contractor's or Subcontractor's registered program shall be observed. Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator determines that a different practice prevails for the applicable apprentice classification, fringe benefits shall be paid in accordance with that determination. In the event the Office of Apprenticeship, Training and Employer Labor Services, or a state apprenticeship agency recognized by the Office, withdraws approval of an apprenticeship program, the Contractor will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

2. Trainees: Except as provided in 29 C.F.R. §5.16, trainees shall not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, Employment and Training Administration. The ratio of trainees to journeymen on the Site shall not be greater than permitted under the plan approved by the Employment and Training Administration. Every trainee must be paid at not less than the rate specified in the approved program for the trainee's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed on the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman wage rate on the wage determination that provides for less than full fringe benefits for apprentices. Any employee listed on the payroll at a trainee rate, who is not registered and participating in a training plan approved by the employment and training administration shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. In the event the employment and training administration withdraws approval of a training program, the Contractor will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.
3. Equal employment opportunity: The utilization of apprentices, trainees, and journeymen under 29 C.F.R. Part 5 shall be in conformity with the equal employment opportunity requirements of Executive Order No. 11246, as amended 29 C.F.R. Part 30.
4. Helpers: Helpers will be permitted to work on a project if the helper classification is specified on an applicable wage determination or is approved pursuant to the conformance procedure set forth in 29 C.F.R. §5.5(a)(1)(ii). The allowable ratio of helpers to journeyman employed by the Contractor or Subcontractor on the job site shall not be greater than two helpers for every three journeymen (in other words, not more than 40 percent of the total number of journeymen and helpers in each Contractor's or in each Subcontractor's own work force employed on the job site.) Any worker listed on a payroll at a helper wage rate, who is not a helper as defined in 29 C.F.R. §5.2(n)(4), shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any helper performing work on the job site in excess of the ratio permitted shall be paid not less than the applicable journeyman's (or laborer's, where appropriate) wage rate on the wage determination for the work actually performed.

- E. Contract Termination: Debarment. A breach of the Contract clauses in 29 C.F.R. §5.5 may be grounds for termination of the Contract, and for debarment as a Contractor or a Subcontractor as provided in 29 C.F.R. §5.12.
- F. Compliance with Davis-Bacon and Related Act Requirements: All rulings and interpretations of the Davis-Bacon and related Acts contained in 29 C.F.R. Parts 1, 3, and 5 are incorporated herein by reference.
- G. Disputes Concerning Labor Standards: Disputes arising out of the Labor Standards provisions of this Contract shall not be subject to Section 00730, DISPUTE RESOLUTION, of this Contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 C.F.R. Parts 5, 6, and 7. Disputes within the meaning of this Section include disputes between the Contractor (or any of its Subcontractors) and the Contracting Agency, the U.S. Department of Labor, or the employees or their representatives.
- H. Certification of Eligibility:
 - 1. By entering into this agreement or a third party contract financed under this agreement the Contractor certifies that neither it (nor he nor she) nor any person or firm that has an interest in the Contractor's firm is a person or firm ineligible to be awarded government contracts by virtue of Section 3(a) of the Davis-Bacon Act or 29 C.F.R. §5.12(a)(1).
 - 2. No part of this Contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of Section 3(a) of the Davis-Bacon Act or 29 C.F.R. §5.12(a)(1).
 - 3. The penalty for making false statement is prescribed in the U.S. Criminal code, 18 U.S.C.1001.
- I. Overtime Requirements: Neither the Contractor nor any Subcontractor contracting for any part of the Contract Work, which may require or involve the employment of laborers or mechanics, shall require or permit any such laborer or mechanics in any work week in which he or she is employed on such work to work in excess of 40 hours in such work week unless such laborer or mechanics receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of 40 hours in such work week.
- J. Violation: Liability for Unpaid Wages: Liquidated Damages: In the event of any violation of the requirements of 29 C.F.R. §5.5(b)(1), the Contractor and any Subcontractor responsible therefore shall be liable for the unpaid wages. In addition, such Contractor and Subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such district or to such territory) if the Contract is funded by the FTA, and if not, to the Authority for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of 29 C.F.R. §5.5(b)(1) In the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard work week of 40 hours without payment of the overtime wages required by 29 C.F.R. §5.5(b)(1).
- K. Withholding for Unpaid Wages and Liquidated Damages: The FTA or the recipient shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the Contractor or Subcontractor under any such contract, or any other Authority contract with the same Contractor or any federally-assisted contract subject to the Contract Work Hours and Safety Standards Act if FTA funding is provided for the Contract, which is held by the same Contractor, such sums as may be determined to be necessary to satisfy any liabilities of such Contractor or Subcontractor for unpaid wages and liquidated damages as provided in the clause set forth at 29 C.F.R. §5.5(b)(2).

L. Wage Rates:

1. The minimum wages, which in addition to basic hourly rate of pay, include fringe benefit payments to be paid laborers and mechanics on this Project pursuant to this Section as determined by the Secretary of Labor to prevail for corresponding classes of laborers and mechanics employed on projects similar in character to the Contract work in the pertinent locality, are set forth as an attachment to this Contract.
2. All classes of laborers and mechanics not listed but employed on this Contract shall be classified or reclassified conformably to the schedule set out therein by mutual agreement between the Contractor and class of labor concerned, subject to prior approval of the Contracting Officer Representative. In the event the interested parties cannot agree on the proper classification or reclassification of a particular class of laborer and mechanics to be used, the question, accompanied by the recommendation of the Contracting Officer Representative, shall be referred to the Secretary of Labor for final determination.
3. For Current Wage Modifications, Refer to Appendix D - WAGE DETERMINATION OF THE SECRETARY OF LABOR, included as an Appendix to Section 00800, SUPPLEMENTARY CONDITIONS.

M. Subcontracts: The Contractor or Subcontractor shall insert in all Subcontracts, the clauses set forth in Paragraphs A through M of this Subsection 00767, DAVIS-BACON AND COPELAND ANTI-KICKBACK ACTS, and a clause requiring the Subcontractor to include these clauses in all lower tier Subcontracts. The Contractor shall be responsible for compliance by all Subcontractors with Paragraphs A through M of this Subsection 00767, DAVIS-BACON AND COPELAND ANTI-KICKBACK ACTS.

00768 WALSH-HEALEY PUBLIC CONTRACTS ACT

- A. If this Contract is for the manufacture or furnishing of materials, supplies, articles, or equipment in an amount, which exceeds or may exceed \$10,000 and is subject to the Walsh-Healey Public Contracts Act, as amended (41 U.S.C. §§ 35-45), the following terms and conditions apply:
1. All stipulations required by the Act and regulations issued by the Secretary of Labor (41 C.F.R. Part 50) are incorporated by reference. These stipulations are subject to all applicable rulings and interpretations of the U.S. Secretary of Labor that are now, or may be hereafter, be in effect.
 2. All employees whose work relates to this Contract shall be paid not less than the minimum wage prescribed by regulations issued by the Secretary of Labor (41 CFR 50-202.2). Learners, student learners, apprentices, and handicapped worker may be employed at less than the prescribed minimum wage (see 41 CFR 50-202.3) to the same extent that such employment is permitted under Section 14 of the Fair Labor Standards Act (41 U.S.C. 40).

00769 NOTICE TO THE AUTHORITY OF LABOR DISPUTES

- A. Whenever the Contractor has knowledge that an actual or potential labor dispute is delaying or threatens to delay the timely performance of this Contract, the Contractor shall immediately give notice thereof in accordance with Section 01330, SUBMITTAL PROCEDURES, including all relevant information with respect thereto, to the Contracting Officer Representative.
- B. The Contractor agrees to insert the substance of this Section 00769, NOTICE TO THE AUTHORITY OF LABOR DISPUTES, in all Subcontracts hereunder as to which a labor dispute may delay the timely performance of this Contract; except that each such Subcontract shall provide that in the event its timely performance is delayed or threatened by delay by any actual or potential labor dispute, the Subcontractor shall immediately notify its next higher tier Subcontractor, or the Contractor, as the case may be, of all relevant information with respect to such dispute.

00770 CONVICT LABOR

- A. Except as provided in clause A (1), the Contractor shall not employ, in the performance of this Contract, any person undergoing a sentence of imprisonment imposed by any court of the Federal Government, a state, the District of Columbia, Puerto Rico, the Northern Mariana Islands, American Samoa, Guam or the U.S. Virgin Islands.
1. The Contractor is not prohibited from employing persons:
- a.) On parole or probation to work at paid employment during the term of their sentence;
 - b.) Who have been pardoned or who have served their terms; or
 - c.) Confined for violation of the laws of the Federal Government, the states, the District of Columbia, Puerto Rico, the Northern Mariana Islands, American Samoa, Guam, or the U.S. Virgin Islands who are authorized to work at paid employment in the community under the laws of such jurisdiction, if:
 - 1) The worker is paid or is in an approved work or training program on a voluntary basis.
 - 2) Representatives of the local union's central bodies or similar labor union organizations have been consulted;
 - 3) Such paid employment will not result in the displacement of employed workers, or be applied in skills, crafts, or trades where there is a surplus of available gainful labor in the locality, or impair existing contracts or services;
 - 4) The rates of pay and other conditions of employment will not be less than those paid or provided for work of a similar nature in the locality where the work is being performed; and
 - 5) The Attorney General of the United States has certified that the work-release laws or regulations of the jurisdiction involved are in conformity with the requirements of Executive Order 11755, as amended by Executive Orders 12608 and 12943.

00771 FEDERAL, STATE, AND LOCAL TAXES

- A. Except as otherwise provided in this Contract the Contract Price includes all applicable Federal, State, and local taxes and duties.
- B. Nevertheless, with respect to any Federal excise tax or duty on the transactions or property covered by this Contract, if a statute, court decision, written ruling, or regulation takes effect after the Contract Date and results in the following:
- 1. The Contractor being required to pay or bear the burden of any such Federal excise tax or duty or increase in the rate thereof, which would not otherwise have been payable on such transactions or property, the Contract Price shall be increased by the amount of such tax or duty or rate increase, provided the Contractor warrants in writing in accordance with Section 01330, SUBMITTAL PROCEDURES, that no amount for such newly imposed Federal excise tax or duty or rate increase was included in the Contract Price as a contingency reserve or otherwise; or
 - 2. The Contractor not being required to pay or bear the burden of, or in its obtaining a refund or drawback of, any such Federal excise tax or duty which would otherwise have been payable on such transactions or property or which was the basis of an increase in the Contract Price, the Contract Price shall be decreased by the amount of the relief, refund, or drawback, or that amount of the relief, refund, or drawback, or that amount that shall be paid to the Authority, as

directed by the Contracting Officer Representative. The Contract Price shall be similarly decreased if the Contractor, through its fault or negligence or its failure to follow instructions of the Contracting Officer Representative, is required to pay or bear the burden of, or does not obtain a refund or drawback or, any such Federal excise tax or duty.

- C. Paragraph B above shall not be applicable to Social Security taxes or to any other employment tax.
- D. No adjustment of less than \$100 shall be made in the Contract Price pursuant to Paragraph B above.
- E. As used in Paragraph B above, the term Contract Date means the date set for Bid opening. As to additional supplies or services procured by Modification to this Contract, the term Contract Date means the date of such Modification.
- F. Unless there does not exist any reasonable basis to sustain an exemption, the Contracting Officer Representative, upon the request of the Contractor in accordance with Section 01330, SUBMITTAL PROCEDURES, shall, without further liability, furnish evidence appropriate to establish exemption from any Federal, State, or local tax; provided that, evidence appropriate to establish exemption from and Federal excise tax or duty, which may give rise to either increase or decrease in the Contract Price will be furnished only at the discretion of the Contracting Officer Representative.
- G. The Contractor shall promptly notify the Contracting Officer Representative in accordance with Section 01330, SUBMITTAL PROCEDURES, of matters, which will result in either an increase or decrease in the Contract Price, and shall take action with respect thereto as directed by the Contracting Officer Representative.

00772 ADDITIONAL BOND SECURITY

- A. For information on Additional Bond Security, see Section 00613, PERFORMANCE AND PAYMENT BONDS (Additional Bond Security).

00773 PATENT AND COPYRIGHT INDEMNITY

- A. In addition to any other indemnification provided in this Contract, the Contractor agrees to defend, hold harmless, and indemnify the Authority and its officers, representatives, agents, and employees acting within the scope of their official duties, from and against any and all Claims, demands, liabilities, damages, losses, costs, and expenses (including, but not limited to, court costs, and reasonable attorney's fees and expenses) of any nature whatsoever in any way arising out of infringement upon any Letters of Patent of the United States arising out of the performance of this Contract or out of the use or disposal by or for the account of the Authority of supplies furnished or work performed hereunder. Similarly, the Contractor indemnifies the Authority from all claims of copyright infringement resultant from actions of the Contractor or any of its Subcontractors or Suppliers. Nothing in this Section shall be construed to require any indemnification, which would make this Section void or unenforceable or to eliminate or reduce any indemnification or rights, which the Authority or Contractor has by law.

00774 NOTICE AND ASSISTANCE REGARDING PATENT AND COPYRIGHT INFRINGEMENT

- A. The Contractor shall report to the Contracting Officer Representative in accordance with Section 01330, SUBMITTAL PROCEDURES, promptly and in reasonable written detail, each notice or claim of patent or copyright infringement based on the performance of this Contract once the Contractor is notified thereof.
- B. In the event of any action, Claim, or suit against the Authority on account of any alleged patent or copyright infringement arising out of or related to the performance of this Contract or out of the use of any supplies furnished or work or services performed hereunder, the Contractor shall furnish to the Authority in accordance with Section 01330, SUBMITTAL PROCEDURES, when requested by the Contracting Officer Representative, all evidence and information in possession of the Contractor

pertaining to such action, suit, or Claim. Such evidence and information shall be furnished at the expense of the Authority except where the Contractor has agreed to defend, indemnify, or hold harmless the Authority. This Section shall be included in all Subcontracts.

- C. The Contractor shall include the substance of this clause, including this paragraph, in all subcontracts.

00775 AUTHORITY RIGHTS IN TECHNICAL DATA

- A. All, designs, drawings, specifications, Samples, processes (including Computer Software), laboratory testing analyses and reports, notes, As-Built Drawings produced during and after completion of construction and other work produced in the performance of this Contract, or in the contemplation or implementation thereof shall be and remain the sole property of the Authority and may be used on any other work without additional cost to the Authority. Any re-use of design services shall be at the Authority's sole risk and with respect thereto, the Contractor agrees not to assert any rights or to establish any claim under the design patent or copyright laws and not to publish or reproduce such matter in whole or in part or in any manner or form, or authorize others so to do, without the written consent of the Authority until such time as the Authority may have released such matter to the public. Further, with respect to any design or process, which the Authority desires to protect by applying for and prosecuting a design patent application, or otherwise, the Contractor agrees to furnish the Authority such duly executed instruments and other papers (prepared by the Authority) as are deemed necessary to vest in the Authority the rights granted it pursuant to this Section. The Contractor, for a period of 3 years after completion of the Project or task, agrees to furnish and to provide access to the originals or copies of all such materials on the request of the Authority.

B. Rights in Technical Data:

1. The Authority shall have the right to use, duplicate, or disclose Technical Data, which includes, without limitation, computer software and other items listed below, in whole or in part, in any manner and for any purpose whatsoever, and to have or permit others to do so:

1. All manuals, instructional materials prepared for installation, operation, maintenance or training purposes;
2. Technical Data pertaining to end items, components or processes, which were prepared for the purpose of identifying sources, size, configuration, mating and attachment characteristics, functional characteristics, and performance requirements ("form, fit and function" data; e.g., specification control drawings, catalog sheets, outline drawing; except that for computer software it means data identifying source, functional characteristics, and performance requirements but specifically excludes the source code, algorithm, process, formulae, and flow charts of the software);
3. Other Technical Data, which has been, or is normally furnished without restriction by the Contractor or Subcontractor;
4. Other specifically described Technical Data, which the parties have agreed will be furnished without restriction.

- C. The Authority shall have the right to use, duplicate, or disclose Technical Data other than that defined in Paragraph B.1.1 above, in whole or in part, with the express limitation that such Technical Data shall not, without the written permission of the party furnishing such Technical Data, be:

1. Released or disclosed in whole or in part outside the Authority;

2. Used in whole or in part by the Authority for manufacture; or
3. Used by a party other than the Authority except for emergency repair or overhaul work only, by or for the Authority where the item or process concerned is not otherwise reasonably available to enable timely performance of the Work; provided, that the release or disclosure thereof outside the Authority shall be made subject to a prohibition against further use, release, or disclosure.
4. Technical Data provided in accordance with the provisions of Paragraph B.1.2 above shall be identified by a legend, which suitably recites the aforesaid limitation. Nothing herein shall impair the right of the Authority to use similar or identical data acquired from other sources.
5. The term Technical Data as used in this Section means technical writing, Computer Software, sound recordings, pictorial reproductions, drawings, or other graphic representations and works of a technical nature, whether or not copyrighted, which are specified to be delivered pursuant to this Contract in accordance with Section 01330, SUBMITTAL PROCEDURES, and Section 01775, CLOSEOUT. The term does not include financial reports, cost analyses, and other information incidental to Contract administration. Computer Software as used in this Section means computer programs, computer databases, and documentation thereof.
6. Material covered by copyright:
 1. The Contractor agrees to and does hereby grant to the Authority, and to its officers, agents, and employees acting within the scope of their official duties, a royalty-free, nonexclusive, and irrevocable license throughout the world for Authority purposes to publish, translate, reproduce, deliver, perform, dispose of, and to authorize others so to do, all Technical Data now or hereafter covered by copyright.
 2. No such copyrighted matter shall be included in Technical Data furnished hereunder without the written permission of the copyright owner for the Authority to use such copyrighted matter in the manner above described.
 3. The Contractor shall report to the Authority promptly, and in reasonable written detail, each notice or claim of copyright infringement received by the Contractor with respect to any Technical Data delivered hereunder.
 4. Relation to patents: Nothing contained in this Section shall imply a license to the Authority under any patent, or be construed as affecting the scope of any license or other right otherwise granted to the Authority under any patent.
 5. Any dispute under this Section shall be subject to Section 00730, DISPUTE RESOLUTION.
 6. Notwithstanding any other payment provision in this Contract, the Authority may retain from payment up to 10 percent of the Contract Price until final delivery and acceptance of the Technical Data defined in this Section and as required to be furnished by the Contract Documents.

00776 TECHNICAL DATA - WITHHOLDING OF PAYMENT

- A. If Technical Data, specified to be delivered under this Contract, is not delivered within the time specified by this Contract or is deficient upon delivery (including having restrictive markings not specifically authorized by this Contract), the Authority may until such data is accepted by the Authority, withhold payment to the Contractor of 10 percent of the total Contract Price or amount unless a lesser withholding is specified in the Contract. Payments will not be withheld nor any other action taken pursuant to this Paragraph when the Contractor's failure to make timely delivery or to deliver such data without deficiencies arises out of or is beyond the control and without the fault or negligence of the Contractor.

- B. After payments total 90 percent of the total Contract Price or amount and if all Technical Data specified to be delivered under this Contract has not been accepted, the Authority may withhold from further payment, in addition to other withholdings specified elsewhere, such sum as it considers appropriate, not exceeding 10 percent of the total Contract Price or amount unless a lesser withholding limit is specified in the Contract.
- C. The withholding of any amount or subsequent payment to the Contractor shall not be construed as a waiver of any rights accruing to the Authority under this Contract.

00777 INDEMNIFICATION AND INSURANCE REQUIREMENTS

A. Indemnification:

- 1. Contractor shall indemnify, defend, and hold harmless the Authority, its Board members, employees, and agents from all liabilities, obligations, damages, penalties, claims, costs, charges and expenses (including reasonable attorney's fees), of whatsoever kind and nature for injury, including personal injury or death of any person or persons, and for loss or damage to any property, including the property of the Contractor and the Authority, occurring in connection with, or in any way arising out of the use, occupancy and performance of the Work and any acts in connection with activities to be performed under this Contract, unless the loss or damage is due to the sole negligence of the Authority. Nothing in the preceding sentence shall be deemed to relieve Contractor from ultimate liability for any obligation of Contractor under this Contract.
 - 2. Contractor shall indemnify, defend, and hold harmless the Authority, its Board members, employees, and agents against any and all claims, liabilities, losses, demands, damages, penalties, costs, charges, remedial costs, environmental claims, fees or other expenses including attorneys fees related to, arising from, or attributable to any effluent or other hazardous waste, residue, contaminated soil, or other similar material discharged from, removed from, or introduced on, about, or under the job Site. The foregoing indemnity does not apply to loss or damage due to preexisting conditions, whether known or unknown.
 - 3. If any action or proceeding relating to the indemnification is brought against the Authority, then upon written notice from the Authority to the Contractor, the Contractor shall, at its own expense, resist or defend such action or proceeding by counsel approved by the Authority in writing. No approval of counsel shall be required where the cause of action is resisted or defended by counsel of any insurance carrier obligated to resist or defend the same. The Authority reserves the right to use its own counsel under this indemnity at Contractor's sole cost and expense.
 - 4. Contractor understands and agrees that it is Contractor's responsibility to provide indemnification to the Authority pursuant to this Section. The provision of insurance, while anticipated to provide a funding source for this indemnification, is in addition to any indemnification requirements and the failure of Contractor's insurance to fully fund any indemnification shall not relieve the Contractor of any obligation assumed under this indemnification.
- B. The Contractor shall provide the Authority with evidence of its Contractor's insurance coverage for the exposures listed in Section 00877 INDEMNIFICATION AND INSURANCE REQUIREMENTS.

00778 LIQUIDATED DAMAGES

- A. The Contractor understands that if it fails to complete portions or all of the Work as described in Section 00724, PERIOD OF PERFORMANCE AND PROJECT SCHEDULE, the Authority will suffer damages, which have been estimated and are specified in Section 00878, LIQUIDATED DAMAGES.

- B. The Contractor agrees that if it does not complete the Work within the specified Contract Performance Time, then the Contractor shall pay to the Authority as liquidated damages, pursuant to Section 00727, TERMINATION FOR DEFAULT, DAMAGES FOR DELAY, AND TIME EXTENSIONS, the sums per Day as separate damages for each specified completion requirement. Milestones are as defined in Section 00724, PERIOD OF PERFORMANCE AND PROJECT SCHEDULE.

##00779 NOTIFICATION OF BANKRUPTCY OR INSOLVENCY##

In the event the Contractor becomes insolvent or files or has filed against it a petition in bankruptcy, whether voluntary or involuntary, the Contractor agrees to furnish, by certified mail or electronic commerce method authorized by the Contract, written notification of such to the Contracting Officer. This notification shall be furnished as soon as possible, but in no event more than ten (10) days of the initiation of the proceedings relating to bankruptcy filing. This notification shall include the date on which the bankruptcy petition was filed, the identity of the court in which the bankruptcy petition was filed, and a listing of all WMATA Contract numbers for all WMATA contracts against which final payment has not been made. This obligation remains in effect until final payment under this Contract.

00780 CONTRACT WORK HOURS AND SAFETY STANDARDS ACT

- A. Overtime requirements: Neither the Contractor nor any Subcontractor contracting for any part of the Contract Work, which may require or involve the employment of laborers, mechanics, apprentices, trainees, watchmen, and guards shall require or permit any laborer, mechanic apprentice, trainee, watchman, or guard in any work week in which he or she is employed on such work to work in excess of 40 hours in such work week on work subject to the provisions of the Contract Work Hours and Safety Standards Act, unless such laborer, mechanic, apprentice, trainee, watchman, or guard receives compensation at a rate not less than 1-1/2 times his or her basic rate of pay for all such hours worked in excess of 40 hours in such work week.
- B. Violation, liability for unpaid wages, and liquidated damages. In the event of any violation of the provisions of Paragraph A above, the Contractor and any Subcontractor responsible therefor shall be liable to any affected employee for unpaid wages. In addition, such Contractor and Subcontractor shall be liable to the Authority for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer, mechanic, apprentice, trainee, watchman, or guard employed in violation of the provisions of Paragraph A in the sum of 10 dollars for each Day on which such employee was required or permitted to be employed on such work in excess of his or her standard work week of 40 hours without payment of the overtime wages required by Paragraph A above.
- C. Withholding for unpaid wages and liquidated damages: The Authority shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the Contractor or Subcontractor under any such contract or any other Federal contract with the same Contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same Contractor, such sums as may be administratively determined to be necessary to satisfy any liabilities of such Contractor or Subcontractor for unpaid wages and liquidated damages as provided in the provisions of Paragraph B above.
- D. Subcontracts: The Contractor shall insert Paragraphs A through E of this Section in all Subcontracts and shall require their inclusion in all Subcontracts of any tier. The Contractor shall be responsible for compliance by any Subcontractor or lower tier Subcontractor with the clauses set forth in Paragraphs A through E of this Subsection.

- E. Records: The Contractor shall maintain payroll records containing the information specified in 29 CFR 516.2(a). Such records shall be preserved for 3 years from completion of this Contract.

00781 EQUITABLE ADJUSTMENT FOR MINOR CONTRACT MODIFICATIONS

- A. Where the Contracting Officer and Contractor agree to a net additional or deductive amount of direct costs for a Modification to this Contract made pursuant to articles of this Contract titled CHANGES, DIFFERING SITE CONDITIONS, or VALUE ENGINEERING INCENTIVE, which amount does not exceed \$100,000 and further agree to an adjustment in Period of Performance resulting from said Modification which increases or decreases the completion date 10 Days or less, the equitable adjustment in Contract Price shall consist of the following:
1. Direct costs as agreed to by the Contracting Officer and Contractor.
 2. Job Office Overhead costs, the sum of which shall be limited to a maximum of 10 percent of direct labor costs, including fringe benefits, but excluding FICA, FUTA, and State Unemployment Insurance (SUI); 10 percent of direct material costs; 5 percent of direct equipment costs (small tools, defined as equipment less than \$1,000 in acquisition costs, are included and computed at 5 percent of direct base labor wages.); 5 percent of Subcontract costs.
 3. Home Office General and Administrative (G&A) costs, the sum of which shall be limited to a maximum of 3 percent of the direct costs plus job office overhead costs computed as above.
 4. Profit will be determined in accordance with the guidelines specified in the Section 00748, CHANGES.
- B. In using the above rates, the following shall apply:
1. Payroll Tax (FICA, FUTA, and SUI) amounts are added immediately after direct and indirect costs are totaled.
 2. Subcontractors' indirect costs and profit shall be computed in the same manner as above.
 3. Indirect costs shall not be duplicated in direct costs.
 4. When the change in Period of Performance is increased, the change in Contract Price for direct and indirect costs computed by application of the above rates includes costs of impact and extended performance due to the time extension and no further consideration of costs arising from the specific Modification and cited Pending Change Orders (PCOs) will be given.
 5. Bond will be allowed at actual cost without markup.

00782 SEAT BELT USE POLICY

- A. The Contractor agrees to comply with terms of Executive Order No. 13043 "Increasing Seat Belt Use in the United States" and is encouraged to include those requirements in each Subcontract awarded for work relating to this Contract.

00783 WHISTLEBLOWER PROTECTIONS

- A. The Contractor and all Subcontractors are prohibited from discharging, demoting, or otherwise discriminating against an employee as a reprisal for disclosing, including a disclosure made in the ordinary course of an employee's duties, information that the employee reasonably believes is evidence of reports of fraud, waste, gross mismanagement, abuse of authority, violations of law, and threats to health, safety, and security.

1. Under the National Transit Systems Security Act (NTSSA), 6 U.S.C. §1142, employees of Metro contractors or subcontractors may file a complaint of discrimination with the U.S. Department of Labor, for lawfully and in good faith:
 1. reporting a hazardous safety or security condition;
 2. refusing to work when a hazardous safety or security condition presents an imminent danger of death or serious injury; there is no reasonable alternative to refusal; there is not sufficient time to eliminate the danger in absence of refusal; and the individual, where possible, has notified the Metro contractor or subcontractor of the condition and of the intent to not perform work;
 3. refusing to authorize the use of any safety or security related equipment, track or structures, if the individual is responsible for their inspection or repair and reasonably believes they are in a hazardous safety or security condition; there is no reasonable alternative to refusal; there is not sufficient time to eliminate the danger in absence of refusal; and the individual, where possible, has notified the Metro contractor or subcontractor of the condition and of the intent not to authorize use of hazardous equipment or infrastructure unless corrected;
 4. providing information for or directly assisting in an investigation of conduct that the individual reasonably believes to be in violation of Federal law regarding safety, security, or fraud, waste, or abuse of funds intended for safety or security;
 5. refusing to violate or assist in violation of Federal safety or security law;
 6. cooperating with a safety or security investigation by the U.S. Secretary of Transportation, U.S. Secretary of Homeland Security, or the National Transportation Safety Board;
 7. furnishing information to law enforcement agencies relating to an accident or incident resulting in damage to property, injury, or death; or
 8. filing a complaint under the NTSSA or testifying regarding such complaint.
 2. Under the American Recovery and Reinvestment Act (ARRA), Public Law 111-5, § 1553, employees of Metro contractors or subcontractors may file a complaint of discrimination with the Inspector General of the appropriate federal agency for reporting to supervisors and other authorized individuals and agencies evidence that the individual reasonably believes demonstrates:
 1. gross mismanagement of an ARRA project;
 2. gross waste of ARRA funds;
 3. a substantial and specific danger to public health and safety related to an ARRA project;
 4. violation of law relating to ARRA funds or an ARRA project; or
 5. abuse of authority related to the implementation of ARRA funds.
- B. The Contractor will be required to post a notice of the rights and remedies provided to employees under Section 1553 of the American Recovery and Reinvestment Act of 2009. The Contractor also agrees to include these requirements in each Subcontract financed in whole or in part with Covered Funds. The notice must substantially comply with the sample notice, which may be downloaded at: <http://www.recovery.gov/sites/default/files/Whistleblower + Poster.pdf>.

00784 CONTRACTS INVOLVING FEDERAL PRIVACY ACT REQUIREMENTS

- A. The Contractor agrees to comply with, and assures the compliance of its employees with, the information restrictions and other applicable requirements of the Privacy Act of 1974, 5 U.S.C. § 552a.
1. Among other things, the Contractor agrees to obtain the express consent of the Federal Government before the Contractor or its employees operate a system of records on behalf of the Federal Government. The Contractor understands that the requirements of the Privacy Act, including the civil and criminal penalties for violation of that Act, apply to those individuals involved, and that failure to comply with the terms of the Privacy Act may result in termination of the underlying contract.
 2. The Contractor agrees to include these requirements in each subcontract to administer any system of records on behalf of the Federal Government financed in whole or in part with Federal assistance provided by FTA.

00785 DRUG AND ALCOHOL TESTING (FOR SAFETY SENSITIVE FUNCTIONS ONLY) – FTA

- (a) Contractors who perform safety sensitive functions shall be subject to compliance with a drug and alcohol testing program according to Federal guidelines published in FTA regulations. The Contractor agrees to establish and implement a drug and alcohol testing program that complies with 49 C.F.R. Parts 40 and 655, produce any documentation necessary to establish its compliance with these regulations, and permit any authorized representative of the U.S. Department of Transportation or its operating administrations, applicable state oversight agency, or the Authority to inspect the facilities and records associated with the implementation of the drug and alcohol testing program as required under 49 C.F.R. Part 655 and review the testing process. The Contractor further agrees as follows:
- (b) To certify its compliance with 49 C.F.R. Parts 40 and 655 and to submit a Management Information System (MIS) report, as required by Federal regulations, to WMATA's Medical Compliance Monitor (MCM) and the Contracting Officer before February 15th of each year. To certify compliance, the Contractor shall use the "Alcohol and Controlled Substances Testing" certification contained in the "Annual List of Certifications and Assurances for Federal Transit Administration Grants and Cooperative Agreements," that is published annually in the Federal Register.
- (c) To submit to the MCM and the Contracting Officer before February 15th of each year, a copy of the policy statement developed to implement its drug and alcohol testing program.
- (d) To provide to the MCM and the Contracting Officer before February 15th of each year the following:
 - (1) Employee and supervisor training documentation;
 - (2) The name and location of the collection site(s), laboratory(ies), Medical Review Officer(s), Breath Alcohol Technician(s), Collector(s), and Substance Abuse Professional(s); and a description of their random selection drug and alcohol testing process.
- (e) The Contractor further agrees to submit quarterly management reports summarizing test results to the MCM and the Contracting Officer by the 15th of the month following the end of each quarter.
- (f) Contractors are required to flow this clause down to all of their safety sensitive subcontractors and agents.

00786 WORKPLACE VIOLENCE – ZERO TOLERANCE

Pursuant to Metro Policy/Instruction 7.8.3, all Metro Contractors must: (1) establish zero tolerance for acts of workplace violence for their employees and those of subcontractors at any tier, and (2) not retaliate against any of their employees or independent Contractors for cooperating with investigations.

00787 NOT USED

00788 ADDITIONAL FEDERAL REGULATIONS AND CLAUSES

A. The Buy America Act requirements apply to the following types of contracts: construction contracts, the acquisition of goods or rolling stock valued at more than \$150,000.

1. The Contractor agrees to comply with 49 U.S.C. 5323(j) and 49 C.F.R. Part 661, which provide that Federal funds may not be obligated unless steel, iron, and manufactured products used in FTA-funded projects are produced in the United States, unless a waiver has been granted by FTA or the product is subject to a general waiver. General waivers are listed in 49 C.F.R. §661.7, Separate requirements for rolling stock are set out at 49 U.S.C. 5323(j)(2)(C) and 49 C.F.R. 661.11. Rolling stock must be assembled in the United States and have a 60 percent domestic content.
2. The Contractor is responsible for flowing down these requirements to subcontractors at every tier. The dollar threshold only applies to the prime contract. All subcontracts thereunder are subject the Buy America Act Requirements.
3. A bidder must submit to WMATA the appropriate Buy America Act certification with all offers on FTA funded contracts, except those subject to a general waiver. Bids that are not accompanied by the appropriate Buy America Act certification must be rejected as nonresponsive. This requirement does not apply to lower tier subcontractors

B. Contracts Involving Federal Privacy Act Requirements

The following requirements apply to the Contractor and its employees that administer any system of records on behalf of the Federal Government under any contract:

1. The Contractor agrees to comply with, and assures the compliance of its employees with, the information restrictions and other applicable requirements of the Privacy Act of 1974, 5 U.S.C. § 552a. Among other things, the Contractor agrees to obtain the express consent of the Federal Government before the Contractor or its employees operate a system of records on behalf of the Federal Government. The Contractor understands that the requirements of the Privacy Act, including the civil and criminal penalties for violation of that Act, apply to those individuals involved, and that failure to comply with the terms of the Privacy Act may result in termination of the underlying contract.
2. The Contractor also agrees to include these requirements in each Subcontract to administer any system of records on behalf of the Federal Government financed in whole or in part with Federal assistance provided by FTA.

C. Cargo Preference Requirements

The Contractor agrees:

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

2. To furnish within 20 working days following the date of loading for shipments originating within the United States, or within 30 working days following the date of loading for shipments originating outside the United States, a legible copy of a rated, "on-board" commercial ocean bill-of-lading in English for each shipment of cargo described in Paragraph C.1.a above to the Authority (through the Contractor in the case of a Subcontractor's bills-of-lading) and to the Division of National Cargo, Office of Market Development, Maritime Administration, Washington, DC 20590, and
3. To include these requirements in all Subcontracts issued pursuant to this Contract when the Subcontract may involve the transport of equipment, material, or commodities by ocean vessel.

D. Seismic Safety Requirements

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

E. Energy Conservation Requirements

1. The Contractor agrees to comply with mandatory standards and policies relating to the energy efficiency, which are contained in the applicable state energy conservation plan issued in compliance with the Energy Policy and Conservation Act.
2. The Contractor agrees to include the requirements of this clause in all Subcontracts under this Contract.

F. Clean Water Act

1. The Contractor agrees to comply with all applicable standards, orders, or regulations issued pursuant to the Clean Water Act, as amended, 33 U. S. C. 1251 et seq. The Contractor agrees to report each violation to the Authority and understands and agrees that the Authority will, in turn, report each violation as required to assure notification to FTA and the appropriate EPA Regional Office.
2. The Contractor also agrees to include these requirements in each Subcontract exceeding \$100,000 financed in whole or in part with Federal assistance provided by FTA.

G. Lobbying

1. The Contractor is bound by its certification contained in its Bid to the Authority regarding the use of federal or non-federal funds to influence, or attempt to influence any Federal officer or employee regarding the award, execution, continuation, or any similar action of any Federal grant or other activities as defined in 31 U.S.C. 1352, 49 CFR Part 19, or 49 C.F.R. Part 20. The Contractor agrees to comply with this requirement throughout the term of the Contract.
2. The Contractor agrees to include these requirements in all Subcontracts at all tiers under this Contract.

H. Access to Records and Reports

1. The Contractor agrees to provide the Authority, the FTA Administrator, the Comptroller General of the United States, or any of their authorized representatives, access to any books, documents, papers, and records of the Contractor, which are directly pertinent to this Contract

for the purposes of making audits, examinations, excerpts, and transcriptions. The Contractor also agrees, pursuant to 49 CFR. 633.17 to provide the FTA Administrator or its authorized representatives including any PMO Contractor access to Contractor's records and construction sites pertaining to a major capital project, defined at 49 U. S. C. 5302(a)1, which is receiving federal financial assistance through the programs described at 49 U. S. C. 5307, 5309 or 5311.

2. The Contractor agrees to permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.
3. Contractor agrees to maintain all books, records, accounts and reports required under this Contract for a period of not less than 3 years after the date of termination or expiration of this Contract, except in the event of litigation or settlement of Claims arising from the performance of this Contract, in which case the Contractor agrees to maintain same until the Authority, the FTA Administrator, the Comptroller General, or any of their duly authorized representatives have disposed of all such litigation, appeals, Claims, or exceptions related thereto. Reference 49 CFR 18.39(i)(11).
4. The Contractor further agrees to include in all its Subcontracts hereunder, a provision to the effect that the Subcontractor agrees that the Contracting Officer, and the Comptroller General of the United States and the United States Secretary of Transportation if applicable, or their duly authorized representatives, shall until the expiration of 3 years after Final Payment under this Contract, have access to and the right to examine any directly pertinent books, documents, papers, and records of the Subcontractor involving transactions related to the Subcontract, for the purpose of making audit, examination, excerpts, and transcription. The term "Subcontract," as used in this Section, excludes:
 1. Purchase Orders not exceeding \$100,000 and,
 2. Subcontracts or Purchase Orders for public utility services at rates established from standard costs applicable to the public.

I. Federal Changes

1. The Contractor shall at all times comply with all applicable FTA regulations, policies, procedures, and directives, including without limitation those listed directly or by reference in the Agreement (Form FTA MA (14) dated October 1, 2007) between the Authority and FTA, as they may be amended or promulgated from time to time during the term of this Contract. Contractor's failure to so comply shall constitute a material breach of this Contract.
2. The Contractor agrees to include this clause in each Subcontract financed in whole or in part with Federal assistance provided by FTA. It is further agreed that the clause shall not be modified, except to identify the Subcontractor who will be subject to its provisions.

J. Clean Air Act

1. The Contractor agrees to comply with all applicable standards, orders, or regulations issued pursuant to the Clean Air Act, as amended, 42 U. S. C. §§ 7401 et seq. The Contractor agrees to report each violation to the Authority and understands and agrees that the Authority will, in turn, report each violation as required to assure notification to FTA and the appropriate EPA Regional Office.
2. The Contractor also agrees to include these requirements in each Subcontract exceeding \$150,000 financed in whole or in part with Federal assistance provided by FTA.

K. Recovered Material/Recycled Products

1. The Contractor agrees to comply with all the requirements of Section 6002 of the Resource Conservation and Recovery Act (RCRA) as amended (42 U. S. C. 6962), including but not limited to the regulatory provisions of 40 CFR Part 247, and Executive Order 12873, as they apply to the procurement of the items designated in Subpart B of 40 CFR Part 247.
2. The Contractor also agrees to include these requirements in each Subcontract financed in whole or in part with Federal assistance provided by FTA.

L. No Federal Government Obligations to Third Parties by Use of a Disclaimer

1. The Authority and the Contractor acknowledge and agree that, notwithstanding any concurrence by the Federal Government in or approval of the solicitation or award of this Contract, absent the express written consent by the Federal Government, the Federal Government is not a party to this Contract and shall not be subject to any obligations or liabilities to the Authority, Contractor, or any other party (whether or not a party to that contract) pertaining to any matter resulting from the underlying contract.
2. The Contractor agrees to include this clause in each Subcontract financed in whole or in part with Federal assistance provided by FTA. It is further agreed that the clause shall not be modified, except to identify the Subcontractor who will be subject to its provisions.

M. Program Fraud and False or Fraudulent Statements and Related Acts

1. The Contractor acknowledges that the provisions of the Program Fraud Civil Remedies Act of 1986, as amended, 31 U. S. C. 3801 et seq. and U. S. DOT regulations, "Program Fraud Civil Remedies," 49 C.F. R. Part 31, apply to its actions pertaining to this Project. Upon execution of the underlying contract, the Contractor certifies and affirms the truthfulness and accuracy of any statement it has made, it makes, it may make, or causes to be made, pertaining to the underlying contract or the FTA-assisted project for which this Contract Work is being performed. In addition to other penalties that may be applicable, the Contractor further acknowledges that if it makes or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification, the Federal Government reserves the right to impose the penalties of the Program Fraud Civil Remedies Act of 1986 on the Contractor to the extent the Federal Government deems appropriate.
2. The Contractor also acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification to the Federal Government under a contract connected with a project that is financed in whole or in part with Federal assistance originally awarded by FTA under the authority of 49 U. S. C. 5307, the Government reserves the right to impose the penalties of 18 U. S. C. 1001 and 49 U. S. C. 5307 (n)(1) on the Contractor, to the extent the Federal Government deems appropriate.
3. The Contractor agrees to include this clause in each Subcontract financed in whole or in part with Federal assistance provided by FTA. It is further agreed that the clause shall not be modified, except to identify the Subcontractor who will be subject to the provisions.

N. Government-wide Debarment and Suspension (Non-procurement)

1. The Contractor is bound by its certification contained in its offer to the Authority that the Contractor and none of its principals or affiliates are excluded or disqualified, as defined at 49 C.F.R. 29.940 and 29.945. The certification is a material representation of fact, relied upon by the Authority in entering into this Contract. If it is later determined that the Contractor knowingly rendered an erroneous certification, in addition to remedies available to the Authority, the

Federal Government may pursue available remedies, including but not limited to suspension and/or debarment. The Contractor agrees to comply with the requirements of 49 C.F.R. 29, Subpart C, throughout the term of this Contract.

2. The Contractor agrees to include this requirement in all Subcontracts at all tiers under this Contract.

O. Incorporation of Federal Transit Administration (FTA) Terms

1. The preceding provisions include, in part, certain Standard Terms and Conditions required by the U.S. Department of Transportation (DOT), whether or not expressly set forth in the preceding contract provisions. All contractual provisions required by DOT, as set forth in FTA Circular 4220.1F or any revisions thereto, are hereby incorporated by reference. Anything to the contrary herein notwithstanding, all DOT or FTA mandated terms shall be deemed to control in the event of a conflict with other provisions contained in this Agreement. The Contractor shall not perform any act, fail to perform any act, or refuse to comply with any Authority requests, which would cause the Authority to be in violation of the FTA terms and conditions.
2. The Contractor agrees to include this clause in each Subcontract financed in whole or in part with Federal assistance provided by FTA. It is further agreed that the clause shall not be modified, except to identify the Subcontractor who will be subject to the provisions.

P. Americans with Disabilities Act Accessibility-FTA

- (1) The Contractor agrees that it will operate public transportation services in compliance with 42 U.S.C. § 12101 *et seq.*; DOT regulations, "Transportation Services for Individuals with Disabilities (ADA)" using facilities and equipment that comply with 49 C.F.R. Part 37; and Joint ATBCB/DOT regulations, "Americans with Disabilities (ADA) Accessibility Specifications for Transportation Vehicles," 36 C.F.R. Part 1192 and 49 C.F.R. Part 38. Private entities must comply with the requirements of 49 C.F.R. Part 37 applicable to public entities with which they contract to provide public transportation services.
- (2) Facilities to be used in public transportation service must comply with 42 U.S.C. § 12101 *et seq.*; DOT regulations, "Transportation Services for Individuals with Disabilities (ADA)," 49 C.F.R. Part 37; and Joint ATBCB/DOT regulations, "Americans with Disabilities (ADA) Accessibility Specifications for Transportation Vehicles," 36 C.F.R. Part 1192 and 49 C.F.R. Part 38.

Q. Mandatory Disclosure

1. The Contractor shall timely disclose, in writing, to WMATA's Office of the Inspector General (OIG), with a copy to the Contracting Officer, whenever, in connection with the award, performance, or closeout of this Contract or any subcontract hereunder, the Contractor has credible evidence that a principal, employee, agent, or subcontractor of the Contractor has committed—
 - a. A violation of federal criminal law involving fraud, conflict of interest, bribery, or gratuity violations found in Title 18 of the United States Code; or
 - b. A violation of the civil False Claims Act (31 U.S.C. §§ 3729-3733).
2. WMATA, to the extent permitted by law and regulation, will safeguard and treat information obtained pursuant to the Contractor disclosure as confidential where the information has been marked "confidential" or "proprietary" by the company. To the extent permitted by the law and regulation, such information will not be released by WMATA to the public pursuant to a Public Access to

Records (PARP) request. WMATA may transfer documents provided by the Contractor to any department or agency within the state, federal or local government, if the information relates to matters within the organization's jurisdiction.

3. If the violation relates to an order against a government-wide acquisition contract, a multi-agency contract, a multiple-award schedule contract such as the Federal Supply Schedule, or any other procurement instrument intended for use by multiple agencies, the Contractor shall notify the OIG of the ordering agency and the OIG of the agency responsible for the basic contract.

R. National Intelligent Transportation Systems Architecture And Standards – FTA

- 1 The Contractor agrees to conform to the National Intelligent Transportation Systems (ITS) Architecture requirements of 23 U.S.C. § 517(d), as amended by MAP-21, unless it obtains an exemption from those requirements;
2. The Contractor agrees to follow:
 - a. FTA Notice, "FTA National ITS Architecture Policy on Transit Projects," 66 Fed. Reg. 1455, January 8, 2001, and
 - b. All other applicable Federal guidance, and
- 3 The Contractor agrees to Flow this provision down to all applicable subcontracts.

S. Veterans Preference

As provided by 49 U.S.C. §5325(k), to the extent practicable, The Contractor will:

- a. Give a hiring preference to veterans, as defined in 5 U.S.C. §2108, who have the skills and abilities required to perform construction work required under a third party contract in connection with a capital project supported with federal assistance appropriated or made available for 49 U.S.C. chapter 53, and
- b. Will not require an employer to give a preference to any veteran over an equally qualified applicant who is a member of any racial or ethnic minority, female, and individual with a disability, or former employee.

T. Notification of Federal Participation

This Project is being funded in whole or part with Federal Funds.

U. Access to Records and Reports

1. The Contractor agrees to provide the Authority, the FTA Administrator, the Comptroller General of the United States, or any of their authorized representatives, access to any books, documents, papers and records of the Contractor, which are directly pertinent to this Contract for the purposes of making audits, examinations, excerpts, and transcriptions. The Contractor also agrees, pursuant to 49 C.F.R. § 633.17 to provide the FTA Administrator or its authorized representatives including any PMO Contractor access to Contractor's records and construction sites pertaining to a major capital project, defined at 49 U. S. C. § 5302(a)1, which is receiving Federal financial assistance through the programs described at 49 U. S. C. §§ 5307, 5309 or 5311.
2. The Contractor agrees to permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.

3. Contractor agrees to maintain all books, records, accounts and reports required under this Contract for a period of not less than 3 years after the date of termination or expiration of this Contract, except in the event of litigation or settlement of Claims arising from the performance of this Contract, in which case the Contractor agrees to maintain same until the Authority, the FTA Administrator, the Comptroller General, or any of their duly authorized representatives have disposed of all such litigation, appeals, Claims, or exceptions related thereto.
4. The Contractor further agrees to include in all its Subcontracts hereunder, a provision to the effect that the Subcontractor agrees that the Contracting Officer, and the Comptroller General of the United States and the United States Secretary of Transportation if applicable, or their duly authorized representatives, shall until the expiration of 3 years after Final Payment under this Contract, have access to and the right to examine any directly pertinent books, documents, papers, and records of the Subcontractor involving transactions related to the Subcontract, for the purpose of making audit, examination, excerpts, and transcription. The term "Subcontract," as used in this Section, excludes:
 - a. Purchase Orders not exceeding \$150,000 and,
 - b. Subcontracts or Purchase Orders

V. No Government Obligation to Third Parties

1. The Authority and the Contractor acknowledge and agree that, notwithstanding any concurrence by the Federal Government in or approval of the solicitation or award of this Contract, absent the express written consent by the Federal Government, the Federal Government is not a party to this Contract and shall not be subject to any obligations or liabilities to the Authority, Contractor, or any other party (whether or not a party to that contract) pertaining to any matter resulting from the underlying contract.
2. The Contractor agrees to include this clause in each Subcontract financed in whole or in part with Federal assistance provided by FTA. It is further agreed that the clause shall not be modified, except to identify the Subcontractor who will be subject to its provisions.

REQUESTS FOR RECORDS

The Washington Metropolitan Area Transit Authority (WMATA), in the regular course of business, may receive from the public, including prospective vendors and bidders, requests for records on a variety of topics. It is WMATA's policy to make official agency records, including electronic records, available to the public, unless specifically prohibited by WMATA's policy or applicable laws.

- (a) "Records" means any existing writings, drawings, maps, recordings, tapes, film, microfilm, correspondence, forms, cards, photographs, optical disks, photo copies, and records stored by computer (electronic records) that are made or received by WMATA in connection with a public contract. A record does not include uncirculated personal notes, papers, electronic records and any other records that were created and retained solely as work papers for personal use of the Contracting Officer, Contract Administrator or other WMATA employee.
- (b) WMATA's contracting process allows for the release/posting of certain information concerning this Contract after its award. This includes the name of the successful bidder and the amount of the award. This information is available on WMATA's website under "Business with Metro" or directly from the Contract Administrator.
- (c) Upon WMATA's request, the successful bidder shall be required to provide a redacted copy of its bid with confidential and proprietary information redacted.
- (d) After the award is announced, the winning proposal may be subject to release under WMATA's Public Access to Records Policy (PARP).

- (e) When WMATA determines that a bid will be of wide public interest, WMATA will post the redacted bid on its website. When WMATA receives three (3) or more requests for a successful bid, WMATA will post it on its website.
- (f) Requests for Records that are not made available during the procurement process will be submitted in accordance with the PARP. Requests must be in writing and sent by mail to the Office of General Counsel, Washington Metropolitan Area Transit Authority, 600 Fifth Street, NW, Washington, D.C. 20001, or by electronic mail at parpprivreq@wmata.com or by facsimile to the attention of the PARP Administrator at (202) 962-2550. If a request for records is sent directly from the requestor to a Contract Administrator, department, or independent office, that entity shall immediately forward the request to the PARP Administrator in the Office of General Counsel. If records are subject to a PARP request, a member of the PARP team will contact the company to begin the PARP document review process, which includes providing detailed written justifications for any information for which exemptions are claimed.
- (g) Neither WMATA's bidding process nor the PARP process generally allow for the release of information that would cause competitive harm to the bidders, other organizations, WMATA's employees, or interests. Information that will be withheld includes the following:
 - (1) The names of unsuccessful bidders;
 - (2) The bids of unsuccessful bidders;
 - (3) Personal information (this does not include education and qualifications which are released) about the successful bidder or its employees that is not available to the public on the website of the successful bidder;
 - (4) Unit price details of the successful bid (this does not include the bottom line price, which is released);
 - (5) The names of the vendors who file a protest to the solicitation or its award;
 - (6) The written adjudication of any protests;
 - (7) Personal information concerning WMATA's employees; and
 - (8) Trade secrets and confidential commercial or financial information obtained from a bidder.
- (h) If your company's records are subject to a PARP request (i.e., if it is the successful bidder), a broad claim of confidentiality for the entire bid is rarely acceptable, and will likely be rejected during the PARP process. Therefore, WMATA suggests that you narrowly identify your confidential/proprietary information based on the following guidance:
 - (i) Information that may be withheld/redacted: Detailed pricing except bottom line offer amounts;
 - (j) Public information subject to release:
 - (1) Any information on your company's website;
 - (2) Publicly known information (even if not on your company's website);
 - (3) General company background;
 - (4) Mere compliance with IFB requirements; and
 - (5) Anything standard to the industry.

TITLE AND RISK OF LOSS

- (a) Unless this Contract specifically provides for earlier passage of title to deliverables (including documents, reports, and data) or other items resulting from this Contract, title shall pass to the Authority upon acceptance, regardless of when or where the Authority takes physical possession. Risk of loss, theft, destruction of, or damage to, such deliverables or other items remains with the Contractor, until the transfer of title or at the time when the Authority takes physical possession, whichever is later.
- (b) In the event of loss or damage to any deliverable or other item of work, prior to the time when the Authority takes physical possession, the Contractor agrees to repair or replace it as soon as reasonably possible to restore the item to the same condition that pre-existed the loss or damage, in accordance with all requirements of this Contract, without cost to the Authority. Nothing contained herein shall be deemed to require the Contractor's repair or replacement of any loss or damage caused solely by the Authority's acts or omissions.

SET-OFF

The Authority has common law, equitable and statutory rights to set-off. These rights shall include, but are not limited to, the Authority's right to set-off any monies due to the Contractor under this Contract, by any amounts due and owing to the Authority with regard to, any Contract with the Authority, plus any amounts due and owing to the Authority for any other reason including, without limitation, tax delinquencies, fee delinquencies or monetary penalties relative thereto. The Authority shall exercise its set-off rights in accordance with applicable law and practices including, in cases of set-off pursuant to an audit, the finalization of such audit by the Authority, its representatives, or the Federal Government.

SENSITIVE SECURITY INFORMATION

The Contractor must protect, and take measures to assure that its subcontractors at each tier protect, "sensitive information" made available during the course of administering an Authority contract or subcontract in accordance with 49 U.S.C. Section 40119(b) and implementing DOT regulations, "Protection of Sensitive Security Information," 49 CFR Part 15, and with 49 U.S.C. Section 114(s) and implementing Department of Homeland Security regulations, "Protection of Sensitive Security Information," 49 CFR Part 1520.

LAWS AND REGULATIONS

The Contractor shall be responsible to comply with any applicable State of Maryland, Commonwealth of Virginia, District of Columbia, Federal and local laws and regulations governing the services and/or supplies to be provided under this Contract. Further, the Contractor shall be responsible to obtain, at its own cost and expense, any and all licenses/permits required to transact business in any political jurisdictions where work will be performed.

METRIC SYSTEM

To the extent the Federal Government directs, the Contractor agrees to use the metric system of measurement in its Contract activities, in accordance with the Metric Conversion Act, as amended by the Omnibus Trade and Competitiveness Act, 15 U.S.C. § 205 (a) *et. seq.*; Executive Order No. 12770, "Metric Usage in Federal Government Programs," 15 U.S.C. § 205(a) note; and applicable U.S. DOT or FTA regulations in accordance with applicable Federal directives. As practicable and feasible, the Contractor agrees to supply products and services with dimensions expressed in the metric system of measurement. Metric usage shall not be required to the extent that such use is impractical or is likely to cause significant inefficiencies or loss of markets to United States firms.

CONTRACTOR PERSONNEL

- (a) The Authority may direct the replacement of the Contractor's employees reasonably deemed to be unsuitable by the Contracting Officer, or whose continued participation in the work is deemed contrary

to the best interests of the Authority. Except in circumstances deemed exigent by the Contracting Officer, the reason for replacement will be discussed between the Contractor and the Authority before a replacement directive is issued. Upon receipt of a written replacement directive from the Authority specifying the date by which the replacement must occur, the Contractor shall proceed with the replacement and shall do so in a manner that minimizes, to the greatest extent practicable, any impact upon the Contract.

- (b) Contractor personnel required to work on WMATA's property must obtain a WMATA vendors' badge and successfully complete the mandatory safety training that must be renewed yearly. The Contractor must advise its affected personnel that, to obtain a vendor's badge, Contractor will perform a background check.

PUBLIC COMMUNICATION

The Contractor shall not issue communications to the media, place advertisements, nor publicize through any means the services, goods or construction that it is providing to WMATA under this Contract, without prior written consent of the Contracting Officer. The Contractor shall not publish, in print or online, any communications products such as newsletters, press releases, blogs or other communications without the Contracting Officer's prior, written consent. Approval of any such requests shall be at the Contracting Officer's sole discretion.

ALL NECESSARY FEDERAL PROVISIONS DEEMED INCLUDED- FTA

It is the intent of the parties that each and every provision of law required to be inserted in this Contract should be and is hereby inserted herein.

RIGHTS IN DATA AND COPYRIGHTS — FTA

- (a) The term "subject data" used in this article means recorded information, whether or not copyrighted, that is delivered or specified to be delivered under this Contract. The term includes graphic or pictorial delineation in media such as drawings or photographs; text in specifications or related performance or design-type documents; machine forms such as magnetic tape, or computer memory printouts; and information retained in computer memory. Examples include, but are not limited to: computer software, engineering drawings and associated lists; specifications, standards, process sheets, manuals, technical reports, catalog item identifications, and related information. The term "subject data" does not include financial reports, cost analyses, and similar information incidental to Contract administration.
- (b) The following restrictions apply to all subject data first produced in the performance of this contract:
 - (1) Except for its or WMATA's own internal use, the Contractor may not publish or reproduce subject data in whole or in part, or in any manner or form, nor may the Contractor authorize others to do so, without the written consent of the U.S. Government, until such time as the Government may have either released or approved the release of such data to the public. This restriction on publication, does not apply to agreements with academic institutions;
 - (2) In accordance with 49 C.F.R. § 18.34 and 49 C.F.R. § 19.36, the Federal Government reserves a royalty-free, non-exclusive and irrevocable license to reproduce, publish, or otherwise use, and to authorize others to use, the following subject data for its purposes:
 - (i) Any subject data developed under this contract whether or not a copyright has been obtained; and
 - (ii) Any rights of copyright to which the contractor purchases ownership with Federal assistance.

- (c) When the Federal Transit Administration (FTA) provides financial assistance for a planning, research, development, or a demonstration project, it is FTA's general intention to increase mass transportation knowledge, rather than limit the benefits to participants in the project. Therefore, unless FTA determines otherwise, the Contractor agrees that, in addition to the rights set forth in subsection (b)(2) of this article, FTA may make available to any FTA recipient, sub-recipient, third party contractor, or third party subcontractor, either FTA's license in the copyright to the subject data derived under this Contract or a copy of the subject data first produced under this Contract. If this Contract is not completed for any reason whatsoever, all data developed under this Contract shall become subject data as defined in subsection (a) and shall be delivered as the Federal Government may direct.
- (d) Unless prohibited by state law, the Contractor agrees to indemnify, save, and hold harmless WMATA and the Federal Government, their officers, agents, and employees acting within the scope of their official duties against any liability, including costs and expenses, resulting from the Contractor's willful or intentional violation of proprietary rights, copyrights, or right of privacy, arising out of the publication, translation, reproduction, delivery, use, or disposition of any data furnished under this Contract. The Contractor shall not be required to indemnify WMATA and the Federal Government for any such liability arising out of the wrongful acts of their employees or agents.
- (e) Nothing contained in this article shall imply a license to WMATA or the Federal Government under any patent or be construed as affecting the scope of any license or other right otherwise granted to WMATA or the Federal Government under any patent.
- (f) The requirements of paragraphs (b) and (c), do not apply to material furnished by the Authority to the Contractor and incorporated in the work carried out under the contract provided that the Contractor identifies the incorporated material at the time of delivery of the work.
- (g) Any dispute arising under this article shall be subject to the "Disputes" article of this Contract.
- (h) Notwithstanding any other payment provision in this Contract, the Contracting Officer may retain from payments due and owing the Contractor up to 10 percent (10 %) of the contract price until final delivery and acceptance of the subject data defined in this article and as required to be furnished by the Price Schedule or the Contract's specifications.

RETAINAGE

- (a) *Alternate Security in lieu of Retainage.* The parties agree that retainage of any amounts based on a percentage of the work completed (or as a line item tied to completion of the work) is duplicative and unnecessary if either: (i) a performance bond is in place for the project, or (ii) Contractor posts alternative security in the form of a bond or letter of credit in the amount agreed upon retainage based on Contract price. Thus, if either of the above exists, no provision of this Contract shall serve to deny Contractor's entitlement to full payment for work performed with no amounts withheld or deducted for retainage.
- (b) *Final Payment Only Retainage.* All amounts withheld from Contractor as retainage, based on a percentage of the work completed, or as a line item tied to the completion of the work shall be retained solely out of the Contractor's final payment. Payment of any fund withheld from Contractor's final payment shall be released to Contractor within thirty (30) days after completion of Contractor's Work and Closeout Release.
- (c) *No Retainage.* No provision of this Contract shall serve to deny Contractor's entitlement to full payment for properly performed work or suitably stored materials. No amounts shall be withheld from any payment request submitted by Contractor based on percentage of the work performed

during the period of performance and no amounts shall be assigned to the line items, other than as assigned by Contractor in its payment requests.

PAYMENT DEDUCTIONS - NONCOMPLIANCE WITH DBE REQUIREMENTS- FTA

- (a) For Federally funded contracts that exceed \$150,000 and to which the Disadvantage Business Enterprise (DBE) Requirements (Appendix B) apply, the failure to perform in accordance with requirements of Appendix B may result in a partial or full suspension of payment, including progress payments, if applicable.
- (b) If the Contractor is found to be in noncompliance with the DBE requirements of Appendix B, the progress of the work shall also be deemed to be unsatisfactory, and an amount equal to the DBE participation in the Contract shall be retained from payment (or progress payments, if any) made to the Contractor.
- (c) If the contract value is over \$150,000, the prime contractor will be responsible for submitting a monthly report of the status of its DBE subcontractors as outlined in Appendix B to the Contracting Officer.
- (d) If the Contractor fails to submit the required monthly DBE reports, the Contracting Officer may suspend payment (or progress payments) until such time as the monthly reports are submitted and accepted by the Authority.

BONDING FOR CONSTRUCTION PROJECTS EXCEEDING \$150,000 – FTA

The Contractor agrees to comply with applicable bonding requirements as follows:

- (a) *Proposal Security.* A proposal bond must be issued by a fully qualified surety company acceptable to WMATA and listed as a company currently authorized under 31 C.F.R. Part 223 as possessing a Certificate of Authority as described thereunder.
- (b) *Rights Reserved.* In submitting its offer, it is understood and agreed by offeror that the right is reserved by WMATA to reject any and all offers, or part of any offer. It is also understood and agreed that if the offeror refuses or is unable to enter into this Contract, or refuses or is unable to furnish adequate and acceptable performance bonds and labor and material payments bonds, or refuses or is unable to furnish adequate and acceptable insurance, it shall forfeit its security to the extent of WMATA's damages occasioned by such withdrawal, or refusal, or inability to enter into an agreement, or provide adequate security therefore. It is further understood and agreed that to the extent that the defaulting offeror's proposal bond, certified check, cashier's check, treasurer's check, and/or official bank check (excluding any income generated thereby that was retained by WMATA) shall prove inadequate to fully compensate WMATA for the damages occasioned by default, then the offeror agrees to indemnify WMATA and pay over to WMATA the difference between the proposal security and WMATA's total damages, so as to make WMATA whole.
- (c) *Performance and Payment Bonding Requirements (Construction).* The Contractor shall be required to obtain performance and payment bonds as follows:
 - (1) *Performance bonds.* The penal amount of performance bonds shall be one hundred percent (100%) of the original Contract price, unless WMATA determines that a lesser amount would be adequate for its protection.
 - (2) WMATA may require additional performance bond protection when the Contract price is increased. The increase in protection shall generally equal one hundred percent (100%) of the increase in Contract price. WMATA may secure additional protection by directing the Contractor to increase the penal amount of the existing bond or to obtain an additional bond.

(d) *Payment bonds.* The penal amount of the payment bonds shall equal:

- (1) Fifty percent (50%) of the Contract price, if it is not more than \$1,000,000.
- (2) Forty percent (40%) of the Contract price, if it is more than \$1,000,000, but not more than \$5,000,000; or
- (3) Two and one half million (\$2,500,000), if the Contract price is more than \$5,000,000.

(a) If the original Contract price is \$5,000,000 or less, WMATA may require additional protection, if the Contract price is increased.

CRIMINAL BACKGROUND CHECK REQUIREMENT

- (a) Pursuant to Metro Policy Instruction 7. 2.3/2, "Criminal Background Checks," (a copy is attached, **Section 00451**), the Contractor shall have the sole responsibility for, and shall assure, adequate criminal background screenings on a routine basis for all persons that the Contractor considers for work under this Contract, if the person would have access to WMATA's customers, the general public, WMATA's property, or WMATA's information. In conducting these screenings, the Contractor shall take due regard for the nature of the person's job, with particular regard for the person's exposure to and interaction with WMATA's customers and the general public. Screenings should be job related for the position in question and consistent with business necessity. The Contractor shall not place or otherwise engage any person to work under this Contract, who has not passed a criminal background check, if that person would have access to WMATA's customers, property, or information or if the person would interact with the general public on WMATA's behalf. This includes all Contractor personnel who will work on WMATA's premises, who will be denied Contractors' access badges, unless and until adequate criminal background screenings are performed. At the end of each calendar quarter, the Contractor shall certify to the Contracting Officer, its compliance with this criminal background screening requirement. All persons required to be screened, which includes all Contractor personnel who require a Contractors' badge to access a WMATA facility shall pass the Contractor's criminal background screening before working on this Contract, and before being issued a Contractors' access badge.
- (b) The Contractor shall indemnify and hold WMATA harmless from any and all claims, demands, damages, costs and expenses, including attorneys' fees and other costs and expenses associated with any claims, demands, requests for relief, and/or other liabilities arising out of or resulting from the Contractor's criminal background screening obligations and processes.

END OF SECTION

APPENDIX A – INDEX OF DRAWINGS

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Appendix B – Disadvantaged Business Enterprise

APPENDIX B

Disadvantaged Business Enterprise

ATTACHMENT A

***NOTICE OF REQUIREMENTS
FOR
DISADVANTAGED BUSINESS ENTERPRISE (DBE)***

May 2015

~Applies only if proposal price is \$500,000 or more for a construction contract or \$150,000 or more for a supply and service contract.

~APPENDIX B~

DISADVANTAGED BUSINESS ENTERPRISE (DBE)

1. DISADVANTAGED BUSINESS ENTERPRISE (DBE) REQUIREMENT:

- A. The DBE requirements of the Authority's DBE Program Plan apply to this contract. Accordingly, the Contractor shall carry out the requirements of the Authority's DBE Program Plan and this Appendix in the award and administration of this U.S. Department of Transportation (US DOT) assisted contract.

2. POLICY:

- A. It is the policy of the Authority (WMATA), the Federal Transit Administration (FTA) and the US DOT that Disadvantaged Business Enterprises (DBEs) shall compete fairly to receive and participate in performing federally assisted contracts, including contracts and subcontracts at any tier. It is further the policy of the Authority, the FTA and the US DOT that its prime contractors establish procedures to ensure the timely payment of amounts due pursuant to the terms of their subcontracts. The Contractor hereby agrees to carry out this policy in the award and administration of subcontracts to the fullest extent possible consistent with efficient Contract performance.

3. CONTRACT GOAL:

- A. If the bidder is not a DBE, the bidder agrees that the DBE goal for this Contract shall be met by subcontractors or by joint ventures with DBEs. The goal set forth for this Contract is **29%** of the final Contract price, including amendment and modification. The amount of DBE participation will be determined by the dollar value of the work performed and/or supplies furnished by DBE firms as compared to the total value of all work performed and/or supplies furnished under this Contract. The Contractor shall have met this goal if the Contractor's DBE participation meets or exceeds this goal.
- B. In cases where work is added to the Contract by modification such that additional DBE participation is necessary to meet this goal, the Contractor shall increase the participation of one or more firms listed on the "Schedule of DBE Participation" or submit additional DBE certified firms to meet the goal. In cases where work is deleted from the Contract, the goal shall be applicable to the new Contract amount. The Contractor shall be permitted to meet the goal by revising its DBE participation, provided, however, that the revision shall not result in DBE participation that is less than the original goal.

4. DEFINITIONS:

- A. **Appendix B.** The Notice of Requirements for Disadvantaged Business Enterprise, which when attached to a solicitation, implements the DBE requirements of the Authority's DBE Program Plan in the award and administration of federally funded Authority contracts.
- B. **Certified DBE.** means a for-profit small business concern (a) that is at least fifty one percent (51%) owned by one or more individuals who are both socially and economically disadvantaged or, in the case of a corporation, in which fifty one percent (51%) of the stock is owned by one or more such individuals; (b) whose management and daily business operations are controlled by one or more of the socially and economically disadvantaged individuals who own it; and (c) whose eligibility is evidenced by a current WMATA Certification letter, a D.C. Department of Transportation Certification letter, or a certification letter issued by the Metropolitan Washington Unified Certification Program (MWUCP).

- C. **Contractor.** One who participates, through a contract or subcontract (at any tier), in a US DOT assisted highway, transit or airport program.
- D. **DC DOT.** The District of Columbia Department of Transportation.
- F. **Good Faith Efforts.** Efforts to achieve a DBE goal or other requirements of the Authority's DBE Program Plan which by their scope, intensity, and appropriateness to the objective, can reasonably be expected to fulfill the goal program requirement.
- G. **Joint Venture.** An association of a DBE firm and one (1) or more other firms to carry out a single, for-profit business enterprise, for which the parties combine their property, capital, efforts, skills and knowledge, and in which the DBE is responsible for a distinct, clearly defined portion of the work of the contract and shares in the capital contribution, control, management, risks, and profits of the joint venture commensurate with its ownership interest.
- H. **Metropolitan Washington Unified Certification Program (MWUCP).** A unified certification program mandated by 49 C.F.R. §26.81 between two Federal transit recipients (WMATA and the D.C. Department of Transportation). The agreement became effective January 2005.
- I. **Pre-certification.** A requirement under 49 C.F.R. §26.81(c) that all certifications by the MWUCP be made final before the due date for bids or offers on a contract on which a firm seeks to participate as a DBE.
- J. **Race-conscious.** A measure or program that is focused specifically on assisting only DBEs, including women-owned DBEs.
- K. **Race-neutral.** A measure or program that is, or can be, used to assist all small businesses. For the purposes of the DBE program, race-neutral includes gender-neutrality.
- L. **Small Business Concern.** With respect to firms seeking to participate as DBEs in US DOT assisted contracts, a small business concern as defined pursuant to Section 3 of the Small Business Act and Small Business Administration implementing regulations (13 C.F.R. Part 121) that also does not exceed the cap on average annual gross receipts specified in 49 CFR § 26.65(b).
- M. **Socially and Economically Disadvantaged Individual.** Any individual who is a citizen (or other lawfully admitted permanent resident) of the United States and who the Authority finds to be a socially and economically disadvantaged individual on a case-by-case basis, and any individual in the following groups, members of which are rebuttably presumed to be socially and economically disadvantaged.
 - (1) Black Americans, which includes persons having origins in any of the Black racial groups of Africa;
 - (2) Hispanic Americans, which includes persons of Mexican, Puerto Rican, Cuban, Dominican, Central or South American, or other Spanish or Portuguese culture or origin, regardless of race;
 - (3) Native Americans, which includes persons who are American Indians, Eskimos, Aleuts, or Native Hawaiians;
 - (4) Asian-Pacific Americans, which includes persons whose origins are from Japan, China, Taiwan, Korea, Burma (Myanmar), Vietnam, Laos, Cambodia (Kampuchea), Thailand, Malaysia, Indonesia, the Philippines, Brunei, Samoa, Guam, the U.S. Trust Territories of the Pacific Islands (Republic of Palau), the Commonwealth of the North Marianas Islands, Macao, Fiji, Tonga, Kiribati, Juvalu, Nauru, Federated States of Micronesia, or Hong Kong;
 - (5) Subcontinent Asian Americans, which includes persons whose origins are from India, Pakistan, Bangladesh, Bhutan, the Maldives Islands, Nepal or Sri Lanka;

- (6) Women; and
- (7) Any additional groups whose members are designated as socially and economically disadvantaged by the SBA, at such time as the SBA designation becomes effective.
- N. US DOT Assisted Contract. Any contract between the Authority and a contractor (at any tier) funded in whole or in part with US DOT financial assistance, including letters of credit or loan guarantees.
- O. Unified Certification Program (UCP). The program mandated by 49 C.F.R. § 26.81(a), which requires all U. S. DOT recipients of Federal financial assistance to participate in a statewide certification program by March 2002.
- P. WMATA. Washington Metropolitan Area Transit Authority, the transit system (rail and bus) serving the metropolitan Washington area, including parts of Virginia and Maryland.

5. HOW DBE PARTICIPATION IS COUNTED TOWARDS THE CONTRACT GOAL:

DBE participation shall be counted towards meeting the DBE goal in accordance with the following:

- A. When a DBE participates in a contract, only the value of the work actually performed by the DBE is counted towards the DBE goal.
 - (1) This amount includes the entire amount of that portion of a construction contract that is performed by the DBE's own forces. This amount includes the cost of supplies and materials obtained by the DBE for the work of the contract, including supplies purchased or equipment leased by the DBE (except supplies and equipment the DBE subcontractor purchases or leases from the prime contractor or its affiliate).
 - (2) This amount includes the entire amount of fees or commissions charged by a DBE firm for providing a bona fide service, such as professional, technical, consultant, or managerial services, or for providing bonds or insurance specifically required for the performance of the contract, towards the DBE goal, provided the fee is reasonable and not excessive as compared with fees customarily allowed for similar services.
 - (3) When a DBE subcontracts part of its work under the contract to another firm, the value of the subcontract work may be counted towards the DBE goal only if the DBE's subcontractor is itself a DBE. Work that a DBE subcontracts to a non-DBE firm does not count towards the DBE goal.
- B. When a DBE performs as a participant in a joint venture, the portion of the total dollar value of the contract equal to the distinct, clearly defined portion of the work of the contract that a DBE performs with its own forces towards the DBE goal may be counted.
- C. Expenditures to a DBE contractor towards the DBE goal may be counted only if the DBE is performing a commercially useful function on that contract.
 - (1) A DBE performs a commercially useful function when it is responsible for execution of the work of the contract and is carrying out its responsibilities by actually performing, managing, and supervising the work involved. To perform a commercially useful function, the DBE must also be responsible, with respect to materials and supplies used on the contract, for negotiating price, determining quality and quantity, ordering the material, and installing (where applicable) and paying for the material itself. To determine whether a DBE is performing a commercially useful function, the Authority will consider the amount of work subcontracted, industry practices, whether the amount the firm is to be paid under the contract is commensurate with the work it is actually performing and the DBE credit claimed for its performance of the work, and other relevant factors.
 - (2) A DBE does not perform a commercially useful function if its role is limited to that of an extra participant in a transaction, contract, or project through which funds are passed in order to obtain the appearance of DBE participation.

- (3) If a DBE does not perform or exercise responsibility for at least 30 percent of the total cost of its contract with its own work force, or if the DBE subcontracts a greater portion of the work of a contract than would be expected on the basis of normal industry practice for the type of work, the Authority will presume that the DBE is not performing a commercially useful function.
- D. The following factors will be used by the Authority in determining whether a DBE trucking company is performing a commercial useful function:
- (1) The DBE must be responsible for the management and supervision of the entire trucking operation for which it is responsible for on a particular contract, and there cannot be a contrived arrangement for the purpose of meeting the DBE goal.
 - (2) The DBE must itself own and operate at least one fully licensed, insured and operational truck used on the contract.
 - (3) The DBE receives credit for the total value of the transportation services it provides on the contract using trucks it owns, insures, and operates using drivers, it employs.
 - (4) The DBE may lease trucks from another DBE firm, including an owner-operator who is certified as a DBE. The DBE who leases trucks from another DBE receives credit for the total value of the transportation services the lessee DBE provides on the contract.
 - (5) The DBE may also lease trucks from a non-DBE firm, including an owner-operator. The DBE who leases trucks from a non-DBE is entitled to credit only for the fee or commission it receives as a result of the lease arrangement. The DBE does not receive credit for the total value of the transportation services provided by the lessee, since these services are not provided by a DBE.
 - (6) The lease must indicate that the DBE has exclusive use of and control over the truck. This does not preclude the leased truck from working for others during the terms of the lease with the consent of the DBE, so long as the lease gives the DBE absolute priority for use of the leased truck. Leased trucks must display the name and identification number of the DBE.
- E. The following factors will be used to count expenditures with DBEs for materials or supplies towards the DBE goal:
- (1) If the materials or supplies are obtained from a DBE manufacturer, one hundred percent (100%) of the cost of the materials or supplies will be counted towards the DBE goal. A manufacturer is a firm that operates or maintains a factory or establishment that produces, on the premises, the materials, supplies, articles, or equipment required under the contract and of the general character described by the contract.
 - (2) If the materials or supplies are purchased from a DBE regular dealer, sixty percent (60%) of the cost of the materials or supplies will be counted towards the DBE goal. A regular dealer is a firm that owns, operates or maintains a store, warehouse, or other establishment in which the materials, supplies, articles or equipment of the general character described and required under the contract are bought, kept in stock, and regularly sold or leased to the public in the usual course of business. To be a regular dealer, the firm must be an established, regular business that engages, as its principal business and under its own name, in the purchase and sale or lease of the products in question. A person may be a regular dealer in such bulk items as petroleum products, steel, cement, gravel, stone or asphalt without owning, operating, or maintaining a place of business as provided in this paragraph if this person both owns and operates distribution equipment for the products. Any supplementing of regular dealers' own distribution equipment shall be by long-term lease agreement and not on an ad hoc or contract-by-contract basis. Packagers, brokers, manufacturers' representatives, or other

persons who arrange or expedite transactions are not regular dealers within the meaning of this paragraph.

- (3) With respect to materials or supplies purchased from a DBE which is neither a manufacturer nor a regular dealer, the entire amount of fees or commissions charged for assistance in the procurement of the materials and supplies, or fees or transportation charges for the delivery of materials and supplies required on a job site, may be counted towards the DBE goal, provided the fees are reasonable and are not excessive as compared to fees customarily allowed for similar services. The cost of the materials and supplies themselves may not be counted towards the DBE goal.
- F. All DBE firms must be pre-certified. Participation by a firm that is not currently Authority certified as a DBE at the time of bid opening, does not count towards the DBE goal. All DBE firms must be in compliance with 49 CFR, Part 26.
- G. The dollar value of work performed under this Contract by a firm that MWUCP decertifies as a DBE does not count towards the DBE goal.
- H. The participation of a DBE subcontractor does not count towards the Contractor's DBE goal, until the amount being counted towards the goal has been paid to the DBE.

6. BIDS AND REQUIREMENTS (WITH THE BID):

The bidder shall submit the following with its bid. Any bidder who fails to complete and return this information with its bid shall be deemed to be not responsive and may be ineligible for Contract award. Bidders that fail to meet the DBE goal above and fail to demonstrate "good faith efforts" to justify waiver of the DBE goal (See paragraph 6.C. below) shall be deemed to be not responsible and will be ineligible for Contract award.

- A. Completed "Schedule of DBE Participation" (Attachment B-1) sufficient to meet the above goal. If the bidder is a DBE firm and intends to satisfy the appropriate DBE requirement with its own firm, it must indicate in the Schedule the area of work and percentage it will perform to satisfy the goal. All offerors must attach current WMATA, DC DOT or MWUCP certification letters for each DBE listed on the Schedule.
- B. Executed "Letters of Intent to Perform as a Subcontractor/Joint Venture" (Attachment B-2). If the bidder is not a DBE or intends to satisfy the requirements through other DBE firms, then it must attach these letters from each certified DBE listed on the Schedule.
- C. Justification for grant of relief (Appendix B waiver of DBE goal). If in the submittal of its bid, the bidder fails to meet the DBE goal above, the bidder has the burden of furnishing sufficient documentation with its bid of its "good faith efforts" to justify a grant of relief (waiver) from the goal or portion of the goal. Such justification shall be in the form of a detailed report. The following is a list of actions that shall be considered as part of the bidder's good faith efforts to obtain DBE participation. This list is neither a mandatory checklist nor is it intended to be exclusive or exhaustive. Other factors or types of efforts may be relevant in appropriate cases:
 - (1) Soliciting through all reasonable and available means (e.g. attendance at pre-bid meetings, advertising and/or written notices) the interest of all certified DBEs who have the capability to perform the Contract. The bidder must solicit this interest within sufficient time to allow the DBEs to respond to the solicitation. The offeror must determine with certainty if the DBEs are interested by taking appropriate steps to follow up initial solicitations.
 - (2) Selecting portions of the work to be performed by DBEs in order to increase the likelihood that the DBE goal will be achieved. This includes, where appropriate, breaking out Contract work items into economically feasible units to facilitate DBE participation, even when the prime contractor might otherwise prefer to perform these work items with its own forces.

- (3) Providing interested DBEs with adequate information about the plans, specifications, and requirements of the contract in a timely manner to assist them in responding to a solicitation.
- (4) Negotiating in good faith with interested DBEs. It is the offeror's responsibility to make a portion of the work available to DBE subcontractors and suppliers and to select those portions of the work or material needs consistent with the available DBE subcontractors and suppliers, so as to facilitate DBE participation. Evidence of such negotiation includes the names, addresses, and telephone numbers of DBEs that were considered; a description of the information provided regarding the plans and specifications for the work selected for subcontracting; and evidence as to why additional agreements could not be reached for DBEs to perform the work. "DBE Unavailability Certifications" (Attachment B-3) shall be completed as appropriate.
- (5) An offeror using good business judgment would consider a number of factors in negotiating with subcontractors, including DBE subcontractors, and would take a firm's price and capabilities as well as the Contract goal into consideration. However, the fact that there may be some additional costs involved in finding and using DBEs is not in itself sufficient reason for a bidder's failure to meet the contract DBE goal, as long as such costs are reasonable. Also, the ability or desire of a prime contractor to perform the Contract with its own organization does not relieve the offeror of the responsibility to make good faith efforts. Prime contractors are not, however, required to accept higher quotes from DBEs, if the price difference is excessive or unreasonable.
- (6) Not rejecting DBEs as being unqualified without sound reasons based on a thorough investigation of their capabilities. The contractor's standing within its industry, membership in specific groups, organizations, or associations and political or social affiliations (for example union vs. non-union employee status) are not legitimate causes for the rejection or non-solicitation of bids in the Contractor's efforts to meet the project goal.
- (7) Making efforts to assist interested DBEs in obtaining bonding, lines of credit, or insurance as required by the recipient or contractor.
- (8) Making efforts to assist interested DBEs in obtaining necessary equipment, supplies, materials, or related assistance or services.
- (9) Effectively using the services of available minority/women community organizations; minority/women contractors' groups; local, state, and Federal minority/women business assistance offices; and other organizations as allowed on a case-by-case basis to provide assistance in the recruitment and placement of DBEs.

7. BID REQUIREMENTS (APPARENT LOW BIDDER):

The bidder shall submit the following items within ten (10) calendar days after notification that they are the apparent low bidder:

- A. A copy of a current WMATA, D.C. DOT or MWUCP certification letter(s) shall be attached to the DBE Schedule of Participation to evidence DBE pre-certification.
- B. DBE Manufacturer's Affidavit, if applicable, must be submitted in order to receive one hundred percent (100%) of the allowable credit for expenditures to DBE manufacturers/suppliers (Attachment B-4). By submission of this affidavit, the bidder certifies this it is satisfied that the manufacturer meets the requirements of 49 CFR Part 26.

- C. Schedule B Information for Determining Joint Venture Eligibility, if applicable (Attachment B-5, pgs. 1-4). Submittal shall be signed by all parties, dated and notarized.
- D. Copy of Joint Venture Agreement, if applicable. Submittal shall be signed by all parties, dated and notarized.
- E. Certification letter of the DBE regular dealer/supplier, if applicable. If the bidder wants to receive the maximum allowable credit for its expenditures for material(s) or supplies required under this Contract, from DBE regular dealers/suppliers, the DBE must submit a signed and notarized statement on their letterhead, stating that it is a regular dealer of the material(s) or supplies. By submission of this statement, the bidder certifies that it is satisfied that the subcontractor is a regular dealer/supplier that meets the requirements of 49 CFR Part 26.
- F. For design-build contracts, if a DBE goal is specified in the DBE GOAL/ REQUIREMENTS, the bidder shall submit, with its initial bid, a list of DBE-certified firms that it intends to enter into subcontract agreements with for this Contract. If no goal is specified in the solicitation and the bidder still intends to utilize DBEs in the performance of this Contract, the offeror shall submit with its initial bid a list of those DBE-certified firms. The documentation requirements of the solicitation shall be completed and submitted at the time of bid opening for any Contract in which a DBE goal is applicable or for any Contract in which there was no goal established, but the offeror identified DBE-certified firms that it intended to enter into subcontract agreements with in its initial bid. Any bidder who fails to complete and return the following information, if applicable, with its bid may be deemed to be not responsible and may be ineligible for Contract award. Offerors that fail to meet the DBE goal, if any, specified in the solicitation and fail to demonstrate a good faith effort and/or to justify waiver of the DBE goal, may be deemed to be not responsible and may be ineligible for contract award.

8. CONTRACT ADMINISTRATION REQUIREMENTS:

The following requirements apply after Contract award:

- A. The Contractor shall include the following provision in each subcontract it awards in support of the DBE goal:

“The Contractor shall not discriminate on the basis of race, color, national origin or sex in the performance of this contract. The Contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of US DOT assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this contract, that may result in termination of this Contract or such other remedy as the Authority deems appropriate.”
- B. (1) The Contractor shall monitor the performance of, collect and report data on DBE participation to the WMATA’s DBE Office on the attached “Prompt Payment Report-Prime Contractor’s Report” (Attachment B-6) which shall be submitted monthly with each payment request. Failure to submit these reports may result in suspension of Contract payments. The Contractor shall certify with each payment request that payment has been or will be made to all subcontractors due payment, within ten (10) days after receipt of payment from the Authority for work by that subcontractor. The Contractor shall inform the COR or COTR, with its payment request, of any situation where scheduled subcontractor payments have not been made and the reason therefore.
- (2) The Contractor shall require each subcontractor to complete and forward to the DBE Liaison Officer on a monthly basis a “Prompt Payment Report-Subcontractor’s Report” (Attachment B-7). The subcontractor shall certify that payment has been received.
- C. The Contractor shall have a continuing obligation to maintain a schedule for participation by DBE contractor(s) to meet its goal set forth above in this Appendix. The Contractor shall not have work performed nor the materials or supplies furnished by any individual or firm other than those named in the “Schedule of DBE Participation.” If at any time, the Contractor believes or has reason to believe that it needs to obtain a substitute for a DBE contractor named in the

"Schedule of DBE Participation", the Contractor shall, within ten (10) days, notify the Contracting Officer and the DBE office of that fact in writing. Situations which may warrant substitution for a DBE firm include, but are not limited to the following:

- (1) Evidence of change in ownership or circumstances regarding the firm's status as a DBE.
- (2) Death or physical disability, if the named subcontractor or DBE partner of the joint venture is an individual.
- (3) Dissolution, if a corporation or partnership.
- (4) Bankruptcy of the subcontractor, subject to applicable bankruptcy law, and only instances where the bankruptcy affects the Contractor's ability to perform.
- (5) Inability to furnish a reasonable performance or payment bond, if required.
- (6) Inability to obtain, or loss of, a license necessary for the performance of the particular category of work.
- (7) Failure or inability to comply with a requirement of law applicable to contractors and subcontractors on a construction, alteration or repair project.
- (8) Failure or refusal to execute the subcontract in accordance with the terms of an offer submitted to the Contractor prior to the Contractor's submission of its offer, but only where the Contracting Officer or other delegated Authority representative can ascertain with reasonable certainty the terms of such offer. In the absence of any other factors, such a failure or refusal will be considered an unusual situation only if the offeror obtained, prior to bidding/proposing, an enforcement commitment from the subcontractor involved.
- (9) Failure to comply with the terms and conditions of this Contract or those of its subcontract or joint venture agreement.

Within thirty (30) days thereafter, the Contractor shall, if necessary to achieve the Appendix B goal, make every reasonable effort to subcontract the same or other work equivalent in value to other certified DBE firms. The Contractor must have the prior, written approval of the Contracting Officer and the DBE Office before substitution of a DBE subcontractor, regardless of the reason for substitution. Failure to obtain the Authority's approval could result in the Contractor's suspension or debarment.

- D. The Contractor shall forward copies of all subcontracts to the DBE Office at the time of their execution.
- E. If the Contracting Officer or other delegated Authority representative determines that the Contractor has failed to comply with this Appendix B, he/she will notify the Contractor of such noncompliance and the action to be taken. The Contractor shall, after receipt of such notice, take corrective action. If the Contractor fails or refuses to comply promptly, the Contracting Officer or other delegated Authority representative may issue a "stop work order" stopping all or part of the work until satisfactory corrective action has been taken. No part of the time lost due to any such stop work order shall be made the subject of claim for extension of time or for excess costs or damages by the Contractor. When the Authority proceeds with such formal actions, it has the burden of proving that the Contractor has not met the requirements of this Appendix. The Contractor's failure to meet its Appendix B goal shall shift the burden to it to show that it has met the good faith requirements of this Appendix. After exhausting all of its administrative and legal remedies, if the Contractor is found to have failed to exert a "good faith effort" to involve DBEs in the work, the Authority may suspend or debar the Contractor.
- F. The Contractor agrees to cooperate in any studies or surveys as may be conducted by the Authority which are necessary to determine the extent of the Contractor's compliance with this Appendix.

- G. The Contractor shall keep records and documents for two (2) years following performance of this Contract to indicate compliance with this Appendix. These records and documents, or copies thereof, shall be made available at reasonable times and places for inspection by any authorized representative of the Authority and will be submitted upon request, together with any other compliance information that such representative may require.
- H. If the Authority, FTA or the US DOT has reason to believe that any person or firm has willfully and knowingly provided incorrect information or made false statements regarding the DBE Program, the matter shall be referred to the WMATA's DBE office, and WMATA's Office of Inspector General (OIG).
- I. Failure by the Contractor to carry out the requirements of this Appendix is a material breach of this Contract, that may result in the termination of this Contract or such other remedy as the Authority deems appropriate.

SUMMARY OF SUBMITTALS

With the Bid:

1. Completed "Schedule of DBE Participation" (Attachment B-1) with current certification letters attached for each listed DBE.
2. Executed "Letters of Intent to Perform as a Subcontractor/Joint Venture" (Attachment B-2).
3. Justification for grant of relief (waiver of DBE goal), if applicable. Include completed "DBE Unavailability Certifications" (Attachment B-3) as appropriate.

Bid Requirements (Apparent Low Bidder)

1. All DBEs must submit copies of their current WMATA or D.C. DOT certification letters or a certification letter issued by the MWUCP.
2. A DBE Manufacturer's Affidavit, if applicable, must be submitted in order to receive one hundred percent (100%) of the allowable credit for expenditures to DBE manufacturers/suppliers (Attachment B-4).
3. Schedule B Information for Determining Joint Venture Eligibility, if applicable (Attachment B-5, pgs. 1, 2, 3, 4).
4. Copy of Joint Venture Agreement, if applicable.
5. Certification letter of the DBE regular dealer/supplier, if applicable.

After Contract Award

1. "Prompt Payment Report-Prime Contractor's Report" Attachment B-6) – submitted monthly.
2. "Prompt Payment Report-Subcontractor's Report" (Attachment B-7) - submitted monthly.
3. Request to substitute DBE contractor (see paragraph 8.C.) – submitted as required.
4. Copies of subcontracts-submitted at the time of their execution.

S U B M I T W I T H B I D
SCHEDULE OF DBE PARTICIPATION

Contract No. _____

Project Name _____

Name of Bidder

The bidder shall complete this Schedule by identifying only those DBE firms, (with scope of work and price) who have agreed to perform work on this Contract. The prices shall be at an amount that is at least the DBE percentage goal for the total Contract. The offeror agrees to enter into a formal agreement with the DBE firm(s) listed for the work, at an amount equal to, or greater than, the prices listed in this Schedule, subject to award of a Contract with the Authority. If the total amount is less than the DBE percentage goal, a justification for waiver of DBE goal shall be attached to this Schedule.

Name of DBE Subcontractor	Address	Type of Work(Electrical, Paving, Etc.) and Contract Items or Parts Thereof to be Performed and Work Hours Involved	Agreed Price
Subtotal \$ DBE Subcontractors			
Name of DBE Prime Contractor	Address	Type of Work (Electrical, Paving, Etc.) and Contract Items or Parts Thereof to be Performed and Work Hours Involved	Agreed Price
Subtotal \$ DBE Prime Contractor			
TOTAL \$ ALL DBE CONTRACTORS		TOTAL	

Signature of Contractor' Representative

Title

☐ **Date**23.26a (Rev 02/12)

Contract No.: FQ18004
Date: August 2017

Washington Metropolitan Area Transit Authority
IFB No.: FQ18004/KKB

Contract Number: _____

Project Name: _____

**LETTER OF INTENT TO PERFORM AS A SUBCONTRACTOR/JOINT VENTURE
(ALL ITEMS MUST BE COMPLETED)**

TO: _____
(Name of Offeror)

The undersigned intends to perform work in connection with the above projects as (check one):

_____	An individual	_____	A corporation
_____	A partnership	_____	A joint venture

Specify in detail particular work items or parts thereof to be performed:

at the following price: \$_____

Please indicate ____ % of the dollar value of the subcontract that will be awarded to non-DBE contractors, if applicable. The undersigned will enter into a formal agreement with you for the above work upon your execution of a contract with the Authority.

Name of DBE Subcontractor/Joint Venture

Phone Number

Address

WMATA Vendor ID #/DBE Cert. #

Signature & Title

Date

The following is to be completed by the Prime Contractor. A copy of this letter must be returned to the DBE subcontractor to indicate acceptance.

To: _____
(Name of DBE)

You have projected your interest and intent for such work, and the undersigned is projecting completion of such work as follows:

WORK ITEMS	PROJECTED DBE COMMENCEMENT DATE	PROJECTED DBE COMPLETION DATE
_____	_____	_____

(Date)

(Name of Prime Contractor &
Acceptance Signature)

SUBMIT WITH BID

DBE UNAVAILABILITY CERTIFICATION

I, _____, _____, of _____
(Name) (Title) (Bidder)

certify that on _____ I contacted the following DBE contractor(s) to obtain offer(s) for work
(Date)
items to be performed on Contract Number _____

DBE Contractor	Work Sought	Items	Form of Bid Sought (i.e., Unit Price, Materials and Labor Only, Etc.)
_____	_____	_____	_____

To the best of my knowledge and belief, said DBE contractors were unavailable (exclusive of unavailability due to lack of agreement on price) for work on this project, or unable to prepare a bid, for the following reason(s):

Signature: _____

Date: _____

_____ was offered an opportunity to submit a bid on the above
(Name of DBE Contractor)
identified work on _____ by _____
(Date) (Source)

The above statement is true and accurate account of why I did not submit an offer on this project.

(Signature of DBE Contractor)

(Title)

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DBE Certification Instructions

Important Notice

If you do not have a current, official letter of certification from WMATA, D.C. DOT or MWUCP, you are not pre-certified and are therefore not eligible to participate as a Disadvantaged Business Enterprise on the bid.

For those who wish to access the MWUCP certification application, it may be found on the internet at the following address:

https://www.wmata.com/business/disadvantaged_business_enterprise. Go to "Procurement and Contracting", click on "Disadvantaged Business Enterprise", then click on "DBE Application for Certification".

49 CFR Part 26 gives Metropolitan Washington Unified Certification Program (MWUCP) ninety (90) days in which to process a complete DBE application. In order to become certified and participate in the MWUCP, you must comply with the procedures that follow. Certification must be final before the due date for bids or offers on a contract on which a firm seeks to participate as a DBE.

Instructions

49 C.F.R. § 26.81(d) of the Certification Procedures requires a firm to be certified as a DBE in its "home state," where its principal place of business is located, in order to become certified outside such "home state". Therefore, you must attach to the MWUCP application, a copy of a valid DBE Certification letter from your home state's Department of Transportation. In addition, submit the pertinent documents for your company listed below. The application should be completed in full and NOTARIZED.

General (All firms must submit these documents.)

- Current (unaudited) Financial Statements;
- Prior three (3) years Federal Tax Returns;
- Resume of Principal(s) and Key Personnel;
- Third Party Agreements, such as Rental and Management Agreements;
- Licenses to Do Business;
- Personal Net Worth (PNW) Statement;
- Statement of Disadvantage;
- No Change Affidavit or Notice of Change (where applicable).

Corporations

- Articles of Incorporation;
- By-Laws;
- Copies of any Stock Options;
- Copies of Stock Certifications of Each Holder;
- Copies of Stockholders' Voting Rights;
- Record of First Organizational Meeting.

Partnerships

- Partnership Agreement

Proprietorships

- IRS Employer ID Number
- WMATA Vendor ID#

Limited Liability Companies

Operating Agreement with any amendments;
Certificate of Formation, U.S. Income Tax Returns.

Change of Status Review

On or before each certification anniversary date, you must submit a No Change Statement attesting that there have been no changes in the firm's circumstances affecting its ability to meet the eligibility requirements of 49 CFR Part 26 or WMATA's DBE Program Plan. Firms with changed circumstances must submit a Notice Regarding Change for review by the DBE Office. A review of these changes shall be made to determine if the firm is in compliance with the 49 CFR Part 26.

Affidavit Enclosure

NOTE: When completing MWUCP Application, complete all information blocks. Type "N/A" if item does not apply to you or your firm.

DBE MANUFACTURER'S AFFIDAVIT

I hereby declare and affirm that I am _____ (Title)
and duly authorized representative of _____ (Name of Company),
a _____ owned and controlled enterprise
whose address is _____

I further declare and affirm that company employees (persons not on the payroll of and/or performing the same tasks for disadvantaged owned business having any interest in the affiant's business) operate the following company equipment relative to the manufacturing process:

Equipment

Type	Function	Model	Age	Make
------	----------	-------	-----	------

Number of employees involved in the manufacturing process: _____

The undersigned swears that the foregoing statements are true and correct and fully understands that WMATA may rely on these statements in determining whether a WMATA prime contractor purchasing goods from the undersigned's manufacturing concern is entitled to a 100% credit of such purchases towards its DBE goal. The undersigned further understands that any material misrepresentation will be grounds for initiating action under Federal or state laws concerning false statements.

_____ Signature of Affiant	_____ Printed Name
-------------------------------	-----------------------

Date: _____ State: _____ County: _____

On this _____ day of _____, 19____

before me appeared _____
(Name)

to me personally known, who, being duly sworn, did execute the foregoing Affidavit, and did state that he or she was properly authorized by _____
(Name of Firm)

to execute the Affidavit and did so as his or her free act and deed.

(Seal) Sworn and subscribed before me _____
(Notary Public)

Commission Expires: _____

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Information for Determining Joint Venture Eligibility

Page 1

.....
Name and address of Joint Venture:

Contact Person: _____ Telephone: _____

Have you attached a copy of the Joint Venture agreement? ☐ Yes ☐ No

NOTE: Affidavit will not be processed without a copy of the Joint Venture agreement.
.....

Name and address of Joint Venture partner: _____

Contact Person: _____ Telephone: _____

Status of firm: ☐ DBE. ☐ Non-Minority.

Does firm have current WMATA, D.C. DOT or MWUCP DBE certification? ☐ Yes ☐ No
.....

Name and address of Joint Venture partner: _____

Contact Person: _____ Telephone: _____

Status of firm: ☐ DBE. ☐ Non-Minority.

Does firm have current WMATA, D.C. DOT or MWUCP DBE certification? ☐ Yes ☐ No
.....

Describe the nature of the Joint Venture's business:

Describe the role in the Joint Venture of each partner listed above:

Describe the experience and business qualifications of each partner in the Joint Venture listed above:
.....

Information for Determining Joint Venture Eligibility

Page 2

Indicate the percentage of ownership in the Joint Venture for each Joint Venture partner, indicating dollar amounts wherever applicable.

Name of Partner	Percentage of Ownership	Profit and Loss Sharing	Capital Contributions including Equipment	Other Agreements
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____

TOTALS:

Identify by name, title, race, sex and company affiliation those individuals responsible for the management control of and participation in this contract:

1. Financial decisions, such as payroll, insurance, surety and/or bonding requirements:

Name: _____ Race: _____

Title: _____ Sex: ☐ Male ☐ Female

Company affiliation: _____

2. Management decisions, such as estimating, marketing and sales, hiring and firing, purchasing supplies:

Name: _____ Race: _____

Title: _____ Sex: ☐ Male ☐ Female

Company affiliation: _____

3. Supervision of field operations:

Name: _____ Race: _____

Title: _____ Sex: ☐ Male ☐ Female

Company affiliation: _____

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Information for Determining Joint Venture Eligibility

Page 3

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The undersigned swear that the foregoing statements are correct and include all material information necessary to identify and explain the terms and operations of our following named Joint Venture:

.....

and the intended participation by each Joint Venturer in the undertaking. Further, the undersigned covenant and agree to provide the Authority current, complete and accurate information regarding actual Joint Venture work and the payment thereof and any proposed changes in any of the Joint Venture arrangements and to permit the audit and examination of the books, records and files of the Joint Venture, or those of each Joint Venturer relevant to the Joint Venture, by authorized representatives of the Authority or the Federal funding agency. Any material misrepresentation will be grounds for terminating any contract which may be awarded and for initiating action under Federal and State laws concerning false statements.

It is recognized and acknowledged that the Authority's DBE Program shall have access to the information provided herein above for the purpose of establishing eligibility and authenticity of the minority/woman-owned status of the Joint Venture.

It is understood that trade secrets and information privileged by law, as well as commercial, financial, geological and geophysical data furnished will be protected.

(NAME OF FIRM)

(NAME OF SECOND FIRM)

(SIGNATURE OF AFFIANT)

(SIGNATURE OF AFFIANT)

(PRINT NAME)

(PRINT NAME)

(TITLE)

(TITLE)

(DATE)

(DATE)

.....

.....

23.29 (10/99)

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Information for Determining Joint Venture Eligibility

Page 4

.....
Date: _____ State: _____ County: _____

On this _____ day of _____, 19_____,

before me appeared _____

(Name)

to me personally known, who, being duly sworn, did execute the foregoing Affidavit, and did state that he or she was properly authorized by _____

(Name of Firm)

to execute the Affidavit and did so as his or her free act and deed.

(Seal) Sworn and subscribed before me _____

(Notary Public)

Commission Expires: _____

.....
Date: _____ State: _____ County: _____

On this _____ day of _____, 19_____,

before me appeared _____

(Name)

to me personally known, who, being duly sworn, did execute the foregoing Affidavit, and did state that he or she was properly authorized by _____

(Name of Firm)

to execute the Affidavit and did so as his or her free act and deed.

(Seal) Sworn and subscribed before me _____

(Notary Public)

Commission Expires: _____

.....
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23.06c (Rev 10/99)

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Washington Metropolitan Area Transit Authority

**DISADVANTAGED BUSINESS ENTERPRISE (DBE)
MONTHLY PROMPT PAYMENT REPORT**

PRIME – CONTRACTOR’S REPORT

This report is required to be submitted to the Office of Procurement, DBE Branch 600 5th Street, NW, Suite 3C, Washington, DC 20001, pursuant to the requirements of WMATA's DBE Program Plan and §26.29 of 49 CFR Part 26.

Contract No.: _____ Reporting Period: _____

Name of Prime Contractor: _____ DBE – Yes or No _____

Prime Contract Amount: _____ Total Received this Reporting Period: _____ Total Received to Date: _____
DBE Goal _____

Name of Sub-Contractor	DBE (Y/N)	Description of Work	Date of Contract Awarded	Amount of Sub-Contractor Award	Amount Paid This Reporting Period	Cumulative Paid To Contractor	Paid Sub-Contractor	% of Physical Work Complete
TOTAL								

I certify the information furnished with respect to DBE subcontractor performance correct to the best of my knowledge and represents a current status of the prime contractor with the DBE subcontractors for the designated period covered by this report. Further, those subcontractors, due payment pursuant to the terms of their subcontracts will be paid within ten days after receipt of payment from WMATA.

By: _____ Title: _____ Date: _____

Washington Metropolitan Area Transit Authority

**DISADVANTAGED BUSINESS ENTERPRISE (DBE)
MONTHLY PROMPT PAYMENT REPORT**

SUBCONTRACTOR'S REPORT

This report is required to be submitted to WMATA's DBE Office, 600 5th Street, NW, Suite 3C, Washington, DC 20001, pursuant to the requirements of WMATA's DBE Program Plan and 49 C.F.R. §26.29.

Contract No.: _____ Reporting Period: _____

Name of Subcontractor: _____ DBE – Yes or No

Subcontractor Contract Amount: _____ Total Received this Reporting Period: _____ Total Received to Date: _____

Name of Sub-Contractor	DBE (Y/N)	Description of Work	Date of Contract Awarded	Amount of Sub-Contractor Award	Amount Paid This Reporting Period	Cumulative Paid To Contractor	% of Physical Work Complete
TOTAL							

I certify the information furnished with respect to DBE subcontractor performance correct to the best of my knowledge and represents a current status for the designated period covered by this report. Further, those contractors, due payment pursuant to the terms of their subcontracts will be paid within ten days after receipt of payment from the Contractor.

By: _____ Title: _____ Date: _____

APPENDIX C

Authority Furnished Permit

INSERT DDOT CONSTRUCTION PERMIT HERE

APPENDIX D

Wage Determination of the Secretary of Labor

General Decision Number: DC170002 09/08/2017 DC2

Superseded General Decision Number: DC20160002

State: District of Columbia

Construction Type: Building

County: District of Columbia Statewide.

BUILDING CONSTRUCTION PROJECTS (does not include single family homes or apartments up to and including 4 stories).

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

Modification Number	Publication Date
0	01/06/2017
1	01/13/2017
2	04/21/2017
3	05/05/2017
4	05/26/2017
5	06/09/2017
6	06/16/2017
7	07/14/2017
8	07/28/2017
9	08/11/2017
10	08/18/2017
11	09/08/2017

ASBE0024-007 10/01/2016

	Rates	Fringes
ASBESTOS WORKER/HEAT & FROST INSULATOR	\$ 35.03	15.32
Includes the application of all insulating materials, protective coverings, coatings and finishes to all types of mechanical systems		

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ASBE0024-008 10/01/2016

	Rates	Fringes
ASBESTOS WORKER: HAZARDOUS MATERIAL HANDLER	\$ 22.36	6.79
Includes preparation, wetting, stripping, removal, scrapping, vacuuming, bagging and disposing of all insulation materials, whether they contain asbestos or not, from mechanical systems		

ASBE0024-014 10/01/2016

	Rates	Fringes
FIRESTOPPER	\$ 27.56	7.23

Includes the application of materials or devices within or around penetrations and openings in all rated wall or floor assemblies, in order to prevent the passage of fire, smoke or other gases. The application includes all components involved in creating the rated barrier at perimeter slab edges and exterior cavities, the head of gypsum board or concrete walls, joints between rated wall or floor components, sealing of penetrating items and blank openings.

BRDC0001-002 04/30/2017

	Rates	Fringes
BRICKLAYER	\$ 30.91	10.24

CARP0177-003 05/01/2017

	Rates	Fringes
CARPENTER, Includes Drywall Hanging, Form Work, and Soft Floor Laying-Carpet	\$ 28.36	11.53

CARP0179-001 05/01/2017

	Rates	Fringes
PILEDRIVERMAN	\$ 29.94	10.95

CARP0219-001 04/01/2016

	Rates	Fringes
MILLWRIGHT	\$ 32.04	9.93

ELEC0026-016 06/05/2017

	Rates	Fringes
ELECTRICIAN, Includes Installation of HVAC/Temperature Controls	\$ 44.65	16.74

ELEC0026-017 09/05/2016

	Rates	Fringes
ELECTRICAL INSTALLER (Sound & Communication Systems)	\$ 27.55	10.20

SCOPE OF WORK: Includes low voltage construction, installation, maintenance and removal of teledata facilities (voice, data and video) including outside plant, telephone and data inside wire, interconnect, terminal equipment, central offices, PABX, fiber optic cable and equipment, railroad communications, micro waves, VSAT, bypass, CATV, WAN (Wide area networks), LAN (Local area networks) and ISDN (Integrated systems digital network).

WORK EXCLUDED: The installation of computer systems in industrial applications such as assembly lines, robotics and computer controller manufacturing systems. The installation of conduit and/or raceways shall be installed by Inside Wiremen. On sites where there is no Inside Wireman employed, the Teledata Technician may install raceway or conduit not greater than 10 feet. Fire alarm work is excluded on all new construction sites or wherever the fire alarm system is installed in conduit. All HVAC control work.

ELEV0010-001 01/01/2017

Rates	Fringes
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ELEVATOR MECHANIC \$ 42.79 31.585+a+b

- a. PAID HOLIDAYS: New Year's Day, Memorial Day, Independence Day, Labor Day, Veterans' Day, Thanksgiving Day, Christmas Day and the Friday after Thanksgiving.
- b. VACATIONS: Employer contributes 8% of basic hourly rate for 5 years or more of service; 6% of basic hourly rate for 6 months to 5 years of service as vacation pay credit.

* IRON0005-005 06/01/2017

	Rates	Fringes
IRONWORKER	\$ 31.15	20.63

* LABO0011-009 06/01/2017

	Rates	Fringes
LABORER: Skilled	\$ 23.42	8.04

FOOTNOTE: Potmen, power tool operator, small machine operator, signalmen, laser beam operator, waterproofer, open caisson, test pit, underpinning, pier hole and ditches, ladders and all work associated with lagging that is not expressly stated, strippers, operator of hand derricks, vibrator operators, pipe layers, or tile layers, operators of jackhammers, paving breakers, spaders or any machine that does the same general type of work, carpenter tenders, scaffold builders, operators of towmasters, scootcretes, buggymobiles and other machines of similar character, operators of tampers and rammers and other machines that do the same general type of work, whether powered by air, electric or gasoline, builders of trestle scaffolds over one tier high and sand blasters, power and chain saw operators used in clearing, installers of well points, wagon drill operators, acetylene burners and licensed powdermen, stake jumper, demolition.

MARB0002-004 04/30/2017

	Rates	Fringes
MARBLE/STONE MASON	\$ 36.91	16.55

INCLUDING pointing, caulking and cleaning of All types of masonry, brick, stone and cement EXCEPT pointing, caulking, cleaning of existing masonry, brick, stone and cement (restoration work)

MARB0003-006 04/30/2017

	Rates	Fringes
TERRAZZO WORKER/SETTER	\$ 27.44	11.44

MARB0003-007 04/30/2017

	Rates	Fringes
TERRAZZO FINISHER	\$ 22.51	10.50

MARB0003-008 04/30/2017

	Rates	Fringes
TILE SETTER	\$ 27.44	11.44

MARB0003-009 04/30/2017

	Rates	Fringes
TILE FINISHER	\$ 22.51	10.50

PAIN0051-014 06/01/2017

	Rates	Fringes
GLAZIER		
Glazing Contracts \$2 million and under	\$ 25.74	11.55
Glazing Contracts over \$2 million	\$ 29.87	11.55

PAIN0051-015 06/01/2017

	Rates	Fringes
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PAINTER		
Brush, Roller, Spray and Drywall Finisher	\$ 25.06	9.66
PLAS0891-005 07/01/2016		

	Rates	Fringes
PLASTERER	\$ 28.83	6.05
PLAS0891-006 02/01/2017		

	Rates	Fringes
CEMENT MASON/CONCRETE FINISHER	\$ 27.65	10.08
PLAS0891-007 08/01/2016		

	Rates	Fringes
FIREPROOFER		
Handler	\$ 16.50	4.89
Mixer/Pump	\$ 18.50	4.89
Sprayer	\$ 23.00	4.89

Spraying of all Fireproofing materials. Hand application of Fireproofing materials. This includes wet or dry, hard or soft. Intumescent fireproofing and refraction work, including, but not limited to, all steel beams, columns, metal decks, vessels, floors, roofs, where ever fireproofing is required. Plus any installation of thermal and acoustical insulation. All that encompasses setting up for Fireproofing, and taken down. Removal of fireproofing materials and protection. Mixing of all materials either by hand or machine following manufactures standards.

* PLUM0005-010 08/01/2017

	Rates	Fringes
PLUMBER	\$ 41.67	17.60+a
a. PAID HOLIDAYS: Labor Day, Veterans' Day, Thanksgiving Day and the day after Thanksgiving, Christmas Day, New Year's Day, Martin Luther King's Birthday, Memorial Day and the Fourth of July.		

* PLUM0602-008 08/01/2017

	Rates	Fringes
PIPEFITTER, Includes HVAC Pipe Installation	\$ 40.69	21.07+a
a. PAID HOLIDAYS: New Year's Day, Martin Luther King's Birthday, Memorial Day, Independence Day, Labor Day, Veterans' Day, Thanksgiving Day and the day after Thanksgiving and Christmas Day.		

ROOF0030-016 05/01/2016

	Rates	Fringes
ROOFER	\$ 28.75	11.74

SFDC0669-002 04/01/2017

	Rates	Fringes
SPRINKLER FITTER (Fire Sprinklers)	\$ 34.40	19.24

SHEE0100-015 07/01/2017

	Rates	Fringes
SHEET METAL WORKER (Including HVAC Duct Installation)	\$ 40.27	18.74+a
a. PAID HOLIDAYS: New Year's Day, Martin Luther King's Birthday, Memorial Day, Independence Day, Labor Day, Veterans Day, Thanksgiving Day and Christmas Day		

SUDC2009-003 5/19/2009

	Rates	Fringes
LABORER: Common or General	\$ 13.04	2.80
LABORER: Mason Tender - Cement/Concrete	\$ 15.40	2.85
LABORER: Mason Tender for pointing, caulking, cleaning of existing masonry, brick, stone and cement structures (restoration work); excludes pointing, caulking and cleaning of new or replacement masonry, brick, stone and cement	\$ 11.67	
POINTER, CAULKER, CLEANER, Includes pointing, caulking, cleaning of existing masonry, brick, stone and cement structures (restoration work); excludes pointing, caulking, cleaning of new or replacement masonry, brick, stone or cement	\$ 18.88	

WELDERS - Receive rate prescribed for craft performing operation to which welding is incidental.
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Note: Executive Order (EO) 13706, Establishing Paid Sick Leave for Federal Contractors applies to all contracts subject to the Davis-Bacon Act for which the contract is awarded (and any solicitation was issued) on or after January 1, 2017. If this contract is covered by the EO, the contractor must provide employees with 1 hour of paid sick leave for every 30 hours they work, up to 56 hours of paid sick leave each year.

Employees must be permitted to use paid sick leave for their own illness, injury or other health-related needs, including preventive care; to assist a family member (or person who is like family to the employee) who is ill, injured, or has other health-related needs, including preventive care; or for reasons resulting from, or to assist a family member (or person who is like family to the employee) who is a victim of, domestic violence, sexual assault, or stalking. Additional information on contractor requirements and worker protections under the EO is available at www.dol.gov/whd/govcontracts.

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

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

Union Rate Identifiers

A four letter classification abbreviation identifier enclosed in dotted lines beginning with characters other than "SU" or "UAVG" denotes that the union classification and rate were prevailing for that classification in the survey. Example: PLUM0198-005 07/01/2014. PLUM is an abbreviation identifier of the union which prevailed in the survey for this classification, which in this example would be Plumbers. 0198 indicates the local union number or district council number where applicable, i.e., Plumbers Local 0198. The next number, 005 in the example, is an internal number used in processing the wage determination. 07/01/2014 is the effective date of the most current negotiated rate, which in this example is July 1, 2014.

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

Survey Rate Identifiers

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

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

Union Average Rate Identifiers

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

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

WAGE DETERMINATION APPEALS PROCESS

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

- * an existing published wage determination
- * a survey underlying a wage determination
- * a Wage and Hour Division letter setting forth a position on a wage determination matter
- * a conformance (additional classification and rate) ruling

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

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

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

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

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

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

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

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

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

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END OF GENERAL DECISION

DIVISION 01

SECTION 01110
SUMMARY OF WORK

PART 1 – GENERAL

1.01 SUMMARY

- A. The Work includes constructing the Project as indicated in the Contract Documents.
- B. The completed Project will result in the completion of construction, testing, and operation of the following Authority assets and DDOT infrastructures:
 - 1. Replacement of return and supply condenser piping between Chiller Plant and Building #1101 basement.
 - 2. Replacement of exposed return and supply condenser piping from the basement and the penthouse level of Building #1101 to the cooling tower.
 - 3. Clean and video inspect the existing vertical condenser water supply and return piping within vertical pipe chase and submit the inspection report to WMATA COR for review and acceptance.
 - 4. Installation of two additional conduits routed between Chiller Plant and Building #1101 basement.
 - 5. Structural wall repairs inside Building #1101 basement, including new penetrations for new piping / conduits at basement and Chiller Plant.
 - 6. Completion of pressure testing for the newly installed condenser piping system and confirmation of air conditioning operation.
 - 7. Street restoration work within DDOT right-of-way and public space.
- C. The Project shall function as an integral part of and be fully compatible with the existing WMATA system.

1.02 DAYS/HOURS OF WORK

- A. The standard work week for the Contract will be 5 consecutive days Monday-Friday, with the work scheduled between 7:00AM to 7:00PM or as defined in Section 01141, ACCESS TO SITE.
- B. All the construction activities on DC streets right-of-way within public space shall be done in accordance with pre-approved maintenance of traffic plans, and per 2013 DDOT Standard Specifications for Highways and Structures, Section 104 and Section 105. In order to accelerate the schedule and minimize interruption to the community and surrounding businesses, night work, weekend work and 24-7 operation will be required.
- C. All the construction activities inside the Building #1101 will be conducted between the hours of 6:00pm to 7:00am Monday through Friday, and all day Saturday and Sunday.
- D. Provide Contracting Officer Representative 7 Days advance notice prior to changing shift hours and 48 hours advance notice for planned work shifts outside the established work week and work day.

1.03 LOCATION

- A. The Project is located in northwest quadrant of Washington, DC. The Project Site is bounded by the Farragut North/Dupont Circle Chiller Plant located just outside of the station in a vault below Connecticut Avenue, NW and the cooling tower facility located on the roof of the multi-story building located at 1101 Connecticut Avenue, NW, mid-block between L Street, NW and M Street, NW; and shown on aerial photograph provided by the Authority.

1.04 SITE LOGISTICS

- A. Access to the construction Site shall be from the DDOT public streets, Connecticut Avenue, NW, L Street, NW and M Street, NW. Access to chiller plant vault shall be from the existing vent shaft located within the median of Connecticut Avenue, NW.
- B. Construction equipment and materials will not be staged within Authority Right-of Way; and within public streets right-of-way and DDOT public space.
 - 1. Construction operations will be required to be staged within the established work zones, as shown on the pre-approved maintenance of traffic plans.
 - 2. Staging shall be prohibited within the project limits, except limited material staging area be available in the chiller plant pending WMATA approval and along the median of the closed segment of Connecticut Avenue, NW pending DDOT approval.
 - 3. No work and storage area is being designated. The contractor shall be responsible for obtaining suitable work and storage in the vicinity of the job site. The contractor shall be fully responsible for restoring the area used for work and storage to its original condition and to the satisfaction to the Engineer.
- C. Parking
 - 1. WMATA will not provide on-site parking.
 - 2. Contractor parking is prohibited on city streets and project site.
- D. Constraints on Construction
 - 1. Work Sequence
 - a. Construction shall be completed in the following Phases
 - (1) Early Work activities include condenser piping replacement inside the chiller plant, and inside the basement as well as at the penthouse level of Building #1101 will also be included in this and may continue in subsequent phases of work.
 - (2) **##** Phase 1 construction activities include but not limited to saw cutting and removing existing pavement section, excavating trenches at required line and grade, removing existing pipe sections that are in conflict with proposed work, abandoning remaining existing pipe in place, protecting and supporting-in-place existing utilities, and installation of new 16-inch diameter condenser piping system. New conduit will also be installed. **This work is further broken down in two sub-phases as shown on Maintenance of Traffic Plans.**

Phase 1A work is consisting of partial piping installation at the north end tie-ins in the vicinity of the existing chiller plant, and south end tie-ins in the vicinity of Building 1101 Connecticut Avenue. Upon the completion of the installation of Phase 1A piping, the contractor shall isolate these piping sections by placing a blind flange inside the building at 1101 Connecticut Avenue and inside the chiller plant and placing a test plug in the other ends. These piping sections shall be air pressure tested at 120psi at least for 15 minutes. Upon the acceptance of the results of this interim air pressure test by WMATA COR, trenches shall be backfilled and adequate temporary asphalt pavement section be installed and compacted before opening the street to vehicular traffic in the interim condition.

Phase 1B work is consisting of installing remaining piping along north bound Connecticut Avenue. Work shall be carried forward in accordance with the pre-approved MOT plans. ##

(3) **##** Phase 2 construction activities include but not limited to **hydrostatic** pressure testing the **entire** newly installed condenser piping system **including Phase 1A piping sections in accordance with Section 15205 PIPING SYSTEM**, making necessary final piping repair/adjustments as required, backfilling trenches **upon the acceptance of the results of hydrostatic pressure testing of the entire piping system by WMATA COR, removing temporary asphalt pavement section from the Phase 1A trench surface**, and full depth PCC base restorations within impacted areas. This phase will also include sidewalk restoration. **##**

(4) Phase 3 construction activities include but not limited to milling, overlay with asphaltic concrete superpave surface course, pavement markings, and signing. Minimum two lanes of NB & SB traffic shall be maintained at all times, using standard lane closures.

2. Special Events

- a. Minimize risks to the public during special community events that are located in close proximity to the Project Site.
- b. Construction activities shall be coordinated with the DDOT, Public Space Regulation Administration and the Authority when working on Thanksgivings, Christmas, New Year and other public holidays to reduce construction impacts during these festivity events.
- c. Maintain a Special Community Event List in coordination with the Authority for the duration of the Contract. The list shall identify local special holidays, parades, festivals, and other similar events that are within the proximity of the Project construction area and operations. The list shall include the following information:

(1) Name and general description of the event

(2) Date, time of day, and duration

(3) Location(s)

E. Work performed by Others:

1. Review and approval of temporary utility support and/or protect-in-place will be performed by the individual utility owner.
2. Review and approval of all elements of MOT and roadway restoration by DDOT.

F. Coordination of Work with Others: Coordinate Work through the Contracting Officer Representative with the following:

1. Utilities and jurisdictional authorities affected by or having jurisdiction over the Project.
2. Other Contracting Officer Representatives, Authority consultants, and contractors associated with adjacent projects.
3. DDOT and Public Space Regulation Administration.
4. Other on-going construction contracts in the project vicinity.

G. Survey Work: Perform as needed to execute the Project as specified in Section 01721, LAYOUT OF WORK AND FIELD ENGINEERING.

H. Design Completion: Perform or furnish design professional services for specified elements of the Project. Perform the design services in accordance with the specifications and requirements of the Contract and in accordance with professional standards of skill, care, and diligence adhered to by firms recognized for their expertise, experience, and knowledge in performing these services. The Contractor shall be responsible for the professional quality, technical accuracy, completeness, and coordination of the services. Design professional services shall be performed by a registered

Professional Engineer licensed to practice engineering in all jurisdictions where the specified elements of the Project will be constructed.

- I. Permits: Contractor shall obtain all additional permits from Utilities and Jurisdictional Authorities as needed (refer to Section 00806, PERMITS AND RESPONSIBILITIES)
 - 1. The Contractor shall, without additional expense to the Authority, be responsible for obtaining necessary licenses, permits not provided by the Authority, and easements and for complying with applicable International, Federal, State, local, or municipal laws, codes, or regulations in connection with the prosecution of the Work.
- J. Safety: Establish and manage Project safety in accordance with Section 01114, SAFETY/ ENVIRONMENTAL REQUIREMENTS and safety and security certification in accordance with Section 01115, SAFETY AND SECURITY CERTIFICATION.
- K. Quality: Establish and manage a Quality System in accordance with Section 01470, QUALITY MANAGEMENT SYSTEM.
- L. Testing and Systems Integration Testing
 - 1. Establish and perform component testing as specified in various specification sections and in accordance with Section 01470, QUALITY MANAGEMENT SYSTEM. Develop a Systems Integration Testing Plan and perform and manage Systems Integration testing for the project in accordance with Section 01113, SYSTEMS INTEGRATION TESTING.
 - 2. Provide and manage the services of an independent testing agency that shall conduct material testing.
 - 3. The independent testing agency and independent inspectors may be provided through a single entity.
- M. As-Built Documents: Maintain a hard copy drawing and specification record of as-built conditions during construction phase, and provide As-Built Drawings and As-Built Specifications at the completion of the Project in accordance with Section 01775, CLOSEOUT.
- N. Demonstration and Training: Demonstrate equipment and systems and provide training to WMATA staff as indicated in Section 01820, DEMONSTRATION AND TRAINING.
- O. Salvaging of Materials and Equipment
 - 1. Maintain property control records for materials or equipment to be salvaged. The Contractor shall be responsible for the storage and protection of salvaged materials and equipment and shall replace salvage materials and equipment, which are broken or damaged during salvage operations as the result of negligence or while in the Contractor's care.
 - 2. Salvaged material not specified for reuse shall become the property of the Contractor and shall be removed from the Site.
 - 3. The following materials or equipment shall be salvaged for reuse:
 - a. The sidewalk pavers are called out to be removed whole, stored and protected during the duration of construction, and then reinstalled. All pavers being removed are to be re-used to restore the sidewalk to its original condition. New pavers should not be necessary unless broken or damaged during removal.
 - b. Any removed roadway granite curb sections, street signs, parking meters, etc. shall be reinstalled to their original locations.
 - 4. Before reusing any salvaged material, the Contractor shall obtain WMATA approval and coordinate for required inspection.

PART 2 – PRODUCTS (not used)

PART 3 – EXECUTION (not used)

END OF SECTION

responsible for testing, commissioning, and close-out of the Project. Responsibilities include but are not limited to acquiring construction permits not furnished by the Authority; managing Subcontractors, independent testing companies, fabricators and Suppliers; development, management, and implementation of Project Schedule; preparation, submittal, and management of construction submittals; maintaining as-built documentation; and coordinating with outside agencies and Utility companies on construction related matters. The Construction Manager is responsible to ensure that construction is based on the Contract Documents and that all applicable codes and standards are complied with.

2. Construction General Superintendent

- a. Shall have a minimum of 15 years experience in complex multi-discipline heavy construction, a minimum of 10 years in rapid transit industry, and a minimum of 5 years in a supervisory capacity supervising projects of a similar type and financial magnitude.
- b. Responsible for oversight of day-to-day construction at the Site.
- c. Responsibilities include but are not limited to supervising construction activity, overseeing coordination between Subcontractors, coordinating with Quality Manager and Safety Manager in the implementation of project Quality and Safety plans, and ensuring that construction is based on current Shop Drawings and Working Drawings. The Construction General Superintendent is also responsible for maintaining as-built documentation.

3. Quality Manager

- a. A degreed engineer and trained as a Lead Auditor in a Registrar Accreditation Board of the American Society for Quality (RABASQ) approved course on the requirements of ISO 9001 and with a minimum of 10 years of related experience including a minimum of 5 years of management positions in a production, manufacturing, or construction environment performing QA/QC auditing. Transit industry experience is preferred.
- b. Reports to one or more levels of management above the Contractor's Project Manager.
- c. Responsible for the Quality Assurance (QA) and Quality Control (QC) for the Project and shall be fully familiar with the Federal Transit Agency's (FTA) Quality requirements.
- d. Shall be a full time staff member of the Contractor and shall establish, implement, and maintain the Quality Management System, shall report directly to and be supervised by an Officer of the Contractor at a level above that of the Project Manager responsible for the Project, shall serve as a liaison officer with the Authority and the Jurisdictional Authorities on matters relating to the Contractor's quality system, shall be responsible for ensuring that the Quality Management System is effective in ensuring that the Contract requirements are satisfied, and shall be responsible for the oversight of onsite and offsite testing by the Contractor.
- e. The Quality Manager may be approved as the Safety and Security Certification Manager as defined in Section 01115, SAFETY AND SECURITY CERTIFICATION.

4. Safety Superintendent

- a. Shall have a degree in engineering with a minimum of 10 years experience in heavy industry construction safety practices and with a minimum of 5 years in rapid transit construction in operating conditions, and shall have completed OSHA Construction Safety Training and First Aid/CPR/Blood Borne Pathogens Training. Shall be a Certified Safety Professional (CSP).
- b. Responsible for development of a construction safety plan.
- c. Shall be a full time member of the Contractor and devotes full time to worksite safety in implementing, enforcing, and maintaining the safety program for the Contractor and

- C. Prepare integrated system test procedures in compliance with the Integrated Systems Test Plan and include the following information:
1. System to be tested
 2. Specification Section, Article, and Paragraph relative to test
 3. Applicable standard
 4. Type of test (e.g. total system, sub-system, factory)
 5. Test equipment required
 6. Qualifications required to perform test
 7. Step-by-step procedures for the test and parameters to be tested
 8. Test frequency
 9. Test data sheets or test report forms
 10. Responsibility for test performance
 11. Completion status
 12. Means of tracking and recording corrective actions being taken to assure compliance with the Contract Documents

PART 2 – PRODUCTS (not used)

PART 3 – EXECUTION

3.01 INTEGRATED SYSTEMS TESTING PREREQUISITES

- A. A prerequisite to integrated system testing shall be that all component testing has been satisfactorily completed and that system installation is complete and ready for system integration testing.

3.02 INTEGRATED SYSTEM TESTING

- A. Provide integrated system testing to assure that system components interface properly. Appropriately test all interfaces and certify that the interfaces work properly and meet all Contract requirements. Create test procedures and test data sheets that fully exercise the interface and prove that the interface performs its intended function.
- B. The Contracting Officer Representative has the right to reject any integrated system test procedure or require additional integrated system tests if, in the Contracting Officer Representative's sole opinion, the proposed test does not adequately exercise or demonstrate the performance of the interface.
- C. Notify the Contracting Officer Representative in advance of each test. All test results shall be submitted to the Contracting Officer Representative.

3.03 PERFORMANCE DEMONSTRATION

- A. Integrated system testing shall culminate in system Performance Demonstration that shall simulate all operations and shall exercise all systems and system components as specified in Section 01820, DEMONSTRATION AND TESTING.

1.04 SUBMITTALS

- A. Submit to the Contracting Officer Representative for approval in accordance with Section 01330, SUBMITTAL PROCEDURES, 10 Days prior to commencing construction, unless noted otherwise:
1. Documentation and Certifications of Safety Superintendent's and First Aid Attendant's, as applicable, experience in construction safety
 2. Contractor's Organizational Health and Safety Program Plan that includes OSHA required plans listed below that are applicable to the Work
 - a. Site-specific Emergency Response Plan
 - b. Site-specific Temporary Fire Protection System Plan
 - c. Site-specific Waste Water Discharge Plan if wastewater is generated
 - d. Site-specific Pollution Control Program
 - e. Site-specific Dust and Debris Control Plan
 - f. Site-Specific Work Plans for all work that will be performed in the right-of-way and operational ancillary rooms within the station
 - g. Site-specific Fall Protection Plan
 - h. Bloodborne Pathogens Exposure Control Plan
 - i. Hearing Conservation Program if employees are exposed to continuous noise in excess of the OSHA Action Level
 - j. Respiratory Protection Program if employees are exposed to dust (including crystalline silica) or other toxic atmospheres in excess of the OSHA permissible exposure limits. If a respiratory program is required, provide documentation of training, medical clearance for respirator use, and respirator fit testing.
 - k. Hot Work Program
 - l. Lockout Tagout Program
 - m. Confined Space Program
 - n. All the submittal related to maintenance of traffic and roadway restoration shall be submitted to DDOT in accordance with their 2009 Design and Engineering Manual and 2013 Standard Specifications for Highways and Bridges.
 3. Job Hazard Analysis submitted prior to each element of construction.
 4. Documentation to show that all Confined Space entrants and attendants are trained in Confined Space Entry, including hands-on-training or Confined Space Awareness, as applicable, and possess applicable licenses and certifications.
 5. Site-specific Confined Space Permits at least 48 hours before entry.
 6. Identity of all materials or chemicals to be used on Authority property (including welding rods), material safety data sheets (MSDSs) for these products, and a brief explanation of how they will be used and if wastes will be generated. Submit MSDS Review Request Forms prior to the use these materials or chemicals.
- B. Submit to the Contracting Officer Representative for information in accordance with Section 01330, SUBMITTAL PROCEDURES, 10 Days prior to commencing construction, unless noted otherwise:

33 (SSWP). All special requests for access, single tracking, power outages, escorts, and other Authority support shall be submitted in writing. Site Specific Work Plans shall be submitted for all Work conducted in Authority Right-of Way and any operational facility. Ensure that personnel complete safety training by Authority on the rules and procedures for working on the Right-of-Way before starting such work.

- G. Employ and assign to the construction work a Safety Superintendent as specified in Section 01111, CONTRACTOR KEY STAFF, and a separate certified First Aid Attendant for on-site work activities. A first aid station shall be established and fully equipped to meet the needs of the anticipated work force. The certified First Aid Attendant shall be on duty in the first aid station at all times when construction work is in progress except when on emergency calls. In no event, shall work at the Site be performed until the approved Safety Superintendent and First Aid Attendant are available to the Project.
- H. If, at any time, the Work Site is without the services of an approved Safety Superintendent and First Aid Attendant for a period of 15 Days or more, the Work may be closed down at the discretion of the Contracting Officer Representative. The Safety Superintendent and First Aid Attendant shall be acceptable to the Contracting Officer Representative, and their performance will be reviewed and documented by the Contracting Officer Representative on a continuing basis. If the Safety Superintendent's and First Aid Attendant's effectiveness is below standard, the Contractor shall provide immediate replacement at the Contracting Officer Representative's direction. Once employed, the Safety Superintendent and First Aid Attendant shall not be changed without permission of the Contracting Officer Representative. **Category II** – Safety Superintendent/Safety Officer may be the project foreman or an employee who is on-site at all times while work is being performed, and who has the added duty of supervising the safety of persons, equipment, and property affected by the contract work. This person must have current training and certification cards for CPR and First Aid.
- I. For all work within Confined Spaces, comply with all OSHA, state, and local Jurisdictional Authority rules and regulations for confined spaces defined by 29 CFR §1910.146. Confined spaces shall be classified as either non-permit confined space or permit-required confined space in accordance with OSHA regulations.
- J. Prior to the initial entry into a confined space, coordinate entry with the Contracting Officer Representative and take air quality readings to establish base readings and conditions. At a minimum, oxygen, lower explosive limit, carbon monoxide, and hydrogen sulfide, shall be measured. Measurement of additional parameters may be required depending on the location of the space and potential for atmospheric hazards related to contamination or work activities.
- K. Air quality and any additional parameter reading results shall be provided to the Contracting Officer Representative for recording purposes and shall determine if atmospheric hazards exist, which would classify the space as a permit-required confined space. Continuous and follow-up monitoring of air quality shall meet OSHA requirements, and all subsequent results shall be provided to the Contracting Officer Representative.
- L. Prior to the start of any work involving non-permit confined spaces, submit the following:
 - 1. Written Job Hazard Analysis for all work to be performed in the confined space, including MSDSs for chemicals to be used in the space. Submit MSDSs for all chemicals to be used on Authority property along with a brief description of how and where they will be used and if wastes will be generated. The MSDSs will be reviewed by Authority and if approved, the materials can be used in the system. If they are rejected, submit a substitute for Authority approval. The MSDSs must be recent (less than 3 years old) and comply with the OSHA Hazard Communication Standard 29 CFR §1910.1200. The Contractor is responsible for complying with the requirements of the MSDSs.
 - 2. Written Emergency Response Plan, which identifies emergency responders for rescue operations.

Subpart D), Scaffolds (29 CFR Part 1926, Subpart L), and Fall Protection 29 CFR Part 1926, Subpart M.

- S. Comply with 29 CFR §1910.95, Occupational Noise Exposure for all work on Authority property, including construction. This standard requires that employees exposed to continuous noise in excess of the OSHA Action Level, participate in a Hearing Conservation Program. Instruments used for noise measurements must be appropriate for the type of noise being measured (impact/impulse or continuous).
- T. If the Work involves removal of paints or coatings, test the paint or coatings to determine if they contain heavy metals such as lead that require special handling and disposal considerations. As a minimum, testing shall be conducted for the eight metals (arsenic, barium, cadmium, chromium, lead, mercury, silver, and selenium) required by the Resource Conservation and Recovery Act (RCRA) of 1976 and amendments. If any of these are present, the components will require special handling and disposal to prevent exposure to workers, patrons, the community, and the environment. The Contractor's personnel performing lead-based paint abatement, removal, or control, shall have all licenses and accreditation required by the jurisdiction in which the work is performed. Jurisdictions that do not have their own state lead plans fall under the auspices of the Environmental Protection Agency (EPA). The Contractor shall provide medical monitoring to meet the requirements of 29 CFR §1910.1025 and §1926.62. As a minimum, medical monitoring shall consist of biological monitoring for lead and zinc protoporphyrin and shall include a physician's medical determination. As a minimum, biological monitoring shall be conducted immediately prior to working on Authority property where the employee may be exposed to lead, and immediately upon completion of this work. The Contractor shall provide training for lead workers and supervisors as required by the jurisdictional regulations. Documentation shall be submitted to the Contracting Officer Representative prior to commencement of work. All documentation shall be authentic and verifiable. All materials shall be handled and disposed of in compliance with the jurisdictional regulations. MSDSs for replacement paints/coatings must be approved by Authority prior to use on Authority property.
- U. If the Work involves removal of insulation, flooring, cove base, mastic, ceiling tile, roofing materials, or any other material that is suspected of containing asbestos, the Contractor must have the materials sampled and analyzed to determine if they contain asbestos. If the Contractor will be handling or removing asbestos-containing materials, the Contractor shall have all licenses and accreditations required by the jurisdiction in which the work is performed. The Contractor is required to provide medical monitoring to meet the requirements of 29 CFR §1910.1001 and §1926.1101. The Contractor shall provide training for asbestos workers and supervisors as required by the jurisdictional regulations. Documentation shall be provided to the Contracting Officer Representative prior to commencement of work. All documentation shall be authentic and verifiable. All materials shall be handled and disposed of in compliance with the jurisdictional regulations. All replacement materials shall be free of asbestos.
- V. Contractor's personnel shall not be exposed to asphalt fumes in excess of the National Institute for Occupational Safety and Health (NIOSH) recommended ceiling limit of 5 milligrams of asphalt fumes per cubic meter of air (5 mg/m³), in any 15-minute period. NIOSH provides recommendations for control of asphalt fumes.
- W. Work that generates visible dust requires submission of a Dust and Debris Control Plan to prevent exposure of employees, patrons, and the community to dust including crystalline silica dust. Be prepared to submit air-monitoring data to demonstrate effectiveness of dust control measures. If dust cannot be controlled, submit Respiratory Protection Program in compliance with 29 CFR §1926.103 or 29 CFR §1910.134, and submit evidence of air monitoring, training documentation, medical clearance for respirator use, and respirator fit tests for tight-fitting respirators.
- X. Ensure that the level of exhaust emissions from equipment such as air compressors and generators, are within acceptable limits to comply with clean air regulations and that workers are not exposed to exhaust fumes or gases (carbon monoxide, sulfur dioxide, nitrogen oxides, hydrogen sulfide, aldehydes) in excess of the most stringent of occupational exposure limits.

4. Contractor's personnel working near the platform edge or in the right-of-way shall wear reflective safety vests with the tear-away feature, to identify them to passing trains, as directed by the Authority at the right-of-way safety training required in this Section. The safety vests shall comply with the ANSI/ISEA 107 guideline entitled American National Standard for High-Visibility Safety Apparel. All of the Contractor's personnel are required to attend safety training provided by the Authority before starting work near the platform edge or in the right-of-way.

HH. All jobsite visits for visitors and tours shall be coordinated through Contracting Officer Representative in accordance with the WMATA Construction Safety and Environmental Manual, and Contractor insurance requirements.

1.06 ENVIRONMENTAL SAFETY REQUIREMENTS

- A. Comply with the most stringent of federal, state, or local environmental regulations for air, water, land, and waste in order to maintain the safety and health of employees, Authority patrons, and the community.
- B. If task requires specialized licenses or certifications, for example "lead or asbestos abatement contractor's license or certified tank installer/remover", show evidence of such registration prior to commencement of work. If the Work requires specialized training, for example lead or asbestos training, show evidence that employees have received such training prior to commencement of work.
- C. If the Work requires transportation of hazardous materials or hazardous substances, provide evidence of Department of Transportation General Awareness Driver's Training in compliance with 49 CFR §172 and Commercial Driver's License in compliance with 49 CFR §390-397, prior to commencement of work.
- D. All hazardous materials and hazardous substances shall be stored in "Performance Oriented Packaging" in compliance with 49 CFR §178, Subpart L.
- E. If the Work requires disposal of hazardous wastes, disposal shall be to a Treatment/Storage/Disposal facility with a Part B Permit and the waste hauler shall have a state or local license and U.S. EPA identification number. Apply and pay for temporary EPA Generator ID number required to dispose of hazardous waste. Submit evidence of all applicable licenses and permits along with the name and address of the waste disposal facility where hazardous waste materials are to be disposed, prior to commencement of work.
- F. If the Work involves response to spills of hazardous materials, hazardous substances or hazardous wastes, all personnel shall have appropriate training that complies with 29 CFR §1910.120.

PART 2 – PRODUCTS (not used)

PART 3 – EXECUTION (not used)

END OF SECTION

1. Design changes proposed by Contractor, construction, fabrication, installation, testing, and commissioning of all safety critical facility and system elements have been evaluated for compliance with the safety and security requirements, including applicable codes and standards, and to verify their readiness for operational use.
 2. WMATA's rail and bus facilities and systems are operationally safe and secure for customers, employees, and the public.
- B. The objective is to achieve an acceptable level of safety and security risk through a systematic approach to safety hazard and security vulnerability management through adherence with the design criteria, compliance with technical specifications, and testing verification.

1.07 SECURITY AND SAFETY CERTIFICATION PROCESS

- A. Participate in the WMATA Safety and Security Certification Program Plan for the duration of the Contract as follows:
1. Contractor's Certification Program Representative shall manage and oversee compliance with the WMATA Safety and Security Certification Program Plan requirements.
 2. Participate in working groups with Authority Safety, Security, and Project Staff to establish the certification status of the items on the CIL.
 3. Identify certifiable items for Contractor proposed design changes and complete development of the Authority provided CIL to address all Contract specific items requiring safety and security certification based on the construction and testing plan, and input from the working group.
 4. Identify the safety and security design criteria, technical specifications, and testing requirements, including applicable codes and standards, for each certifiable item on the CIL that resulted from a Contractor proposed design change.
 5. Demonstrate that the design complies with the identified safety and security requirements for those items on the CIL that resulted from a Contractor proposed design change.
 6. Demonstrate that the construction, fabrication, and installation comply with the safety and security requirements for those items on the CIL.
 7. Demonstrate through testing the compliance with the safety and security requirements for those items on the CIL.
 8. If changes are proposed to the design, identify and categorize project hazards by their potential severity and probability of occurrence. Analyze each hazard for its potential impact to the Project.
 9. If changes are proposed to the design, evaluate project for susceptibility to potential threats and identify design corrective actions that can reduce or mitigate the risk of serious consequences from a security incident. Analyze each identified threat for its potential impact to the Project.
 10. Provide and update a tracking system for all hazards and threat vulnerabilities identified as a result of Contractor proposed design changes.
 11. Maintain a document management system within the Authority's Project Management Software System (PMSS) that enables the retrieval of verification documentation that demonstrates compliance with the safety and security requirements in construction, fabrication, installation, and testing for each item in the CIL. Verification documentation may consist of drawings, reports, fabrication approvals, inspection, test results, certificates, or other supporting documents.

- B. Contractor Photo ID Badges: Individuals requiring the Contractor photo ID badges are subject to the following identification and security checks
1. Provide valid and current photo identification, such as a State-issued Driver's License, State-issued Identification Card, U.S. Passport, or identification from the Immigration and Naturalization Service, such as a Permit to Work or a Permanent Residence Card (Green Card).
 2. The individual's identification may be matched against the FBI Watch List and security clearance.
 3. The photo identification will be matched against the Contractor's list of employees authorized to work on a particular job.

1.06 NON-CONFORMANCE

- A. In the event any employee of the Contractor or its Subcontractors fails to adhere to the requirements of this Section, the employee or Subcontractor will be removed from the job until non-conformance is corrected. Such removal will not be grounds for any time extension or additional compensation.

1.07 ADMINISTRATION

A. Contractor Photo ID Badge:

1. A Contractor Photo ID badge will be required if the individual will be present on Authority Property. Issuance of the Contractor Photo ID badge will require the individual to schedule and report to the Authority's Jackson Graham Building at 600 Fifth Street, NW, Washington DC for processing.
2. Contractor Photo ID badge takes approximately 14 Days to obtain unless personnel have lived outside of the United States within the last year, in which case the background checking process will require additional time to complete.
3. It will be the Contractor's responsibility to immediately notify the Contracting Officer Representative if a worker loses his or her Contractor Photo ID badge. A fee will be charged for each lost badge.
4. All Contractor Photo ID badges shall be returned to the Contracting Officer Representative when they are no longer needed.
5. Contractor Photo ID badges shall be renewed on an annual basis.

PART 2 – PRODUCTS (not used)

PART 3 – EXECUTION (not used)

END OF SECTION

2. President's Day
 3. Memorial Day
 4. Columbus Day
 5. Labor Day
- G. The Hours of Work associated with non-revenue and RSAs and the frequency that these Hours of Work will be available to the Contractor are noted below. Also included are specific dates for the first year of construction, which shall be incorporated into the Project Schedule by the Contractor as required work dates.
1. Non-revenue (0100 to 0400) – Friday morning
 2. Non-revenue (2330 to 0400) – Sunday - Thursday nights
 3. Non-Revenue (0100 to 0700) – Saturday morning
- H. RSAs will not be permitted during the following periods in any calendar year:
1. March 12 through April 21
 2. The first Saturday of June (Race for the Cure)
 3. The week containing July 4 including the preceding and succeeding weekends.
 4. The 4th Sunday of October (Marine Corps Marathon)
 5. Thanksgiving eve through the following Monday
 6. Christmas eve and Christmas day
 7. New Year's eve and New Year's day
- I. Many times during a calendar year there are large events scheduled in the Washington DC area that require special attention by WMATA. These events are typically scheduled no sooner than 90 Days in advance of their occurrence. Plan no more than three such events in any calendar year. WMATA will notify the Contractor of the scheduling of these events as soon as they become known. If the event conflicts with a scheduled RSA, then the Contractor RSAs will need to be advanced or delayed 1 week unless there is conflict with the black-out periods listed above.
- J. There shall be no RSAs starting prior to 0100 on nights of regularly scheduled sporting events such as baseball, basketball, hockey, or soccer.
- K. Emergencies, excluding Acts of God, arise during the course of Metrorail operations that could cause the cancellation of a scheduled RSA. Anticipate no more than four cancellations within a calendar year. If an emergency occurs, then the Contractor RSAs will need to be delayed 1 week unless that conflicts with the black-out periods listed above.
- L. Equipment operations that pose a threat to the railroad right-of-way cannot occur during revenue rush hour operations but can occur, on a limited basis, during non-rush hour operations with the presence of a WMATA flag person. A flag person will only be supplied with a 1-week notice from the Contractor. An example of restricted equipment operations would be a crane positioned such that its load or the crane itself would breach the railroad right-of-way in the event of a failure or accident. Positioning or operating equipment that eliminates this risk would permit operation to proceed without restrictions.
- M. Unless otherwise pre-approved, hours of construction operations within DDOT public space shall be carried forward in accordance with the approved MOT plans, and per DDOT Standard Specifications for Highways and Structures 2013, Section 104.02 and Section 612.

PART 3 – EXECUTION

3.01 DESIGN, CONSTRUCTION, AND MAINTENANCE OF UTILITY FACILITIES

- A. All work performed by the Contractor on any utility, if any, shall be performed in accordance with the requirements of that Utility and the full knowledge of the Contracting Officer Representative.
- B. Contract Drawings indicate where Utilities will self-perform design, construction, and maintenance of their facilities in relation to this Contract. Coordinate the schedule and the interface for the Work of the Contract with the work done by Utility.
- C. Provide the Utilities with detailed Shop Drawings for utility connections and special facilities during construction.

END OF SECTION

- c. Subsistence and travel allowance paid to such workmen if required by collective bargaining agreements. The charges for labor shall include all classifications through foremen when engaged in the actual and direct performance of the Work. They shall not include charges for such overhead personnel as assistant superintendents, superintendents, office personnel, timekeepers, and maintenance mechanics.
2. Materials: The cost of materials required for the accomplishment of the Work will be delivered cost to the purchaser, whether Contractor, Subcontractor, or other forces, from the Supplier thereof, except as the following are applicable:
 - a. If a cash or trade discount by the actual supplier is offered or available to the purchaser, it shall be credited to the Authority notwithstanding the fact that such discount may not have been taken.
 - b. If materials are procured by the purchaser by any method, which is not a direct purchase from and a direct billing by the actual supplier to such purchaser, the cost of such materials, including handling, shall be deemed to be the price to the actual Supplier as determined by the Contracting Officer Representative.
 - c. If the materials are obtained from a supply or source owned wholly or in part by the purchaser, payment therefor will not exceed the price paid by the purchaser for similar materials furnished from said source on Contract items or the current wholesale price for such materials delivered to the job Site, whichever price is lower.
 - d. The cost of such materials shall not exceed the lowest current wholesale price at which such materials are available in the quantities concerned, delivered to the job Site, less any discount as provided in Article 1.03B.2.a above.
 - e. If the Contractor does not furnish satisfactory evidence of the cost of such materials from the actual supplier thereof, the cost shall then be determined in accordance with Article 1.03B.2.d above.
 - f. The Contractor will not be compensated for indirect costs and profit on Authority-furnished materials.
3. Equipment: The Contractor will be paid for the use of equipment in accordance with the Contract. The Contractor shall furnish all data, which might assist the Authority in the establishment of such rates.
 - a. Operators of equipment will be paid under Article 1.03B.1 above.
 - b. Small tools (defined as equipment less than \$2,000 in acquisition costs) are computed at a maximum of 5 percent of direct base labor wages.
4. Subcontracts: The cost for Subcontract work at any tier will be the actual cost to the Contractor/Subcontractor for work performed by a Subcontractor as computed in accordance with Articles 1.03B.1 through 1.03B.3 above. For the purposes of this Article, Subcontractor is defined as an individual, partnership, corporation, association, joint venture, or any combination thereof, who contracts with the Contractor to perform work or labor or render service on or about the work. The term Subcontractor shall not include those who supply materials only. When work paid for on a time and materials basis is performed by forces other than the Contractor's organization, the Contractor shall reach agreement with such other forces as to the distribution of the payment made by the Authority for such work, and no additional payment therefore will be made by the Authority by reason of performance of the Work by a Subcontractor or by others.

the Daily Report – Labor, Materials, & Equipment Form C-113, to segregate change order costs does not, in and of itself, invoke the provisions of this Article 1.03 or other provision of this Contract.

- E. Payment: Payment as provided in Articles 1.03B and 1.03C above shall constitute full compensation to the Contractor for performance of work paid for on a time and materials basis and no additional compensation will be allowed therefore.

1.04 EQUITABLE ADJUSTMENT FOR MINOR CONTRACT MODIFICATIONS FOR THE CONSTRUCTION EFFORT

- A. When the Authority and Contractor agree to an additive or deductive amount for a Modification to this Contract made pursuant to this Contract when the fair and reasonable price in aggregate amount does not exceed \$100,000, and further agree to an adjustment in the time for Period of Performance resulting from said Modification, which increases or decreases the completion date 10 or less Days, the equitable adjustment in Contract amount shall consist of the sum of the following:

1. Direct labor, material, and equipment costs as agreed to by the Authority and Contractor (small tools, defined as equipment less than \$2,000 in acquisition costs, are included in equipment costs and computed at a maximum of 5 percent of direct base labor wages.)
2. Job Office Overhead costs, the sum of which shall be limited to a maximum of 10 percent of direct labor costs, including fringe benefits, but excluding FICA, FUTA, and State Unemployment Insurance (SUI); a maximum of 10 percent of direct material costs; a maximum of 5 percent of direct equipment costs (including small tools); and a maximum of 5 percent of Subcontract costs.
3. Home Office General and Administrative (G&A) costs are computed using the most recent audited rate or a fixed rate of 3 percent in the absence of an audited rate.
4. Profit will be determined in accordance with the guidelines specified in Article 1.06 below.

- B. In using the above rates, the following shall apply:

1. Payroll Tax (FICA, FUTA, and SUI) amounts are added immediately after direct and indirect costs are totaled.
2. Subcontractors' indirect costs and profit shall be computed in the same manner as above.
3. Indirect costs shall not be duplicated in direct costs.
4. When the Period of Performance is increased, the change in Contract amount for direct and indirect costs computed by application of the above rates includes costs of impact and extended performance due to the time extension and no further consideration of costs arising from the specific Modification and cited pending change orders (PCOs) will be given. The Contractor will not receive both a percentage and a daily rate markup for job office overhead costs when a time extension to the Period of Performance is recognized.
5. Bond costs will be allowed at actual cost without markup.

- C. Equipment rates shall be determined from prior Authority audits. In the absence of audited rates for equipment owned or controlled by the Contractor, hourly rates shall be computed in the same fashion as described in Article 1.07D.

1.05 COST OR PRICING DATA

- A. The Contractor shall submit to the Contracting Officer Representative, either actually or by specific identification in writing an electronic copy of cost or pricing data under the conditions described in this Paragraph and certify that, to the best of the Contractor's knowledge and belief, the cost or

- B. Where profit is negotiated as an element of price, with either the Contractor or Subcontractor, a reasonable profit will be negotiated for each Modification by using the following procedure as a guide:

1. Breakdown:

Factor	Rate	Weight	Value
Degree of risk	20		
Relative difficulty of work	15		
Size of job	15		
Period of performance	15		
Contractor's investment	5		
Assistance by Authority	5		
Subcontracting	25		
TOTAL	100%		

2. Based on the circumstances of each Modification, each of the above factors shall be weighted from 0.03 to 0.12 as indicated below. The value shall be obtained by multiplying the rate by the weight. From the value column when totaled the fair and reasonable profit can be determined under the circumstances of the particular Modification.
- Degree of risk: Where the modified work involves no risk or the degree of risk is very small, the weighting should be 0.03. As the degree of risk increases, the weighting should be increased up to a maximum of 0.12. Lump sum items will have generally a higher weighted value than unit price items for which quantities are provided. Other things to consider: The portion of the Work to be done by Subcontractors, nature of work, where work is to be performed, reasonableness of negotiated costs, amount of labor included in costs, and whether the negotiation is before or after performance of work.
 - Relative difficulty of work: If the modified work is most difficult and complex, the weighting should be 0.12 and should be proportionately reduced to 0.03 on the simplest of jobs. This factor is tied in to some extent with the degree of risk. Things to consider: The nature of the Work, by whom it is to be done, the location, and the time schedule.
 - Size of job: All modified work not in excess of \$100,000 shall be weighted at 0.12. Work estimated between \$100,000 and \$5,000,000 shall be proportionately weighted from 0.12 to 0.05. Work from \$5,000,000 to \$10,000,000 shall be weighted at 0.04, and work in excess of \$10,000,000 at 0.03.
 - Period of performance: Modifications providing for an extension of time in excess of 30 Days shall be weighted at 0.12. Jobs of lesser duration shall be proportionately weighted to a minimum of 0.03 for jobs not to exceed 1 Day. No weight will be granted for this factor where there is no extension of the Period of Performance or interim dates due to work under this Modification.
 - Contractor's investment: Should be weighted from 0.03 to 0.12 on the basis of below average, average, and above average. Things to consider: Amount of Subcontracting, mobilization payment item, Authority-furnished property, and method of making progress payments.

	Regular Hourly Rate	Multi-shift Hourly Rate	Standby Hourly Rate
Monthly Rental Cost	\$6,070.00	\$6,070.00	\$6,070.00
Divided by Hours	176	176	176
Hourly Rental Cost	\$34.49	\$34.49	\$34.49
Hourly Operating Cost	\$18.20	\$18.20	\$18.20
Subtotal	\$52.69	\$52.69	\$52.69
Adjustment	75%	75%	75%
Regular Hourly Rate	\$39.52	\$39.52	\$39.52
Status	100%	60%	40%
Payment Rate	\$39.52	\$23.71	\$15.81

1. For Contractor owned equipment as identified in Article 1.07B, the first 8 hours, or fraction thereof, usage in any one day shall be paid for at the Regular Hourly Rate, and any additional time in excess of 8 hours, shall be considered to be an additional shift, or fraction thereof, and shall be paid for at 60 percent of the Regular Hourly Rate. Standby time, if authorized by the Contracting Officer Representative, will be paid for at 40 percent of the Regular Hourly Rate. Standby time shall be limited to the regular 8-hour shift and shall not exceed 40 hours in a week. Any usage time less than 30 minutes shall be considered to be 1/2 hour.
2. For third-party rented equipment, the Authority will accept rental rates actually paid and substantiated by certified reproduced copies of invoices or bills. Such invoices or bills shall indicate the amount of operating expenses and operator wages and fringes, if any, included in the rental rate. In no case shall the bare rental rate per hour (operating expense, and operator wages and fringes not included) exceed the appropriate Regular Hourly Rate. Where required, the operating costs per hour will be agreed upon between the Contractor and the Authority using operating costs per hour from the Blue Book for the same or similar equipment
3. When approved by the Contracting Officer Representative, use of equipment not listed in the Blue Book will be permitted. An equitable hourly rate for such equipment will be established by the Contracting Officer Representative based on Contractor furnished cost data and basic information concerning the equipment. Information required to determine rates includes, but is not limited to, manufacturer, year, size, model, serial number, capacity, and weight. This information shall be furnished to the Contracting Officer Representative prior to the use of the equipment. Authority shall be granted audit access to verify information related to or pursuant to this Section.
4. The Regular Hourly Rate does not include "move-in" and "move-out" costs.
5. These equipment rates shall apply to equipment in sound workable condition. The equipment shall be of approved size and capacity to provide normal output or production required for the work to be done. Equipment not meeting these requirements may be used only with the

8. Required performance results
 9. Recording requirements
 10. Possible conflicts and compatibility problems
 11. Weather limitations
- E. Work shall not proceed if the meeting cannot be successfully concluded. Initiate whatever actions are necessary to resolve impediments to performance of work and schedule a follow-up meeting with the Authority at the earliest date.
- F. Record meeting minutes and distribute copies to everyone in attendance and to others affected by decisions or actions resulting therefrom.

1.03 PROGRESS MEETINGS

- A. Conduct progress meetings weekly at regularly scheduled times convenient for all parties involved. Progress meetings are in addition to specific meetings held for other purposes, such as coordination and pre-construction meetings. A Three-Week Work Plan will be developed by the Contractor prior to the start of the meeting as specified in Section 01322, PROGRESS REPORTING, and will be discussed during the planning portion of the agenda. Additionally, discussions will address administrative and technical issues of concern, determining resolutions, and development of deadlines for resolution within allowable time frames.
- B. Determine, together with the Contracting Officer Representative, who should attend the meeting in addition to the Contracting Officer Representative, other representatives of the Authority, the Contractor's Key Staff, and those Subcontractors, Suppliers, or other entities critical to the current progress or involved in planning, coordination, or performance of future activities that are part of the Work.
- C. Contracting Officer Representative will publish an agenda prior to each meeting and will distribute copies to Contractor. Agenda items may include:
1. Review of minutes of the previous progress meeting
 2. Contractor's construction schedule and construction sequence
 3. Safety, including discussions of hazards and risks
 4. QA/QC, including discussion of Non-Compliance Notices
 5. Temporary facilities and services
 6. Site utilization, Site access needs and Hours of Work issues
 7. Testing and systems integration testing
 8. Updated submittals list and submittal priorities
 9. Requests for Information
 10. Documentation of information for payment requests
 11. Pending Change Orders and Modifications
 12. Resource allocation
 13. Off-Site fabrication problems
 14. Purchases and deliveries

PART 2 – PRODUCTS

2.01 KEY PLAN

- A. Indicate project site with notation of vantage points marked for location and direction of each still photograph and video recording.
- B. Include location and type and model of still and video camera(s).
- C. Include description of vantage point indicating location, direction (by compass point), and elevation.

2.02 STILL PHOTOGRAPHS

- A. Camera Specifications: Provide digital camera with sensor resolution of a minimum of 8 megapixels for producing color digital photographs.
- B. Format:
 1. Set camera to produce a digital stamp of the current date and time on each image.
 2. Provide required images in .JPG format.
 3. Digital photographic files shall be capable of producing standard commercial quality photographs, 8 inches by 10 inches in size.
 4. Identification:
 5. Electronically label each still photograph with the following information on the bottom left corner:

WASHINGTON METROPOLITAN AREA TRANSIT AUTHORITY

Project: _____ Contract No.: _____

Contractor _____

Photograph No. _____ Date: _____

Description: _____

2.03 DIGITAL VIDEO RECORDINGS

1. Camera Specifications: Provide digital video camera for producing color digital video images and meeting the following requirements: Capable of producing NTSC 1080 lines/60 fields
2. Resolution in the Y channel shall contain a minimum of 500 TV lines at center, utilizing no less than three charge-coupled-device (CCD) chips, each containing no less than 5 megapixels for optimum picture clarity
3. Format: Set camera to produce a digital stamp of the current date and time on each video sequence containing the month, day, year, hours, minutes, and seconds.
4. Provide high-resolution NTSC or agreed upon format.
- B. Identification: Electronically label video recordings with the following information: location, project name, and municipality. With each submittal, provide the following information:
 1. Name of Project
 2. Contract Number

- b. End recording with date and time.
 - c. Narration: Describe scenes on video recording by audio narration. Include description of items being viewed, recent events, and planned activities. At each change in location, describe vantage point, location, direction (by compass point), and elevation or story of construction.
 - 2. Video:
 - a. Set to continuously record: transparent digital information shall include the date and time of recording.
- B. Preconstruction Video Recordings:
 - 1. Document the entire Project Site.
 - a. Include all surface features located within at least 300 feet of the construction site and accompany with appropriate audio description. Include all existing curbs, sidewalks, driveways, ditches, paved areas, landscaping, trees, culverts, headwalls, retaining walls and buildings.
 - 2. Duration: approximately 120 minutes.
- C. Monthly Construction Video Recordings: Select vantage points to show status of construction and progress since last video recordings were recorded. Minimum recording time shall be 30 minutes.

END OF SECTION

SECTION 01550
MAINTENANCE OF TRAFFIC, ACCESS, AND PARKING

PART 1 – GENERAL

1.01 SUMMARY

- A. This Section includes requirements for maintenance of existing pedestrian and vehicular traffic onsite and offsite; construction sequence, and staging; maintaining access to and from the Site including construction areas, haul routes, and temporary roads with traffic control; and for Contractor parking.

1.02 REFERENCES

- A. D.C. Temporary Traffic Control Manual 2006, DDOT Standard Drawings 2015, DDOT Standard Specifications for Highways and Structures 2013, Pedestrian Safety and Work Zone Standards 2010, Utility Traffic Control Plan 2007, Manual of Uniform Traffic Control Devices (MUTCD) 2009 Edition and subsequent revisions, and approved Maintenance of Traffic plans,
- B. Unless otherwise pre-approved, all work shall be done in accordance with DDOT Standard Specifications for Highways and Structures 2013, Section 104.02 and Section 612.

1.03 SUBMITTALS

- A. Submit the following Working Drawings in accordance with Section 01330, SUBMITTAL PROCEDURES, for Jurisdictional Authority approval such that approval is obtained 10 Days prior to start of the work. Submit to Authority for Approval prior to DDOT and other Jurisdictional Authority review/approval.
 - 1. Maintenance of Traffic Plan
- B. Submit the following shop drawings in accordance with Section 01330, SUBMITTAL PROCEDURES, for Jurisdictional Authority approval such that approval is obtained prior to start of the work. Submit to Authority for Approval prior to Jurisdictional Authority review.
 - 1. Plan showing locations of access points to fire hydrants and fire alarm boxes
 - 2. Plan showing locations of staging, working, storage, and lay down areas

1.04 MAINTENANCE OF TRAFFIC

- ##** A. Maintain traffic and erect and maintain traffic control devices in accordance with the applicable D.C.

Temporary Traffic Control Manual 2006, DDOT Standard Drawings 2015, DDOT Standard Specifications for Highways and Structures 2013, Pedestrian Safety and Work Zone Standards 2010, Utility Traffic Control Plan 2007, the Manual on Uniform Traffic Control Devices (MUTCD) 2009 Edition and subsequent revisions, the approved Maintenance of Traffic plans and as specified in the contract documents, and as required by DDOT and the Jurisdictional Authority of the area where the Work is to be performed, including, but not limited to, the following for each construction sequence and maintenance of traffic stage: ##

- 1. Temporary directional, electronic warning, variable message and detour signs
 - 2. Temporary barricades, energy attenuators, drums and cones
 - 3. Temporary lighting, overhead warning lights, flashing lights, and lanterns
 - 4. Temporary paving and striping
- B. Traffic control signs: Traffic control signs shall be standard signs of the Jurisdictional Authority. Each change in location of traffic shall be adequately posted with a minimum of two signs mounted on

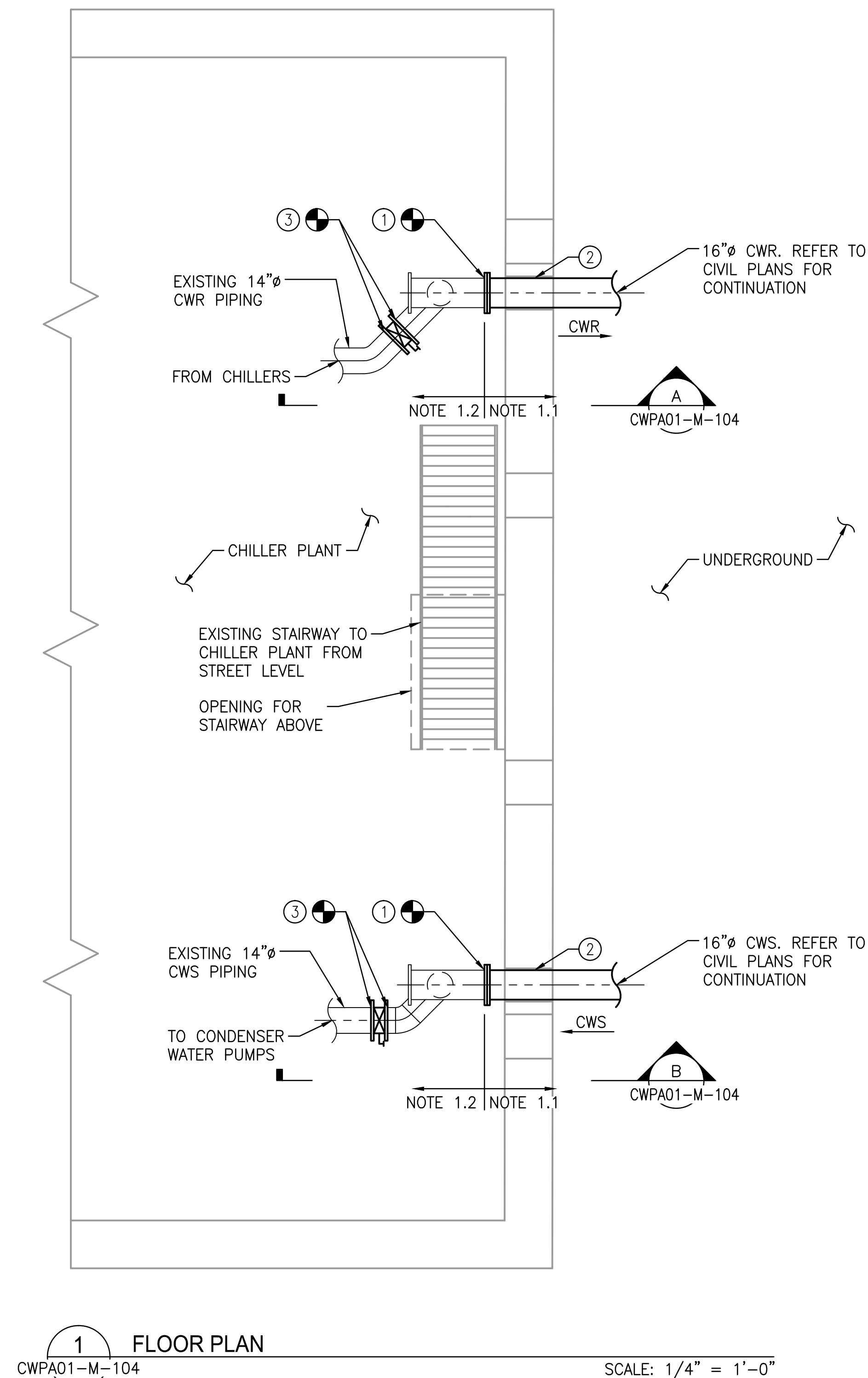
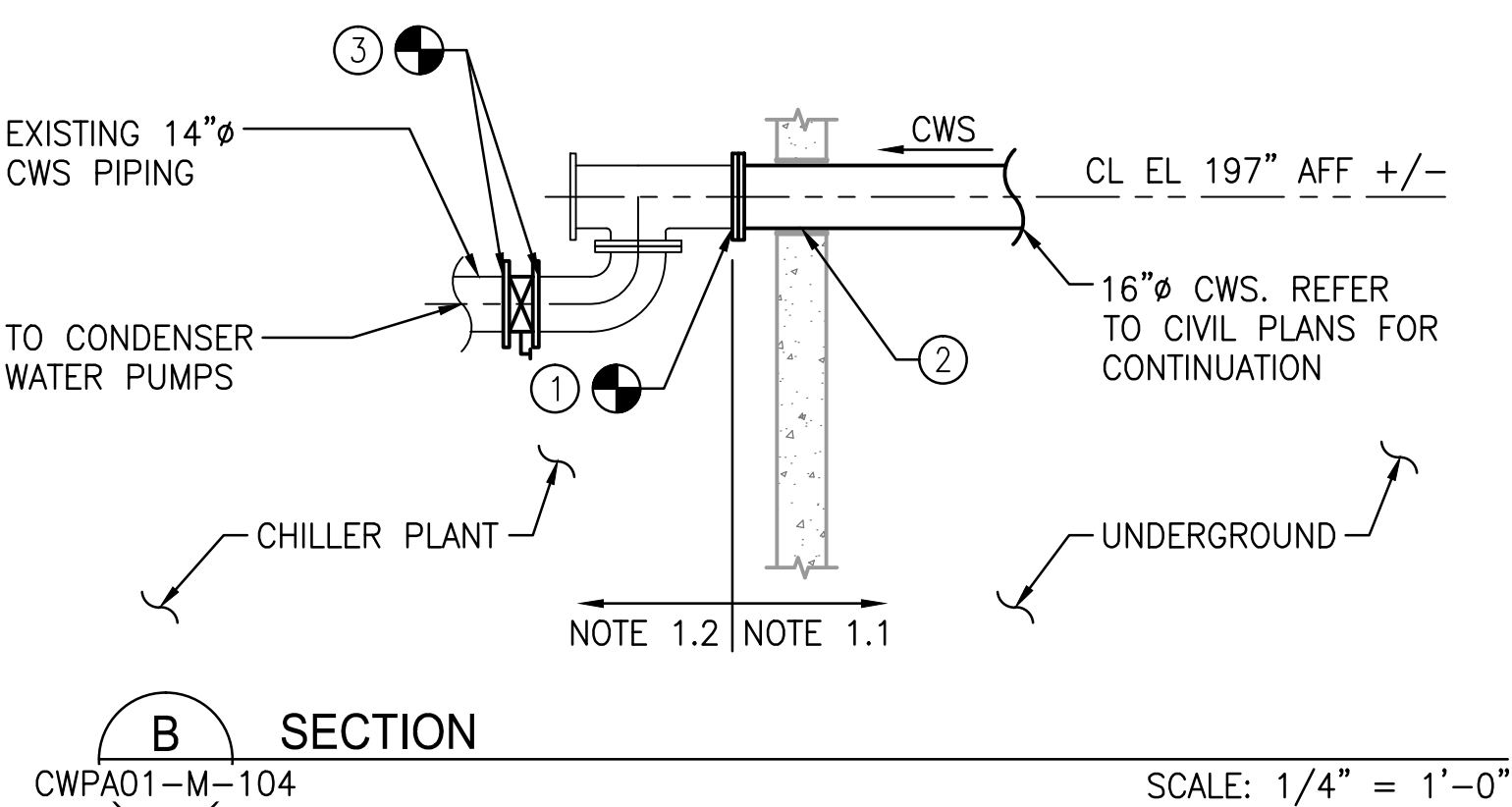
barricades or standard posts. All signing shall be constructed, maintained, and removed in accordance with the requirements of the latest published standard of the Jurisdictional Authority.

- C. Striping: Provide all necessary temporary striping required in connection with all temporary street work. Remove or obliterate existing or temporary pavement markings by grinding the pavement whenever vehicular traffic is moved to newly available pavement areas or to different traffic patterns.
- D. Redirecting traffic: Obtain approval from Jurisdictional Authority and DDOT for channeling and shifting of traffic lanes as well as barricading of traffic in connection with this work.
- E. Temporary closing: Prior to the temporary closing to traffic of part of any public street, sidewalk, or other access or prior to changing traffic patterns from those existing, obtain approval from the appropriate Jurisdictional Authority. Deviations from this shall be for a bona fide emergency only and as approved by the Jurisdictional Authority.
- F. Contractor's surface operations: Schedule surface operations so as not to be working intermittently throughout the area. Excavation or construction activities shall be carefully scheduled and vigorously pursued to completion as required to permit opening of street areas to traffic as soon as possible without unnecessary delays.
- G. Temporary walkways: In areas where the removal of existing sidewalks is necessary, access to adjacent businesses, entrances and properties shall be maintained by temporary walkways having a width of not less than [6] feet.
- H. Intersections: Intersections shall be excavated and decked in stages as shown on Working Drawings and as approved by the Jurisdictional Authority. Construction shall be so staged that the required number of traffic lanes on each street shall be provided at all times during these operations. Upon completion of decking, traffic in all intersections shall be fully maintained.
- I. Temporary pavement and patching: Construct, maintain, and remove temporary pavement and patching required to safely and expeditiously handle vehicular and pedestrian traffic within or adjacent to the Site. The temporary pavement composition and patch shall conform to the requirements of the Jurisdictional Authority. Construction, maintenance, and removal required by the Contractor's operations off the Site shall be included under this Section.
- J. The use of staging, working, storage, and lay down areas must be as approved by the Contracting Officer Representative and the Jurisdictional Authority.
- K. Jurisdictional Authority maintenance of traffic approval must be obtained at least 30 Days prior to the time public traffic pattern closures and changes are to be made and Authority maintenance of traffic Approval must be obtained 10 Days prior to start of construction on Authority property.

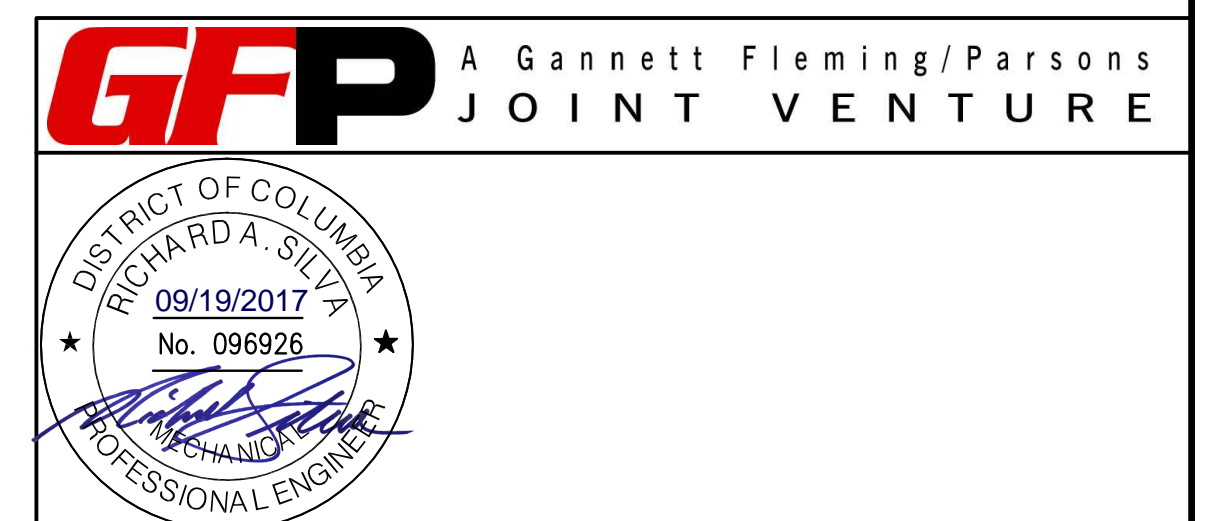
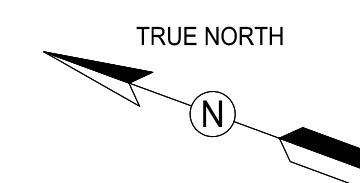
1.05 CONSTRUCTION SEQUENCE AND STAGING

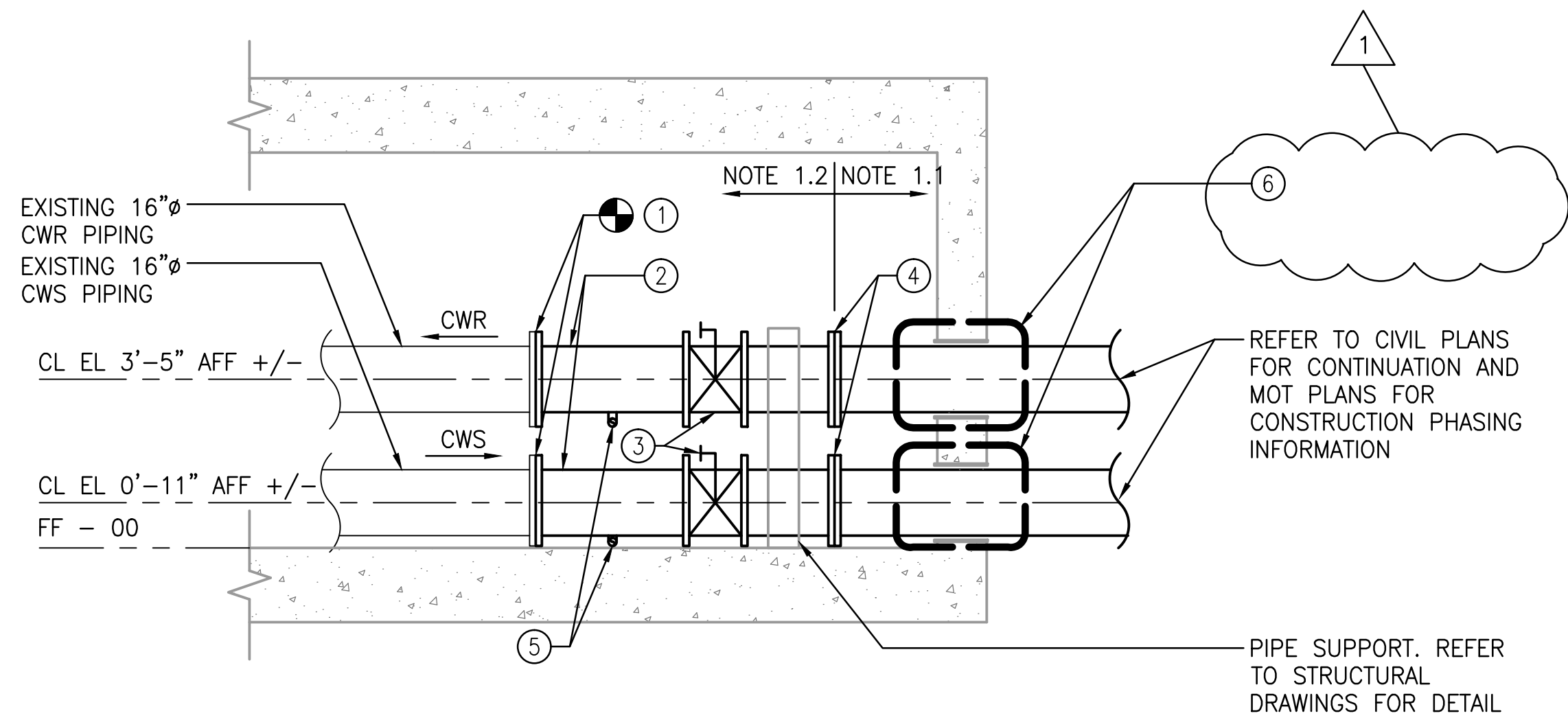
A. All work under this Contract shall be performed as specified in the contract documents and in accordance with the approved detailed plan of the Work following a logical sequence developed by the Contractor. Construction shall be completed in the phases and sub-phases as specified in Section 01110 SUMMARY OF WORK.

- B. The Contractor's particular attention is directed to the fact that both vehicular and pedestrian traffic must be maintained on the existing roads adjacent to the Site at all times for the duration of the Contract.
- C. Structures constructed underground by cut-and-cover methods require the Contractor to provide temporary decking as specified in Section 01530, TEMPORARY DECKING, over open excavations for the maintenance of vehicular and pedestrian traffic. In order that disruptions to traffic may be kept to a minimum, perform the decking operations, the utility work, and the subsequent paving and restoration operations in stages.
- D. Any changes to the method of staging and requirements described in the plans pertaining to the number of traffic lanes to be provided during rush hours and non-rush hours, shifting of traffic lanes, the use of working, storage and laydown areas, and other requirements pertaining to the



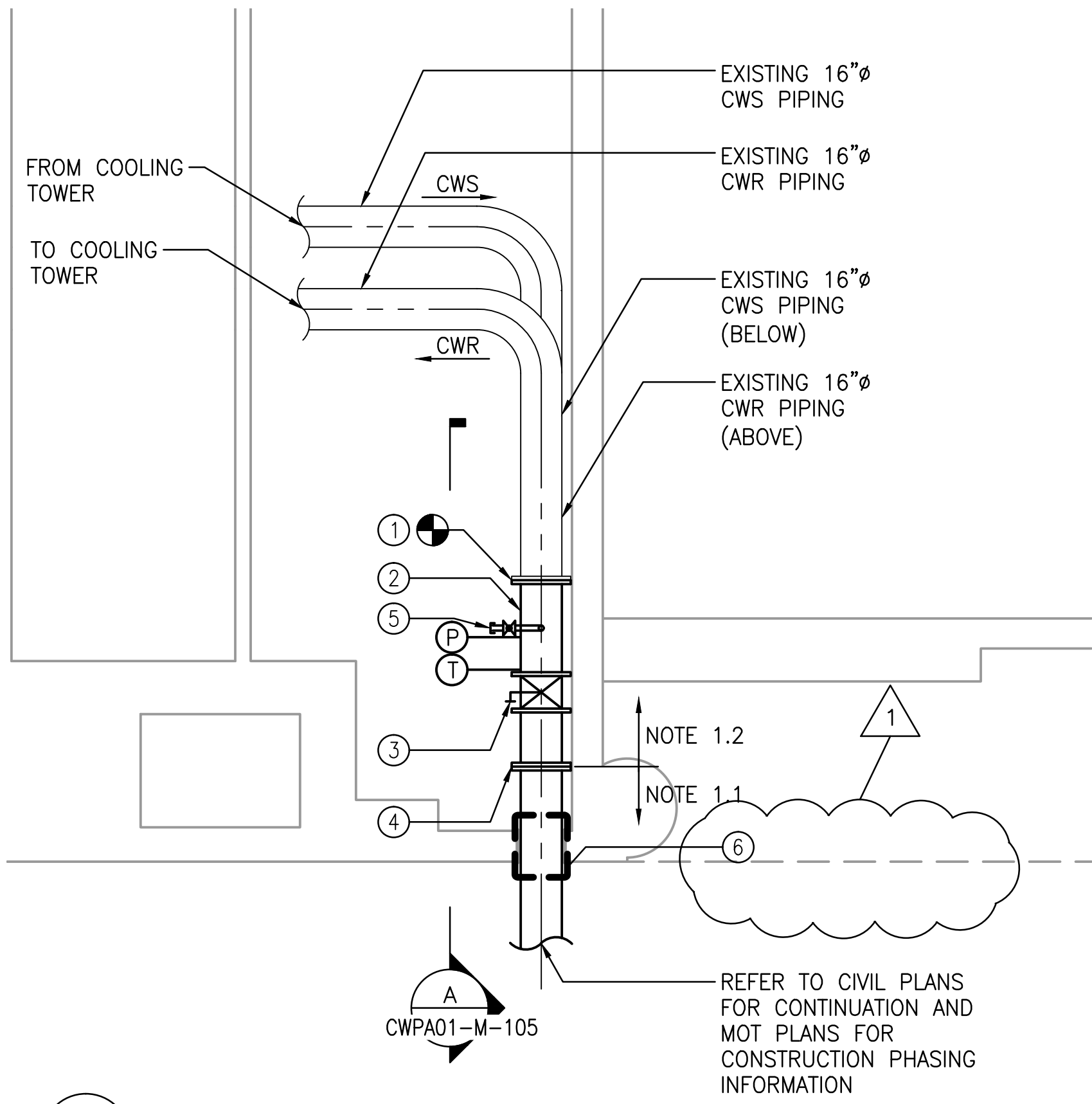
- NOTE:**
1. PER SPECIFICATION 15205, PIPING MATERIALS SHALL BE AS FOLLOWS:
 - 1.1. BURIED PIPING: INTERNALLY CEMENT LINED DUCTILE IRON PIPE WITH EXTERNAL ZINC COATING AND POLYETHYLENE ENCASEMENT.
 - 1.2. EXPOSED PIPING: SCHEDULE 40 BLACK STEEL PIPING.

[illegible]



A SECTION
CWPA01-M-105

SCALE: 3/8" = 1'-0"



1 FLOOR PLAN
CWPA01-M-105

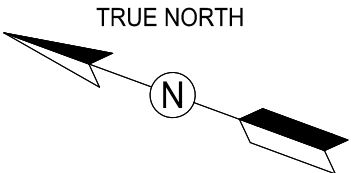
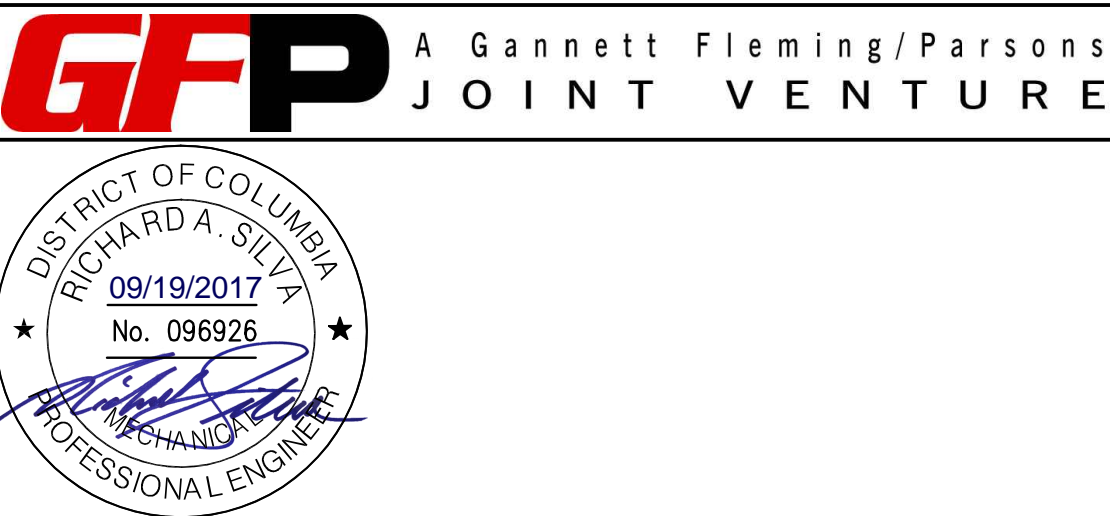
SCALE: 1/4" = 1'-0"

KEY NOTES:

- 1 PROVIDE NEW CONDENSER WATER SUPPLY AND CONDENSER WATER RETURN PIPING UP TO SECOND FLANGE CONNECTION INSIDE BUILDING AS SHOWN. REFER TO SPECIFICATION SECTION 15205 AND NOTE 1 ON THIS DRAWING.
- 2 REFER TO STRUCTURAL DRAWINGS FOR NEW WORK REQUIREMENTS FOR PIPE SLEEVES, PIPE SUPPORTS, AND OTHER WORK IN THIS AREA.
- 3 PROVIDE NEW 16" BUTTERFLY VALVE IN ACCORDANCE WITH SPECIFICATIONS.
- 4 PROVIDE INSULATING FLANGE CONNECTION. REFER TO DRAWING CWPA01-M-501 FOR FURTHER INFORMATION.
- 5 PROVIDE 2" DRAIN PIPE WITH BALL VALVE FROM CWR AND CWS PIPING. PROVIDE WITH PIPE CAP AS SHOWN.
- 6 REFER TO STRUCTURAL PLANS FOR PIPE PENETRATION AND SUPPORT DETAILS.

NOTE:

- 1. PER SPECIFICATION 15205, PIPING MATERIALS SHALL BE AS FOLLOWS:
 - 1.1. BURIED PIPING: INTERNALLY CEMENT LINED DUCTILE IRON PIPE WITH EXTERNAL ZINC COATING AND POLYETHYLENE ENCASEMENT.
 - 1.2. EXPOSED PIPING: SCHEDULE 40 BLACK STEEL PIPING.



<div>DESIGNED <u>D. ROMNESS</u> 05/25/17 DATE</div> <div>DRAWN <u>D. ROMNESS</u> 05/25/17 DATE</div> <div>CHECKED <u>B. VISWANATHAN</u> 08/08/17 DATE</div>	REFERENCE DRAWINGS		REVISIONS		<div><div><div>M</div><div>metro</div></div><div>WASHINGTON METROPOLITAN AREA TRANSIT AUTHORITY</div><div>DEPARTMENT OF DESIGN AND CONSTRUCTION SERVICES</div><div>OFFICE OF INFRASTRUCTURE RENEWAL PROGRAM</div><div><div><div>Mark H. Magnuson</div><div>08/15/2017</div></div><div>DATE</div><div><div>ACH</div><div>08/15/2017</div></div><div>DATE</div></div></div>	REPLACEMENT OF FARRAGUT NORTH & DUPONT CIRCLE CONDENSER PIPING MECHANICAL - 1101 CONNECTICUT AVENUE BASEMENT PLAN AND SECTION - NEW WORK					
	NUMBER	TITLE	DATE	NUM		DESCRIPTION	M NO.	CONTRACT NO.	SCALE	DRAWING NO.	SHEET NO.
			08/15/17	0		FINAL SUBMITTAL	M1298	FQ-18004	AS NOTED	CWPA01-M-105	48 of 53
			09/19/17	1		AMENDMENT #1					