



Request For Proposals

Federal

**REPLACE THREE ROOFS
T19 JACKSON GRAHAM BUILDING,
C94 ALEXANDRIA YARD REVENUE
COLLECTION FACILITY AND T38
CARMEN TURNER FACILITY–
“BUILDING-A”
DC, MD, AND VA**

RFP NO.: FQ18063/KKB

RFP PUBLICIZED DATE: JANUARY 4, 2018

RFP Due Date: FEBRUARY 2, 2018

**MINORITY BUSINESS ENTERPRISES
ARE ENCOURAGED TO RESPOND TO
THIS SOLICITATION NOTICE**

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SECTION 00100
REQUEST FOR PROPOSAL

This Section includes Project information for Proposers.

NOTICE TO OFFERORS

Contract No.: FQ18063 **includes RFP Documents for:** FQ18063/KKB

Project Name: Replace Three Roofs, DC, MD and VA

TECHNICAL PROPOSAL for the Work described herein shall be submitted in an envelope by the Proposers so as to be received at the Office of Procurement, Washington Metropolitan Area Transit Authority, Office of Procurement, PRMT File Room 3C-02, 600 Fifth Street, N.W., Washington, D.C. 20001. Technical and Price Proposals shall be mailed in a timely fashion or hand delivered to reach WMATA before 3:00 PM (local time) on February 2, 2018. Questions may be directed to Mr. Kamoru Banjo @ kkbanjo@wmata.com or 202-962-1395. Email contacts preferred.

DIRECTIONS TO SUBMITTING PROPOSER: Read and comply with the Solicitation Instructions. In addition to other submission requirements set forth in this Request for Proposal and all Amendments, the following must be properly executed, completed, and submitted separately as part of the offer:

- A. TECHNICAL PROPOSAL:
 - 1. Technical Proposal Form (properly executed)¹
 - 2. Technical Proposal
- B. PRICE PROPOSAL:
 - 1. Price Proposal Form (properly executed¹)
 - 2. Price Schedule
 - 3. Proposal Guarantee
 - 4. Proposal Data Form with Supporting Data
 - 5. Representations and Certifications
 - 6. List of DBE Certified Firms²
 - 7. DBE Data³

PROPOSAL(S) MUST SET FORTH FULL, ACCURATE, AND COMPLETE INFORMATION AS REQUIRED BY THIS REQUEST FOR PROPOSAL, INCLUDING ALL AMENDMENTS

¹ The separate sealed Technical and Price Proposal Forms must be marked with offer under Solicitation RFP No. FQ18063/KKB and with acknowledgement of all Amendments.

² Proposed DBE firms must be certified WMATA DBE firms **prior to submittal** of Schedule of DBE Participation and Letters of Intent in order to be applied toward the DBE goal established for the Contract. Non-WMATA Certified DBE firms may be utilized by the Proposer but will not be applied toward the goal calculations.]

³ DBE Data and List of WMATA DBE-Certified Firms must be updated and included in Best and Final Offer (BAFO) submission(s).

00101 GENERAL STATEMENT OF WORK:

- A. This solicitation is for the submittal of separate Technical and Price Proposals through a "Best Value" method of procurement for a Design-Build Project that includes furnishing both design and construction services. The Design-Builder, through itself or others, shall provide professional design engineering and architectural services as well as technical, sub-professional, clerical, and other services necessary for the complete design and preparation of the Design Drawings and Design Specifications, as well as the schedules, cost estimates, cost accounting, quality assurance/control and other Contract requirements. The Design-Builder shall also furnish all labor, equipment, materials, quality assurance/quality control, construction and environmental/security/safety superintendence, and field engineering services required for the construction of the Project. The Design-Builder is responsible for managing program and project coordination with Jurisdictional Authorities and Utilities through the Contracting Officer Representative; obtaining all necessary permits, approvals, and easements; performing architectural and engineering services; providing Submittals, field engineering support, quality management system to ensure that all work conforms to specified requirements; and providing operation and maintenance training and manuals for the systems and equipment installed. No attempt has been made to separate the Work by trades or types of construction, and the Design-Builder shall make its own decision as to the types of services needed to accomplish the Work.
- B. It is the responsibility of the Design-Builder to gather all data necessary for the performance of the Work under this Contract that are needed in addition to Authority-furnished RFP Documents and to develop a complete and final design.
- C. All work under this Contract shall be performed in a logical sequence as developed by the Design-Builder. The Work is divided in two phases, the Design Phase and the Construction Phase, however, there is an overlap between the Phases. The construction for any design elements will not be approved until the balance of the design is advanced to a stage where in the judgment of the Authority the design element can be adequately evaluated. The Design-Builder will receive approval by the Authority of the design by element before proceeding to construction for that element.

00102 GENERAL SCOPE OF WORK:

- A. Replace Roof, DC, MD, and VA:
 1. Design and Construct roof placement at three (3) WMATA facilities:
 - a. T19 Jackson Graham Building
 - b. C94 Revenue Collection Facility
 - c. T38 Carmen Turner Facility Building A
- B. Basis of Design: As specified in Section 01112, DESIGN AND PROGRAM REQUIREMENTS.-

00103 PROJECT SOLICITATION SCHEDULE

- A. The solicitation schedule for this Project is as follows:
 1. Issue Request for Proposal: January 4, 2018
 2. Pre-Proposal Conference/Site Visit: Tuesday, January 16, 2018 at 10:00a.m. (Please arrive at the Lobby Receptionist between 9:30 – 10:00 a.m.) at WMATA, Jackson Graham Building, 600 5th Street, Washington, DC 20001.

WMATA will have representatives of our procurement, insurance, DBE, safety, and DECO. WMATA certified DBE's are strongly encouraged to attend.

All attendees must provide a WMATA Contractor ID or a government issued identification for entry into the Jackson Graham Building. Individuals that plan to attend the meeting are requested, but not required, to send an email to kkbanjo@wmata.com, 24 hours in advance, with name, title, company name, mailing address, telephone, and email for each attendee.

Attendees should arrive early in order to clear security and/or receive temporary badges.

WMATA will conduct site visits at all locations, the first site visit immediately after the Pre-Proposal Conference, thereafter, the remaining site visits will ensue the following day. Attendees must ride the Metrorail to each station. Attendees must be escorted by WMATA personnel.

Attendees that have a current WMATA Contractor ID shall display their ID and bring PPE and WMATA approved safety vest. Attendees not holding WMATA Contractor ID with PPE and vest should specifically identify themselves to the WMATA escorts. WMATA must arrange escorts based upon the number of attendees.

NOTE: There will be two (2) site visits. One on the day of the pre-proposal conference and the second site visit will be on the following day.

3. Technical and Price Proposal Due: February 2, 2018
4. Oral Presentation by Proposer: February 12, 2018
5. Best and Final Offer: February 19, 2018
6. Projected Contract Award: March 30, 2018

END OF SECTION

SECTION 00200
INSTRUCTIONS TO PROPOSERS

This Section includes procedures with which Proposers must comply and conditions affecting award of the Contract.

00201 GENERAL INSTRUCTIONS

A. Definitions as used herein:

1. The term "Solicitation" used in this document means this Request for Proposals (RFP).
2. The term "Offer" and "Proposal" are synonymous and mean a response to this Solicitation.
3. The term "offer" and "proposal" are synonymous and refer to the Design-Builder that submits a response to this solicitation.
4. For further explanation of Contract terms, refer to Section 00701, DEFINITIONS, of the General Conditions.

B. Method of Procurement:

1. This is a Best Value, two-phase, negotiated procurement.
2. The Authority reserves the right to award without discussions.
 - a. Phase 1:
 - 1) Requires the Proposer(s) to prepare and submit separately Technical and Price Proposals based on the scope of Work set forth in the Solicitation in 30 calendar days. The Technical and Price Proposals will be evaluated separately based on the Phase 1 Technical Evaluation Factors stated under Section 00203, TECHNICAL AND PRICE PROPOSAL FORMAT, PROCEDURES AND EVALUATION FACTORS, AND INSTRUCTIONS, and the Price Evaluation Factors stated in the same section, which are applicable to both Phase 1 and Phase 2.
 - 2) Upon completion of the evaluation of the Phase 1 Technical and Price Proposals, the Authority will select and notify up to three Proposers who it determines submitted the most highly-rated Technical Proposals and whose Price Proposals were considered to be most advantageous to the Authority.
 - b. Phase 2:
 - 1) The Proposers selected in Phase 1 will be given 30 calendar Days to advance the design and refine the bid pricing based on that design. The minimum effort required for WMATA to accept the design includes roof plans, re-roofing system details, complete schedule and any other details.
 - 2) The Phase 2 Technical and Price Proposals submitted will be evaluated based on the Phase 2 Technical Evaluation Factors stated under Section 00203, TECHNICAL AND PRICE PROPOSAL PROCEDURES, EVALUATION FACTORS, AND INSTRUCTIONS.
3. The Authority reserves the rights to request Oral presentation and Best and Final Offers are required, however, the Authority may award a contract without Amendments, negotiations, or discussions.

C. Basis for Award:

1. Award will be made to that Proposer:
 - a. whose offer is judged by an integrated assessment of the evaluation criteria to be the most advantageous to the Authority based on technical merit and price as identified in Section 00203, TECHNICAL AND PRICE PROPOSAL FORMAT, PROCEDURES AND EVALUATION FACTORS, AND INSTRUCTIONS, and
 - b. that the Authority deems responsible in accordance with the WMATA Procurement Procedures Manual.
 2. The Authority reserves the right to conduct discussions with the Proposers. If it is determined that discussions are necessary, the Authority will establish a competitive range of all of the most highly rated technical Proposals.
 3. The Authority will make a single award to one Proposer as the result of this Solicitation. See Notes to Proposers in Section 00434, PRICE PROPOSAL SCHEDULE, for further award information.
 4. A written award of acceptance of Proposal mailed or otherwise furnished by the Authority to the successful Proposer within the specified Acceptance Period shall result in a binding contract without further action by either party. The Authority may accept a Proposal whether or not it conducts discussions, unless the Authority receives from the Proposer a written notice of withdrawal before award.
- D. Type of Contract: The Authority contemplates award of a Firm Fixed Price Design-Build contract.
- E. Preparation of Proposals:
1. The Proposer shall complete the Proposal Forms furnished in Section 00400, PROPOSAL FORMS AND SUPPLEMENTS, or copies thereof, and submit them according to the instructions given in this RFP. If erasures or other changes appear on the forms, they must be initialed by the person signing the Proposal.
 2. Each Proposer shall furnish the information required by the Solicitation. Proposers are expected to examine the RFP Documents. Failure to do so will be at the Proposer's risk.
- F. Explanation to Proposers:
1. All explanations desired by a Proposer regarding the meaning or the interpretation of this RFP or all other Solicitation documents must be requested in writing 14 Days prior to the most current proposal due date set for receipt of Proposals to allow sufficient time for a reply to reach all Proposers before the submittal of their Proposals. Oral explanations or instructions given before the award of the Contract will not be binding. Any information given to a prospective Proposer concerning the Solicitation will be furnished promptly to all prospective Proposers as an Amendment to this RFP, if the information is necessary in submitting Offers or if lack of such information would be prejudicial to other prospective Proposers.
 2. The Authority reserves the right to amend the RFP prior to the date set for receipt of Proposals or Best and Final Offers. Such revisions and amendments, if any, will be announced by an amendment or amendments to this RFP. Copies of such Amendments as may be issued will be furnished to all prospective Proposers.
 3. If the revisions under Amendments would require material changes in the Proposals, the date set for the receipt of Proposals may be postponed by such number of Days as in the opinion of the Authority will enable Proposers to revise their Proposals. In such cases, the Amendment will include an announcement of the new date for the receipt of Proposals.
- G. Acknowledgment of Amendments:

1. Proposers are required to acknowledge receipt of all Amendments to this Solicitation on copies of the Proposal Forms, Sections 00412, TECHNICAL PROPOSAL FORM, and 00413, PRICE PROPOSAL FORM, in the space provided. Failure to acknowledge all Amendments may cause the Proposal to be considered not responsive to the Solicitation, which would require rejection of the Proposal.
 2. Modifications of Proposals already submitted due to the revisions listed in an Amendment will be considered if received at the office designated in this Request For Proposal by the time set for receipt of Proposals. Modifications of either Technical Proposal or Price Proposal shall be enclosed separately and sealed.
 3. If this Solicitation is amended, all terms and conditions, which are not modified, remain unchanged.
- H. Submission/Withdrawal of Proposals/Offers:
1. Technical and Price Proposals shall be sealed, marked, addressed, and submitted separately as directed in this Paragraph H.
 2. The Proposer shall show on the face of each sealed separate Technical Proposal and Price Proposal the hour and date specified in the Solicitation for receipt of Proposals, the Contract number, the name and address of the Proposer and whether the enclosed Proposal is a Technical Proposal or a Price Proposal. Failure to do so may result in a premature opening of or a failure to open such Proposal.
 3. Proposals may be mailed or delivered in person to the Washington Metropolitan Area Transit Authority, Office of Procurement, as shown in Section 00100, REQUEST FOR PROPOSALS.
 4. Email and facsimile Proposals will not be considered.
 5. Proposals may be withdrawn by written notice or telegram (including mailgram) before award. Proposals may be withdrawn in person by a Proposer or an authorized representative, if the representative's identity is made known and the representative signs a receipt for return of the Proposal before award.
- I. Late Proposals, Modifications, or Withdrawals:
1. All Proposals received at the office designated in the Solicitation after the exact time specified for receipt will not be considered unless they are received before Award is made and they:
 - a. Were sent by registered or certified U.S. mail not later than the fifth calendar day before the date specified for receipt of Proposals (e.g., an offer submitted in response to a Solicitation requiring receipt of offers by the 20th of the month must have been sent by registered or certified mail by the 15th); or
 - b. Were sent by mail, and it is determined by the Authority that the late receipt was due solely to mishandling by the Authority after receipt; or
 - c. Were sent by U.S. Postal Service Express Mail Next Day Service-Post Office to Addressee, not later than 5:00 PM at the place of mailing two working days prior to the date specified for receipt of Proposals. The term "working days" excludes weekends and U.S. Federal holidays.
 - d. Is the only offer received.
 2. All modifications of a Proposal, except a modification resulting from the Contracting Officer's request for a Best and Final Offer, are subject to the conditions stated above.

3. A modification resulting from the Authority's request for Best and Final Offer received after the time and date specified in the request will not be considered unless it is received before award, and the late receipt is due solely to mishandling by the Authority.
 4. The Authority may in its sole discretion accept a late proposal in instances where it is clear that the proposal left the hands of the proposer before the time set for receipt of proposals and acceptance of the late proposal will not delay the procurement or prejudice the other proposers.
 5. Notwithstanding these requirements, a late modification of any otherwise successful offer that makes its terms more favorable to the Authority will be considered at any time it is received and may be accepted.
- J. Proposal Guarantee:
1. A Proposal guarantee is required by the Request for Proposal. Failure to furnish a Proposal guarantee in the proper form and amount with the Price Proposal, by the time set for the receipt of Proposals, may be cause for rejection of the Proposal.
 2. A Proposal guarantee shall be in the form of a firm commitment, such as a Proposal bond (see Section 00431, PROPOSAL SECURITY (Proposal Bond Form)), postal money order, certified check, cashier's check, irrevocable letter of credit from a State or Federally chartered bank or, in accordance with Treasury Department regulations, or certain bonds or notes of the United States. Corporations executing the Proposal bond as sureties must be among those appearing on the Treasury Department's list of approved sureties and must be acting within the limitations set forth therein. Proposal guarantees, other than Proposal bonds, will be returned as follows:
 - a. To unsuccessful Proposers: As soon as practicable after the receipt of Proposals.
 - b. To the successful Proposer:
 - 1) Upon execution of such further contractual documents and bonds as may be required by the Proposal as accepted.
 - 2) If the successful Proposer, upon acceptance of its Proposals by the Authority within the Acceptance Period, fails to execute such further Proposal guarantees and give such bond(s) as may be required by the terms of the Contract, its Contract may be terminated for default. In such event, the successful Proposer shall be liable for any cost of procuring the Work, which exceeds the amount of its Proposal, and the Proposal guarantee shall be available toward offsetting such difference.
- K. Minimum Proposal Acceptance Period:
1. Acceptance Period, as used in this Section, means the number of Days available to the Authority for awarding a contract from the most current date specified in this Solicitation for receipt of Proposals or from the most current date specified for receipt of Best and Final Offers if applicable.
 2. The Authority requires an Acceptance Period of 120 Days from the due date of Best and Final Offer.
- L. Contract and Bonds: The Proposer whose Technical and Price Proposals are accepted shall, within the time established in this Solicitation, enter into a written contract with the Authority and furnish performance and payment bonds on standard Authority forms in the amounts indicated in Section 00600, BONDS AND CERTIFICATES.
- M. Solicitation Documents:

1. Solicitation Documents are available on the Authority website at <https://www.wmata.com/about/business/procurement/solicitations/index.cfm> and on the Federal Business Opportunities website.
- N. Conditions Affecting the Work:
1. Proposers are required to visit the Project Site to conduct a preliminary Site-condition survey to ascertain the nature and location of the Work and the general and local conditions, which can affect the Work or the cost thereof. See Section 00250, PRE-PROPOSAL MEETINGS SCHEDULE, for further details.
 2. As discussed in Section 00310, EXISTING CONDITIONS, Proposers may examine records of all existing condition assessment reports, and other subsurface investigations and existing utilities and environmental investigations, if any, made for the Authority prior to the design and construction of the Project.
 3. After Site visit, Proposers shall provide existing Site conditions based on RFP Documents and the preliminary Site-condition survey in the Proposal Drawings prepared by the Proposer with submittal of the Best and Final Offer.
- O. Opportunity for Disadvantaged Business Enterprises to Propose: The Washington Metropolitan Area Transit Authority hereby notifies all Proposers that the Proposer shall ensure that in regard to any contract entered into pursuant to this Solicitation, disadvantaged business enterprises will be afforded full opportunity to submit Proposals in response to this Solicitation and will not be discriminated against on the grounds of race, color, national origin, sex, disability, sexual preference and/or gender identity in consideration for award.
- P. Disadvantaged Business Enterprises: (See Section 00453, DBE DATA)
1. It is the policy of the Authority (WMATA) that Disadvantaged Business Enterprises (DBEs) shall have an equal opportunity to receive and participate in performing WMATA contracts, including contracts and subcontracts at any tier, and of the Federal Transit Administration (FTA) and the U. S. Department of Transportation (US DOT) in receiving and participating in federally assisted contracts. The DBE requirements, if any, are set forth in Section 00453, DBE DATA, and in Section 00766, DISADVANTAGED BUSINESS ENTERPRISE, to this Solicitation, and are applicable if the Proposal is \$500,000 or more for construction (and construction-related) contracts and for supply and service contracts having a total dollar value of \$150,000 or greater. The DBE goal percentages, if applicable, are listed in Section 00865, DISADVANTAGED BUSINESS ENTERPRISE.
 2. If the Proposer is not a DBE, then the DBE goal set forth in Section 00865, DISADVANTAGED BUSINESS ENTERPRISE, if any, shall be met by Subcontracts or joint ventures with DBEs.
 3. If a DBE goal is specified in Section 00865, DISADVANTAGED BUSINESS ENTERPRISE, the Proposer shall submit with its initial Price Proposal a list of WMATA-certified DBE firms that it intends to enter into subcontract agreements with for this Contract. The documentation requirements of Section 00453, DBE DATA, shall be completed and submitted at the time set forth for the submittal of Best and Final Offer to the Authority for any contract in which a DBE goal is applicable. Also, if no goal is specified in Section 00865, DISADVANTAGED BUSINESS ENTERPRISE, but the Proposer still intends to utilize DBEs in the performance of this Contract, the Proposer shall submit with its initial Price Proposal a list of those WMATA-certified DBE firms. If a DBE goal is specified. Proposers who fail to complete and return this information, with their Best and Final Offer Price Proposal, will be deemed to be non-responsive and will be ineligible for contract award. The documentation requirements, if applicable, are as follows:
 - a. SCHEDULE OF DBE PARTICIPATION and executed LETTER(S) OF INTENT TO PERFORM AS A SUBCONTRACTOR/JOINT VENTURER with agreed price sufficient to

- meet the DBE goal set forth in Section 00865, DISADVANTAGED BUSINESS ENTERPRISE; or
- b. A request for waiver of the DBE goal or portion of the goal, if any, and reasons therefore as stipulated in Paragraph F.3 of Section 00453, DBE DATA. Request must be made on company stationery and signed by the responsible official.
4. Proposers that fail to meet the DBE goal set forth in Section 00865, DISADVANTAGED BUSINESS ENTERPRISE, and fail to demonstrate "good faith efforts" to justify waiver of the DBE goal, may be deemed to be non-responsive and will be ineligible for contract award.
 5. In connection with the performance of this Contract, the Design-Builder 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.
- Q. Civil Rights: The Design-Builder will be required to comply with all applicable Equal Employment Opportunity laws and regulations of Section 00764, CIVIL RIGHTS.
- R. Debarred or Ineligible Proposers: All Proposers will be required to certify that they are not on any list of ineligible or debarred contractors (see Section 00451, REPRESENTATIONS AND CERTIFICATIONS FORM).
- S. Notice of Protest Policy:
1. WMATA policy and procedure for the administrative resolution of protests is set forth in Chapter 20 of the Procurement Procedures Manual (PPM). The PPM contains strict rules for filing a timely protest, for responding to a notice that a protest has been filed, and other procedural matters. The Contracting Officer can furnish a copy of Chapter 20 upon request.
 2. FTA Circular C 4220.1F, paragraph 7.I addresses Bid Protests. Review of protests by FTA is discretionary and will be limited to:
 - a. a grantee's failure to follow its protest procedures or its failure to review a complaint or protest; or
 - b. violations of Federal law or regulation.
 3. A protester must exhaust all administrative remedies with the Authority before filing an appeal to the FTA. An appeal to FTA must be received by the cognizant FTA regional or Headquarters Office within five working days of the date the protester learned or should have learned of an adverse decision by the Authority of other basis of appeal to FTA.
 4. Alleged violations on other grounds must be submitted to the Contracting Officer who will administratively decide the protest.
 5. The United States District Courts for the Districts of Maryland, Virginia, and the District of Columbia, and the local courts in Maryland, Virginia, and the District of Columbia have jurisdiction over court actions concerning protest decisions.
- T. Requirement for Cost Data Prior to Contract Award:
1. The Authority has determined that certified cost or pricing data are not required for this Solicitation based on the anticipation of adequate price competition. If after receipt of Price Proposals the Authority determines that adequate price competition no longer exists, the Authority will require the Proposer(s) to submit cost data in sufficient detail to permit analysis of the cost elements which make up the proposed price(s). The preparation, submittal, and

certification of Certified Cost or Pricing Data shall be as described by FAR 15.4 and in Section 00700, GENERAL CONDITIONS.

2. Refusal of an offeror to provide the required information and access to its records to conduct a cost analysis, including an audit if conducted, may result in the offeror's offer being rejected as unreasonably priced.

U. Davis-Bacon Wage Determination Decision:

1. Under 49 U.S.C. § 533(a). Davis Bacon Act prevailing wage protections apply to laborers and mechanics employed on FTA assisted construction, alteration or repair project in excess of \$2,000.00. The Davis-Bacon Act requires that the Contractor pay wages to laborers and mechanics at a rate of not less than the minimum wages specified in the wage determinations made by the U.S. Secretary of Labor, at least one (1) time per week, without subsequent deductions or rebate on any account, except such payroll deductions as permitted by the U.S. Secretary of Labor. The Contractor understands that Contract award is conditioned upon its acceptance of U.S. DOL's prevailing wage determinations that are attached to this solicitation. The Contractor agrees to comply with the Davis-Bacon Act, 40 U.S.C. § 3141, *et. seq.* and implementing DOL regulations "Labor Standards Provisions Applicable to Contracts Governing Federally Financed and Assisted Construction. 29 C.F.R. Part 5.
2. WMATA may upon its own action or upon written request of an authorized representative of the U.S. Department of Labor, withhold or cause to be withheld from the Contractor under this Contract, or any other Federal contract that the Contractor has with WMATA, or any other Federally-assisted contract subject to Davis-Bacon prevailing wage requirements, so much of the accrued payments or advances as may be necessary to pay laborers and mechanics, including apprentices, trainees, and helpers employed by the Contractor or any subcontractor, the full amount of the wages required by this Contract. In the event that the Contractor fails to pay any laborer or mechanic, including any apprentice, trainee or helper employed or working on the jobsite, all or part of the wages required by this Contract, WMATA may, after written notice to the Contractor, suspend further payments or advances or guarantees until such violations have ceased.
3. The Contractor shall maintain payrolls and basic records relating thereto during this Contract and for three (3) years thereafter. The Contractor shall submit weekly for each week in which any Contract work is performed, a copy of all payrolls to the COTR, for transmission to FTA. The payrolls shall contain all information required by 29 C.F.R. Part 5. Each payroll submitted shall be accompanied by a "Statement of Compliance" signed by the Contractor or subcontractor. Falsification of any required certification may subject the Contractor or subcontractor to criminal prosecution or a civil suit pursuant to 18 U.S.C. § 1001 and/or 31 U.S.C. §23, respectively. The Contractor or subcontractor shall make the records required under this clause available to authorized representatives of FTA or DOL and shall permit such representatives to interview employees during working hours on the jobsite. If the Contractor or subcontractor fails to submit the required records or make them available, the Federal agency may take further action to cause the suspension of payments, advances or guarantee of funds. Failure to submit the required records may be grounds for suspension or debarment.
4. The Contractor or subcontractor shall insert the clauses contained in 29 C.F.R. § 5.5(a) and such other clauses that FTA may require in all subcontracts issued hereunder. The Contractor shall require subcontractors to include these clauses in lower tier subcontracts. The Contractor will be responsible for the compliance by any subcontractor with all of the clauses contained in 29 C.F.R. § 5.5.
5. Disputes arising out of the labor standards provisions of this Contract shall not be subject to the general "Disputes" article of this Contract. Such disputes shall be resolved in accordance with U.S. Department of Labor procedures set forth in 29 C.F.R. parts 5, 6 and 7. Disputes within the meaning of this article include disputes between the Contractor (or any of its subcontractors) and WMATA, the U.S. Department of Labor or any of its employees or representatives.

6. By entering into this Contract, the Contractor certifies that neither it nor any person or firm who has an interest in the Contractor's firm is a person or firm that is ineligible to be awarded Government contracts by virtue of section 3(a) of the Davis- Bacon Act of 29 C.F.R. § 512.

The Authority's Compact requires that all mechanics and laborers employed by Design-Builder or Subcontractors on construction and maintenance contracts be paid wages not less than those prevailing on similar contracts in this locality as determined by the Secretary of Labor in accordance with Section 00767, LABOR PROVISIONS. The Wage Determination Decision of the Secretary of Labor is referred to in Section 00769, WAGE RATES, and attached as APPENDIX D in Section 00800, SUPPLEMENTARY CONDITIONS.

V. WMATA's Tax Exempt Status:

1. Pursuant to Article XVI, Paragraph 78, of the Washington Area Metropolitan Transit Authority Compact, as adopted by the State of Maryland, the District of Columbia, and the Commonwealth of Virginia, with the authorization and consent of the Congress of the United States, the Authority has been accorded exemption from taxes as follows:
 - a. "The Authority and the Board of Directors shall not be required to pay taxes or assessments upon any of the property acquired by it or under its jurisdiction, control, possession or supervision, or upon its activities in the operation and maintenance of any transit facility or upon any revenues there from, and the property and income derived there from shall be exempted from all Federal, State, District of Columbia, municipal, and local taxation. This exemption shall include without limitation, all motor vehicle license fees, sales taxes and motor fuel taxes."
2. It has been the practice of the District of Columbia to apply the Authority's tax-exempt status to certain purchases of materials required under Authority construction contracts and acquired by the Design-Builders for physical incorporation into the Work. This has not been the practice in either Maryland or Virginia. The Authority does not represent or warrant that the District of Columbia practice applies to this Project or, if it does, that it will continue in effect during the term of this Project. It is the responsibility of the Design-Builder to determine its liability for any and all taxes applicable to this Project. Assessment or payment of taxes by the Design-Builder, including taxes resulting from changes in existing laws or the application thereof or of new or additional taxes, shall not constitute the basis for an increase in the Contract price, except as otherwise allowed under Section 00772, FEDERAL, STATE, AND LOCAL TAXES.
3. By submission of its Proposal, the Proposer certifies that none of the taxes to which the Authority is exempt are included in its Proposal price(s) or the final Contract Price. In the event that the Authority learns that any taxes to which the Authority is exempt are included in the final Contract Price, the Authority shall be entitled to a reduction in the Contract Price reflecting such amount and a refund of monies paid related to such taxes, plus applicable interest.

W. Advance Cost Agreement: Within 30 Days after Notice of Award, the Design-Builder shall make available for audit review, information on its accounting system used to project fixed and variable overhead rates applicable to possible Contract Modifications. The Authority's Office of the Inspector General, to the extent possible, will review and approve said accounting system. When appropriate and if possible, as a result of the audit review, Advance Cost Agreements may be executed between the Contracting Officer and the Design-Builder. The Cost Agreements shall be a supplemental agreement to the Contract.

X. Proprietary Data in Proposals:

1. The Authority will provide all reasonable precautions to ensure that proprietary, technical, and pricing information remains within the review process except where otherwise ordered by an administrative or judicial body, or necessary to use in a judicial or administrative proceeding. Proposers shall attach to each page of all proprietary data submitted with the Solicitation the following notation:

- a. "This data furnished pursuant to this RFP shall not be disclosed outside the Authority, be duplicated, or used in whole or in part for any purpose other than to evaluate the offer; provided that, if a contract is awarded on the basis of that offer, the Authority shall have the right to duplicate, use, and disclose this data, in any manner and for any purpose whatsoever."
 2. The Authority's right to use information contained in this data is not limited if the information is or has been obtained by the Authority from another independent legitimate source.
 3. Except for the foregoing limitation, the Authority and its agents may duplicate, use, and disclose in any manner and for any purpose whatsoever, all data furnished in response to this Solicitation.
- Y. Contract Performance Evaluation: The Proposer is advised that a Performance Evaluation will be completed at the end of the Contract. Factors to be included in the Performance Evaluation are as follows: Quality of Work, Timely Performance, Effectiveness of Management, Compliance with Labor Standards, Compliance with Safety Standards, and an Overall Evaluation. The Performance Evaluation may be used in determinations of responsibility for future WMATA contracts.

00202 PROPOSAL FORMAT

- A. Proposal Page and Character Size: The page size shall not exceed 8-1/2 by 11 inches, except for foldouts, which may not exceed 11 by 17 inches. The page margins shall not be smaller than one inch on all four sides. The type size for text shall not be smaller than 10 point, with at least a line spacing of one. The type size for figures and tables shall be no smaller than 8 point.
- B. Elaboration: Legibility, clarity, and completeness are essential. Unnecessarily elaborate brochures or other presentations beyond that sufficient to present a complete and effective Proposal are not desired and may be construed as an indication of the Proposer's lack of cost consciousness. Elaborate artwork, expensive paper and bindings, and expensive visual and other presentation aids are neither necessary nor wanted.
- C. Completeness: Include all forms and Project-specific information as required in this Section. Include pre-printed literature if directly relevant to this Project. Failure to provide forms or any other information required in the response to this Solicitation may cause the Offer to be deemed non-responsive, and the Offer may be subsequently rejected.
- D. Organization: The Technical Proposal and the Price Proposal shall be submitted in separate volumes. The Technical Proposal shall not contain any information that either directly or indirectly indicates the price of the Project as a whole or of any individual elements.
- E. Identify each volume with the RFP number, the Project Name and Contract Number, the Volume Number of the total number of volumes (i.e., Volume 1 of 3, etc.), the Volume Title, and the Proposer's identity, all printed on the Cover Page of the Volume. Provide one unbound original, the number of copies specified in this Section, and electronic media for all documents. All electronic media shall be in Adobe (.PDF) and bookmarked. The electronic media for the Technical Proposal shall be in the form of one set of FLASH/THUMB drive with drawings in AutoCAD (.DWG) file format and remaining Technical Proposal documents in current Microsoft Word version. Price Proposal documents shall be submitted as a separate FLASH/THUMB drive. Electronic media shall also be submitted for all Amendments.
 1. The Design Builder is advised that the minimum requirement for AutoCAD file format shall be Autodesk 2010 Civil 3D.
- F. Proposal Copies and Page Count Limits: Provide the following number of copies of the Proposal (not including originals and one electronic copy, as required). Proposals are limited to the following page limits listed below and will be evaluated up to these page limits. Page limits include all text, charts, figures, diagrams, and schematics. Cover pages, title pages, tables of contents, tabbed

dividers, and blank pages are not included in the page limitations. If both sides of the sheet are used, it will be counted as two pages. Foldouts shall be printed on one side only, but will count as two pages. Foldouts shall not be used for text. Material exceeding the page limits may not be evaluated and may be returned to the Proposer.

Volume	Part	Title	Copies	Page Limits
1	A	Past Performance and Experience	6	25
1	B	Key Project Personnel	6	20
1	C	Key Project Subcontractors	6	N/A
1	D	Key Subcontractors Personnel	6	20
1	E	Safety	6	1
1	F	Quality Control Experience	6	N/A

G. Price Proposal

Volume	Part	Title	Copies	Page Limits
2	A	Price Submission	4	N/A
2	B	Forms and Contractual Information	4	N/A

00203 TECHNICAL AND PRICE PROPOSAL PROCEDURES AND EVALUATION FACTORS, AND INSTRUCTIONS

A. Technical Proposal Evaluation Procedures:

1. Each Technical Proposal will be reviewed and evaluated individually by the Authority in accordance with procurement policy and procedures.
2. Proposals will be evaluated by their strengths, weaknesses, and deficiencies against the evaluation factors, and these attributes will be communicated to the proposers for follow-up action as appropriate.
3. Definitions:
 - a. Discussions: Oral or written communications including negotiations between the Authority and a Proposer (other than clarifications) that involve information essential for determining the acceptability of the Proposal or to rectify identified defects in the Proposal.
 - b. Clarifications: Communication with a Proposer for the sole purpose of eliminating minor irregularities, informalities, or apparent clerical mistakes in the Proposal. Unlike discussions, clarification does not give the Proposer an opportunity to revise or modify its Proposal, except to the extent that correction of apparent clerical mistakes results in revision. All clarifications submitted by the Proposer must be in one location and in accordance with Section 00434, PRICE PROPOSAL SCHEDULE.
 - c. Deficiencies: Defects in the Proposal could preclude acceptance. Involves any part of the Proposer’s Proposal, which would not satisfy the Authority’s evaluation standards established in the Solicitation. Includes failures to meet specifications, submit information, or questionable technical or management approaches. Deficiencies identified during the evaluation of the Proposal will be of one of two categories:
 - 1) Material: Material-basis for rejection because further discussions would not be prudent.

- 2) Curable: May be corrected by clarification or discussions and brought into the acceptable range.
 - d. Weakness: Includes ambiguities, lack of complete descriptions, errors in interpretation, omissions of essential information, and inadequate information, all of which are considered reparable in discussions. An excessive number of clarifications may in itself constitute a weakness.
 - e. Strengths: Elements of the Proposal that exceed the evaluation standards of the Solicitation and provide an identified benefit to the Authority.
4. Ratings: Based upon the evaluations, an adjectival rating will be given depicting how well the Proposer's Proposal meets the stated evaluation factors and Solicitation requirements for the Technical Proposal. The adjectival criteria are as follows:
- a. Outstanding: Exceeds evaluation standards in a beneficial way to the Authority, has many significant strengths and no weaknesses or deficiencies, and is innovative, comprehensive, and complete in all details.
 - b. Exceeds: Exceeds evaluation standard in a beneficial way to the Authority, has some strengths and no significant weaknesses, and is comprehensive and complete in all details.
 - c. Acceptable: Meets evaluation standards and any weaknesses are readily correctable.
 - d. Marginal: Fails to meet evaluation standards, however, any significant deficiencies are correctable. The Proposal lacks essential information to support Proposal.
 - e. Unacceptable: Fails to meet an evaluation standard, and the deficiency is uncorrectable. Proposal would have to undergo a major revision to become acceptable. The Proposal has demonstrated lack of understanding of the Authority's requirements or omissions of major areas.
- B. Phase 1 Technical Proposal Evaluation Factors:
1. Past Performance and Experience
 - a. Provide the Design-Builder's or Joint Venture's experience on a project where similar work was performed. Proposers must also list and describe similar projects completed or currently in progress for any Transit Agency and other clients, within the last 5 years. In the list of projects, they should include:
 - 1) Name and location of project
 - 2) Name of the owner;
 - 3) Name and phone number of contact person;
 - 4) Value of contract; and
 - 5) General description of the project.
 - b. Proposers are advised that the Authority reserves the right to contact any and all clients and Transit Agencies listed.
 2. Key Staff: Provide an organization chart and narrative of the Design-Builder's or Joint Venture's to show Key Staff for this Project as defined in Section 01111, Design-Builder Key Staff. Proposer must provide resumes for personnel shown on the organization chart. Organization chart shall be one 11 x 17-inch single-sided page. The Proposer shall specifically:

- a. Identify persons by name(s), show the responsibility of all major decisions for this Project; and show the limits and lines of authority of personnel by names to be assigned to the Project; identify their relevant experience within the last 3 years on projects of similar size, scope, and complexity.
 - b. Identify persons responsible for coordinating with local jurisdictions, safety and quality control, integrating design, and the day-to-day decision and construction of the work, etc. of experienced projects of similar size and scope.
3. Key Project Subcontractors
- a. Proposers must identify the key Subcontractors for this Project to include; sheet metal, skylight, plumbing etc. as applicable.
 - b. Proposers must also list and describe similar projects completed or currently in progress by subcontractors for all Transit Agency and other clients, within the last 3 years. In the list of projects, they should include:
 - 1) Name and location of project
 - 2) Name of the owner
 - 3) Name and telephone number of contact person
 - 4) Value of contract
 - 5) General description of the project
 - c. Proposers are advised that the Authority reserves the right to contact any and all clients and Transit Agencies listed.
4. Subcontractor's Key Staff:
- a. Provide an organizational chart and narrative of the key Subcontractor(s) to show the staffing for this Project. They must provide resumes for personnel shown on the organization chart.
 - b. The Proposer shall specifically:
 - 1) Identify Subcontractor's persons by name(s), show the responsibility of all major decisions for this Project; and show the limits and lines of authority of personnel by names to be assigned to the Project. Identify their relevant experience within the last 3 years on projects of similar size, scope, and complexity.
 - 2) Identify subcontractor's persons responsible for coordinating with local jurisdictions, safety and quality control, integrating design and the day-to-day decisions and construction of the work of experienced projects of similar size and scope.
5. Safety
- a. Provide the Design-Builder's OSHA Lost Time Injury Incidence Rate (LTIIR) and Experience Modification Rating (EMR) for each of the preceding 3 years. The OSHA LTIIR should not exceed the current Bureau of Labor Statistics LTIIR and the contractor's EMR should not exceed 1.00.
 - b. Submit record of federal, state, or local violations of environmental and occupational safety and health regulations for the last 2 years.
6. Quality Control Experience

- a. Provide a Quality Management Plan from a past project of similar type and value, performed by the Proposer that was modeled on ISO 9001 or similar quality control system.
 - b. Provide the cost at completion of the past project.
 - c. Provide copy of all audit findings and corrective actions taken for the past project.
- C. Phase 2 Technical Proposal Evaluation Factors
1. Design: The Proposer shall advance the design to demonstrate to the Authority that their design will be in compliance with the RFP Documents and to identify the unique characteristics of the Proposal that the Proposer feels will be of value to the Authority. Provide Proposal Drawings as needed to demonstrate advancement of the design.
 2. Schedule: The Proposer shall prepare and submit the Pre-Award Schedule to demonstrate to the Authority that the Project can be delivered within the Contract Performance Time or earlier. Include key milestones that the Proposer believes will be critical for the timely delivery of this Project.
- D. Technical Proposal Instructions: The information provided should be complete and clearly presented. If the information requested under a factor is presented elsewhere in the Proposal, the Proposer should cross reference this information that is provided elsewhere rather than duplicate it.
1. Complete, sign, and submit Section 00412, TECHNICAL PROPOSAL FORM.
- E. Price Proposal Evaluation Procedures: Price Proposals will be evaluated only for those Proposers, whose Technical Proposals have been determined to be technically acceptable.
1. The Authority will evaluate Price Proposals for price reasonableness using cost or price analysis as deemed appropriate by the Authority in accordance with FAR 15.4. If cost analysis is appropriate, then the Proposer will furnish all necessary cost data of all direct and indirect cost elements and profit for all major work efforts in sufficient detail to permit an analysis by the Authority.
 2. The Authority may determine that a Price Proposal is unacceptable if the prices proposed are materially unbalanced between line items or sub-line items. A price is materially unbalanced when the price of one or more line items is significantly overestimated or underestimated as indicated by the application of price analysis techniques. A materially unbalanced price presents an unacceptable risk to the Authority.
- F. Phase 1 and Phase 2 Price Proposal Evaluation Factors:
1. The Authority will evaluate Price Proposals for completeness, clarity, conciseness, and responsiveness to the RFP-requested information.
 2. Submittal of proposed prices for both the Base and the Options, if any. Failure to do so will necessitate rejection of the Proposal.
 3. Materially unbalanced prices: Proposals that are materially unbalanced as to prices for the various categories of work items may be rejected as non-responsive.
 4. The Authority will compare the Price Proposals to the Authority estimate and otherwise determine reasonableness by performing a price analysis if adequate competition exists. A cost analysis will be performed, if adequate price competition does not exist, to ascertain whether or not the proposed price is fair and reasonable. The Authority may request that Proposers provide a cost breakdown, which identifies major cost drivers and request supporting documentation, such as Supplier and Subcontractor quotes in support of their Proposal.

G. Price Proposal Instructions: The information provided should be complete and clearly presented. If the information requested under a factor is presented elsewhere in the Proposal, the Proposer should cross reference this information that is provided elsewhere rather than duplicate it.

1. Complete, sign, and submit Section 00413, PRICE PROPOSAL FORM. Additionally, submit the following:
 - a. Signed and completed Section 00451, REPRESENTATIONS AND CERTIFICATIONS FORM.
 - b. A completed Section 00434, PRICE PROPOSAL SCHEDULE, with an amount on each line item where one is requested and a total amount representing the sum of individual amounts requested.
 - 1) Price Proposal Schedule prices shall include all services, labor, material, equipment, overhead, incidentals, and profit, unless otherwise specified.
 - 2) In case of a discrepancy between a unit price and an extended price, the unit price will be presumed to be correct, subject however, to correction to the same extent and in the same manner as any other mistake.
 - 3) Where the Price Proposal Schedule explicitly requires that the Proposer propose on all items; failure to do so will disqualify the Proposal. When submittal of a price on all items is not required, Proposers shall insert the words NO PROPOSAL in the space provided for an item on which no price is submitted.
 - 4) Proposals for design and construction services other than those specified will not be considered unless authorized by the Solicitation. Unless specifically called for, alternate Proposals will not be considered.
 - c. List of DBE-certified firms that it intends to enter into subcontract agreements with (if a DBE goal is specified in Section 00865, DISADVANTAGED BUSINESS ENTERPRISE, or if no goal is specified in Section 00865, DISADVANTAGED BUSINESS ENTERPRISE, but the Proposer still intends to utilize DBEs in the performance of this Contract).

NOTE: The submittal of certain items with the Offer is required if Offer is \$150,000 or greater for the design portion and \$500,000 or greater for the construction portion. Failure to submit Section 00453, DBE DATA, forms waiver (if applicable), may cause the Offer to be found non-responsive and subsequently rejected.

- d. An executed Proposal Guarantee with Surety Certificate (Section 00431, PROPOSAL SECURITY (PROPOSAL BOND FORM)). The Proposal Guarantee shall be based on the Total Base Proposal Plus Total Option Price, if any. The Performance and Payment Bonds shall be based on the award amount.
- e. A signed and completed Section 00452, PROPOSAL DATA FORM, with attachments.

H. Oral Technical Presentations:

1. Oral presentations will be requested only from Proposers that have not been eliminated from the competition. The oral presentation shall address the same topics as in the written Technical Proposal. The oral presentation shall be provided by the proposed key members of the Proposer's project team. Proposers' major Subcontractors/DBE representatives are also urged to attend. Total presentation time, including clarifications, shall be no longer than 2 hours.
2. At its sole discretion, the Authority will schedule oral presentations at the Headquarters of the Washington Metropolitan Area Transit Authority at 600 Fifth Street, N.W., Washington, D.C.

20001. Requests from Proposers to reschedule their oral presentations are discouraged. No rescheduling will be done unless determined necessary by the Contracting Officer.

3. Oral presentations will be held in a conference room with conference-room style seating. The Authority will provide only a projection screen.
 4. Oral presentations will not constitute discussions or oral Proposals, as the Authority reserves the right to make an award without discussions. The Authority will not inform the Proposer of its strengths, deficiencies, or weaknesses during the presentation.
 5. No cost/price information shall be included in the oral presentation or in any accompanying written information.
 6. The Proposer shall provide six printed copies of its presentation in 8.5-inch by 11-inch format to the Contracting Officer at the time of the presentation. No other documentation of the oral presentations will be accepted. No change to the Proposer's written Proposal will be accepted at the oral presentation.
 7. After completion of the oral presentation, the Authority may request clarification of any of the points addressed during the oral presentation, which are unclear, and may ask for elaboration by the Proposer on any point, which was not adequately supported in the presentation. Any such exchange will be for clarification only and will not constitute discussions. Further, no exchange during the oral presentation shall constitute a change to the Solicitation. The time required for Clarifications will be counted against the Proposer's 2-hour time limit.
 8. The Authority reserves the right to videotape or to audiotape each Proposer's oral presentation.
- I. Clarifications and Discussions:
1. Clarifications. Anytime during the evaluation process of the Technical and Price Proposals, the Authority may engage in limited exchanges with the Proposers to request clarifications of any of the points, which are unclear, and to resolve minor or clerical errors. Any such exchange will be for clarification only, and will not constitute Discussions within the meaning of FAR 15.306.
 2. Discussions. The Authority contemplates that discussions will be necessary to maximize the Authority's ability to obtain best value. However, the Authority reserves the right to award a contract without discussions or any contact with the Proposers. If the Authority determines that discussions are necessary, it will establish a competitive range and schedule discussions with all Proposers in the competitive range. The Authority will maintain confidentiality of all Proposals.
 - a. Discussions will be held at the Headquarters of the Washington Metropolitan Area Transit Authority at 600 Fifth Street, N.W., Washington, D.C. 20001. Requests from Proposers to reschedule their discussions are discouraged, and no rescheduling will be done unless determined necessary by the Authority.
 - b. A description of Proposal deficiencies will be provided to Proposers in the competitive range for revision or modification of their Proposal. Technical Proposal weaknesses and deficiencies will be discussed as well as adverse past performance information with all Proposers in the competitive range.
 - c. Negotiations will be conducted and may include bargaining and trade-offs. The Authority will establish pre-negotiation objectives with regard to price and technical factors tailored to each Proposal. The Authority may negotiate with Proposers to increase its performance for additional technical merit. Also, the Authority may suggest to Proposers that they decrease their performance and reduce their costs to make their Proposals more competitive. The Proposers will also be given an opportunity to correct errors and omissions in their Price Proposals.

- d. After discussions have begun, the Authority may determine that a proposer is no longer considered among the highest rated proposers and may eliminate that proposer from the competition whether or not all material aspects have been discussed or the Proposer has been afforded the opportunity to submit a Proposal revision.
 - e. If discussions are held, the Authority will request Proposal revisions, and Best and Final Offers as appropriate from all Proposers remaining in the competitive range.
- J. Best Value Determination: The technical merit of the Proposal is significantly more important than the price, and the price must be fair and reasonable. The Authority may select other than the lowest priced Proposal if it is determined by value analysis, or technical/cost tradeoffs, that the Proposal offers the greatest overall benefit to the Authority. As Proposals become more technically equivalent, then price becomes more important.

00210 SUPPLEMENTARY INSTRUCTIONS TO PROPOSERS

- A. Procedures for Product Substitutions During the Proposal Period - Use of brand names within the technical requirements (as used in this clause, the term "brand name" includes identification of products by make and model in either the Technical Proposal or the design submittals approved by the Authority):
1. If items called for by the WMATA Standard Specifications have been identified by a "brand name or equal" description, such identification is intended to be descriptive, but not restrictive, and is to indicate the quality and characteristics of products that will be satisfactory. Proposers offering "equal" products including products of the brand name manufacturer other than the one described by brand name, will be considered by the Authority if such products are clearly identified in the Technical Proposal and are determined by the Authority to meet fully the salient characteristics requirements in the WMATA Standard Specification. The Authority will not consider "equal" products when the Authority has specified a sole source product.
 2. Unless the Proposer clearly indicates that it is offering an "equal" product by submitting Section 00433, BRAND NAME OR EQUAL FORM, the Proposer shall be considered as offering a brand name product referenced in the RFP Documents.
 3. If the Proposer proposes to furnish an "equal" product, the brand name, if any, of the product to be furnished shall be otherwise clearly identified and the determination as to equality of the product offered shall be the responsibility of the Authority and will be based on information reasonably available to the Authority.
 4. If the Proposer proposes to modify a product so as to make it conform to the requirements of the WMATA Standard Specification, it shall (i) include a clear description of such proposed modifications, and (ii) clearly mark descriptive material to show the proposed modifications.
 5. Caution to Proposers: The Authority is not responsible for locating or securing any information, which is not identified and reasonably available to the Authority. Accordingly, to ensure that sufficient information is available, the Proposer must furnish all descriptive material (such as catalogue cuts, illustrations, drawings, or other information) necessary for the Authority to (i) determine whether the product offered meets the salient characteristic requirements of the WMATA Standard Specification and (ii) establish exactly what the Proposer proposes to furnish and what the Authority would be binding itself to purchase by approval by the Authority. The information furnished may include specific references to information previously furnished or to information otherwise available to the Authority.

00211 BRAND NAME OR EQUAL

- A. Use of brand names within the technical requirements:

(As used in this clause, the term “brand name” includes identification of products by make and model in either the Technical Proposal or the design submittals approved by the Authority.)

1. If items called for by the Standard and Technical Specifications have been identified by a “brand name or equal” description, such identification is intended to be descriptive, but not restrictive, and is to indicate the quality and characteristics of products that will be satisfactory. Proposers offering “equal” products including products of the brand name manufacturer other than the one described by brand name will be considered by the Authority if such products are clearly identified in the Technical Proposal and are determined by the Authority to meet fully the salient characteristics requirements in the Standard and Technical Specifications.
2. Unless the Proposer clearly indicates that it is offering an “equal” product by submitting Section 00433 BRAND NAME OR EQUAL FORM, the Proposer shall be considered as offering a brand name product referenced in the Standard and Technical Specifications.
3. If the Proposer proposes to furnish an “equal” product, the brand name, if any, of the product to be furnished shall be otherwise clearly identified and the determination as to equality of the product offered shall be the responsibility of the Authority and will be based on information reasonably available to the Authority.

00250 PRE-PROPOSAL MEETINGS SCHEDULE

- A. Unless otherwise notified, a pre-Proposal conference will be held as noted in the Project Solicitation Schedule, Section 00103, PROJECT SOLICITATION SCHEDULE. The purpose of this conference will be to answer questions regarding, or requests for clarifications of, the Solicitation documents. It is requested that Proposers submit their questions and requests for clarifications of the terms, conditions, and requirements of this Request for Proposal to the Contracting Officer in writing either in advance of the meeting or during the meeting. Questions from the floor, however, are permissible.
- B. Proposers are required to visit the Site of the Work and inform themselves of all local conditions that may affect the Work or the cost thereof.
- C. The Proposer acknowledges and agrees that it shall be bound by all the terms of the Contract regardless of its attendance at the pre-Proposal conference, or the thoroughness of its preliminary Site-condition investigation prior to submitting its Proposal.

00252 SITE INSPECTION

- A. Proposers are strongly urged to visit the site of the work and inform themselves of all local conditions that may affect the work or the cost thereof.

Several work areas are located in restricted work areas within the Metrorail System. Access to restricted areas is gained only upon successful completion of WMATA safety training and with WMATA designated escorts. Anyone without WMATA Right of Way training certificates shall not be admitted to restricted areas. WMATA strongly encourages all proposers and their subs (without WMATA Right of Way Training certification) to submit written requests to the Contract Administrator. The proposer’s request must list or identify:

- i. the names and title of personnel wishing to attend the site visit
- ii. their organization or firms name; office phone number(s)
- iii. email addresses
- iv. a signed WMATA release form for background check for WMATA’s ID badges
- v. listing of anticipated work locations to be visited
- vi. latest expiration date for WMATA Right of Way training, etc.

WMATA designated representative will subsequently review all Offerors requests and schedule Right of Way Training, as a group, if needed. WMATA designated representatives will also coordinate access to WMATA's restricted areas, as a group, including location, escorts, date, and times with Offerors. However, Offerors are responsible for coordinating all upcoming scheduled site visits and all other type of subcontractors' requests for clarifications, access, etc. through the Contract Administrator. Once the contract is awarded, additional site visits to restricted work areas will be coordinated with the Authority Representative rather than the Contract Administrator.

- B. The proposer acknowledges and agrees that it shall be bound by all the terms of the Contract regardless of it attendance at any pre-proposal conference, or the thoroughness of its site investigations prior to submitting its proposals.

00260 PRE-AWARD MEETING

- A. This Section includes requirements and schedules for a pre-award meeting.

END OF SECTION

SECTION 00300
INFORMATION AVAILABLE TO PROPOSERS

This Section includes information made available to the Proposers. The term "Design-Builder" and "Contractor" are synonymous.

00301 RFP DOCUMENTS AND PROPOSAL DRAWINGS

- A. The RFP Documents, including General Conditions, Supplementary Conditions, General Requirements, WMATA Manual of Design Criteria, Program Requirements, WMATA Standard Specifications, WMATA Standard Drawings, RFP Drawings, reports, safety and security requirements, and quality requirements of this Solicitation FQ18063/KKB and referenced in this Section establish requirements for the design and construction of the Project. These RFP Documents shall be used by the Proposer to prepare the Proposal and by the Design-Builder to advance and complete the design. The Design-Builder shall be solely responsible for the design, including the requirements established by these RFP Documents. The drawings resulting from design advancement by the Proposer and delivered by each Proposer with its Best and Final Offer shall be referred to as Proposal Drawings throughout this RFP.

00302 GENERAL CONDITIONS, SUPPLEMENTARY CONDITIONS, AND GENERAL REQUIREMENTS

- A. The General Conditions, Supplementary Conditions, and General Requirements contain requirements for execution of the design and construction of the Project.

00303 WMATA MANUAL OF DESIGN CRITERIA, PROGRAM REQUIREMENTS, AND SPECIFICATIONS

- A. The WMATA Manual of Design Criteria establishes general design criteria for the Project that shall govern the design of the Project unless Program Requirements or jurisdictional codes and regulations are more stringent, in which case the Program Requirements or codes and regulations shall govern.
- B. The Program Requirements defined in Section 01112, DESIGN AND PROGRAM REQUIREMENTS, supplement the WMATA Manual of Design Criteria and establish Project-specific design criteria. The Program Requirements represent the criteria to be used, in combination with the WMATA Manual of Design Criteria, unless jurisdictional codes and regulations are more stringent, in which case the codes and regulations shall govern.
- C. The WMATA Standard Specifications for Divisions 2 through 16 represent the specification requirements to be used unless jurisdictional codes and regulations are more stringent, in which case the codes and regulations shall govern. The WMATA Standard Specifications have been prepared to serve as standard requirements for products and execution requirements for all WMATA projects and are not specifically edited for the Project. The Design-Builder shall incorporate the WMATA Standard Specifications without edits into the Design Specifications, and shall clearly reflect the specified products on the Design Drawings to establish which WMATA Standard Specification products shall be used on the Project.
- D. Specification sections in Division 2 through 16 that are not governed by WMATA Standard Specifications are not included in the RFP Documents. Design-Builder shall develop additional Division 2 through 16 specification Sections as needed to complete the Design Specifications for the Project.

00304 WMATA STANDARD DRAWINGS AND RFP DRAWINGS

- A. WMATA Standard Drawings illustrate WMATA standards for various items and are provided for unedited inclusion in the Proposal Drawings prepared by the Proposer and in the Design Drawings prepared by the Design-Builder. RFP Drawings represent requirements for the Project that shall be further developed into Proposal Drawings by the Proposer and Design Drawings by the Design Builder.

- B. The WMATA CAD Manual is provided in the Request for Proposal Documents and shall be adhered to for the preparation of Proposal Drawings by the Proposer and Design Drawings and As-built Drawings by the Design-Builder.

00310 EXISTING CONDITIONS

- A. This Section includes information about survey data, existing site and existing buildings and the Specifications and Drawings provided by the Authority. (For reference only)

00320 GEOTECHNICAL REPORT

NOT USED

00330 ENVIRONMENTAL REPORT

NOT USED

00331 DESCRIPTION OF PROJECT CONDITIONS

- A. Existing site conditions are shown in the Project Drawings. The information is not guaranteed to be completed and is provided as information only as an aid for the proposers' preparation of their proposals. The proposers are encouraged to attend the scheduled site visits as specified in Section 00252, SITE INSPECTION.

B. NOT USED

- C. After award of the Contract, the Design-Builder shall conduct its own additional detailed surveys and investigations to verify that the site conditions shown on the Project Drawings initially provided by the Authority reflect the current conditions.

00340 WMATA SAFETY AND SECURITY REQUIREMENTS

NOT USED

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 Design-Builder for execution of the Project.

END OF SECTION

SECTION 00400
PROPOSAL FORMS AND SUPPLEMENTS

This Section includes forms and supplements for submitting Proposals.

THIS PAGE NOT USED

SECTION 00410
PROPOSAL FORMS

This Section includes the Technical and Price Proposal Forms that are required to be submitted with either the Technical or Price Proposal.

THIS PAGE NOT USED

**SECTION 00412
TECHNICAL PROPOSAL FORM**

Contract Number: FQ18063

Date of Request: _____

Project Name: Replace Three Roofs

Project Location: DC, MD, VA

REQUEST FOR TECHNICAL PROPOSAL containing information requested herein shall be submitted by the Proposer so as to be received before the time and date listed in Section 00100, REQUEST FOR PROPOSAL, at the Washington Metropolitan Area Transit Authority, Office of Procurement, PRMT File Room 3C-02, 600 Fifth Street, N.W., Washington, D.C. 20001. Questions may be directed to Kamoru Banjo (202) 962-1395

In response to your Request For Technical Proposal for the above referenced Contract, the undersigned hereby proposes to furnish all labor, equipment and materials and perform all work to design and construct the Project in strict accordance with the Contract requirements for the consideration of the amount proposed on the Price Schedule under the Price Proposal. If awarded the Contract within the Proposal Acceptance Period, the undersigned agrees to execute the Design-Build Contract within 10 Days and to furnish, if required, performance and payment bonds on standard Authority forms with good and sufficient surety or sureties.

If the Contract is executed, the undersigned further agrees to commence the work within 10 Days after the receipt of Notice to Proceed and to complete the work within the time specified in the Contract.

The undersigned acknowledges receipt of the following Amendments to the Request for Technical Proposal under RFP-FQ18063/KKB.

Amendment Number _____, dated _____

Amendment Number _____, dated _____

Amendment Number _____, dated _____

Note: Failure to acknowledge receipt of all Amendments may cause the Technical Proposal to be considered non responsive to the request, which would require rejection of the Technical Proposal as unacceptable.

PROPOSER:

_____	By _____
Firm Name	_____
_____	Printed Name
Address	_____
_____	Title
Zip Code	_____
_____	DUNS Number
Telephone	_____
_____	Alternate Authorized Representative
Representative Authorized To Act on Proposer's Behalf	_____

Directions for Submitting Proposal

1. Read and comply with the Solicitation Instructions. This form is to be submitted with your Technical Proposal. The Price Proposal and its Attachments shall be submitted separately from the Technical Proposal, and the Technical Proposal shall not contain any information relating to costs.
2. Technical Proposal Form and related required documents must be sealed, marked, and addressed as follows:

**Washington Metropolitan Area Transit Authority
PRMT File Room 3C-02
Technical Proposal under RFP-FQ18063/KKB
Office of Procurement
600 Fifth Street, N.W.
Washington, D.C.**

3. Technical proposals shall be timely mailed or hand delivered to reach WMATA before 3:00 pm (local time) on day of proposal closing.

**SECTION 00413
PRICE PROPOSAL FORM**

Contract Number: FQ18063

Date of Request: _____

Project Name: Replace Three Roofs

Project Location: DC, MD, VA

REQUEST FOR PRICE PROPOSAL containing information requested herein shall be submitted by the Proposer so as to be received before the time and date listed in Section 00100, REQUEST FOR PROPOSAL, at the Washington Metropolitan Area Transit Authority, Office of Procurement, PRMT File Room 3C-02, 600 Fifth Street, N.W., Washington, D.C. 20001. Questions may be directed to Kamoru Banjo (202) 962-1395

In response to your Request For Price Proposal for the above referenced Contract, the undersigned hereby proposes to furnish all labor, equipment and materials and perform all work to design and construct the Project in strict accordance with the Contract requirements for the consideration of the amount proposed on the Contract Price Schedule. If awarded the Contract within the Proposal Acceptance Period, the undersigned agrees to execute the Design-Build Contract within 10 Days and to furnish, if required, performance and payment bonds on standard Authority forms with good and sufficient surety or sureties.

If the Contract is executed, the undersigned further agrees to commence the work within 10 Days after the receipt of Notice to Proceed and to complete the Work within the time specified in the Contract.

The undersigned acknowledges receipt of the following amendments to the **Request for Price Proposal** under RFP-FQ18063/KKB.

Amendment Number _____, dated _____

Amendment Number _____, dated _____

Amendment Number _____, dated _____

Note: Failure to acknowledge receipt of all amendments may cause the Price Proposal to be considered non responsive to the request, which would require rejection of the Price Proposal as unacceptable.

PROPOSER:

_____	By _____
Firm Name	_____
_____	Printed Name
Address	_____
_____	Title
Zip Code	_____
_____	DUNS Number
Telephone	_____
_____	_____
Representative Authorized To Act on Proposer's Behalf	Alternate Authorized Representative

Directions for Submitting Price Proposal

1. Read and comply with the Solicitation Instructions. This form is to be submitted with your Price Proposal. The Price Proposal and its Attachments shall be submitted separately from the Technical Proposal, and the Technical Proposal shall not contain any information relating to costs.
2. Price Proposal Form and related required documents must be sealed, marked, and addressed as follows:

**Washington Metropolitan Area Transit Authority
Prmt File Room 3C-02
Technical Proposal under FQ18063/KKB
Office of Procurement
600 Fifth Street, N.W.
Washington, D.C.**

3. Technical proposals shall be timely mailed or hand delivered to reach WMATA before 3:00 pm (local time) on day of proposal closing.

SECTION 00431
PROPOSAL SECURITY (PROPOSAL BOND FORM)

(Submit with Price Proposal)

This Section includes the Supplementary Proposal Forms that are required to be submitted with either the Technical Proposal or with the Price Proposal.

PROPOSAL BOND

Request for Proposal No.: FQ18063/KKB Proposal Closing Date: _____

Penal Sum of Bond: \$ _____ or _____% 5% of Proposed Price or Amount: _____

Date Bond Executed: _____

KNOW ALL MEN BY THESE PRESENTS, that we, the Principal and Surety(ies) hereto, are firmly bound to the Washington Metropolitan Area Transit Authority in the above penal sum for the payment of which we bind ourselves, our heirs, executors, administrators, and successors, jointly and severally: provided, that, where the Sureties are corporations acting as co-sureties, we, the Sureties, bind ourselves in such sum "jointly and severally" as well as "severally" only for the purpose of allowing a joint action or actions against any or all of us, and for all other purposes each Surety binds itself, jointly and severally with the Principal, for the payment of such sum only as set forth opposite the name of such Surety, but if no limit of liability is indicated, the limit of liability shall be the full amount of the penal sum.

THE CONDITION OF THIS OBLIGATION IS SUCH, that whereas the Principal has submitted the Proposal identified above:

NOW, THEREFORE, if the Principal, upon acceptance by the Authority of his proposal identified above, within the period specified therein for acceptance (60 Days if no period is specified), shall execute such further contractual documents, if any, and give such bond(s) as may be required by the terms of the Proposal as accepted within the time specified 10 Days if no period is specified) after receipt of the forms by him, or in the event of failure so to execute such further contractual documents and give such bonds, if the Principal shall pay the Authority for any cost of procuring the work which exceeds the amount of its Proposal, then the above obligation shall be void and of no effect.

Each Surety executing this instrument hereby agrees that its obligation shall not be impaired by any extension(s) of the time for acceptance of the Proposal that the Principal may grant to the Authority notice of which extension(s) to the Surety(ies) being hereby waived provided that such waiver shall apply only with respect to extensions aggregating not more than 60 Days in addition to the period originally allowed for acceptance of the Proposal.

Principals

1. Firm Name: _____ Firm Address: _____ Name: _____ Title: _____ Signature: _____	Corporate Seal State of Incorporation: _____
2. Firm Name: _____	Corporate Seal

Firm Address: _____ _____ Name: _____ Title: _____ Signature: _____	State of Incorporation: _____
3. Firm Name: _____ Firm Address: _____ _____ Name: _____ Title: _____ Signature: _____	Corporate Seal State of Incorporation: _____

Corporate Surety(ies)

Surety A Firm Name: _____ Firm Address: _____ _____ Name: _____ Title: _____ Signature: _____	Liability Limit: \$ _____	Corporate Seal State of Inc.: _____
Surety B Firm Name: _____ Firm Address: _____ _____ Name: _____ Title: _____ Signature: _____	Liability Limit: \$ _____	Corporate Seal State of Inc.: _____
Surety C Firm Name: _____ Firm Address: _____ _____ Name: _____ Title: _____ Signature: _____	Liability Limit: \$ _____	Corporate Seal State of Inc.: _____

Attach additional pages as needed.

Instructions

4. This form is authorized for use whenever a proposal guaranty is required in connection with design-build work.
5. The full legal name and business address of the Principal shall be inserted in the space designated "Principal" on the face of this form. The bond shall be signed by an authorized person. Where such person is signing in a representative capacity (e.g., an attorney-in-fact), but is not a member of the firm, partnership or joint venture, or an officer of the corporation involved, evidence of his authority must be furnished.
6. The penal sum of the bond may be expressed as a percentage of the proposal price (e.g., 5% of the proposal price) if desired or may be expressed in dollars and cents.
7. Corporation executing the bond as sureties must be among those appearing on the Treasury Department's list of approved sureties and must be acting within the limitations set forth therein. Where more than a single corporate surety is involved, their names and addresses (city and State) shall be inserted in the spaces (Surety A, Surety B, etc.) headed "Corporate Surety(ies)".
8. Corporations executing the bond shall affix their corporate seals.
9. The name of each person signing this proposal bond should be typed in the space provided.

THIS PAGE NOT USED

SECTION 00432

COMPLIANCE/EXCEPTION INFORMATION

(Submit with Technical Proposal)

Indicate whether the Proposal submitted is intended to fully comply with the RFP Documents of this Request for Proposals, or if certain exceptions are taken. If exceptions are taken, the Proposer shall clearly identify all exceptions to the requirements, terms, or conditions of any part of this RFP. Each exception must be specifically related to the particular part of the RFP to which the exception is taken. The Proposer must support and explain the reason for all exceptions taken and explain the impact, if any, on the RFP requirements and state the necessity for or advantage of the exception.

Check one statement below. If exception are taken, explain the exceptions per the following instructions.

- The Proposer certifies that its proposal is intended to comply fully with all RFP Documents.
- The Proposer certifies that its Proposal is intended to comply fully with all RFP Documents, except as noted (add additional sheets to explain).

THIS PAGE NOT USED

SECTION 00433
BRAND NAME OR EQUAL FORM
(Submit with Technical Proposal)

Proposer is required to state in the spaces below the Manufacturer's Name, Part/Product Number, Description, and to provide relevant specifications, including technical data and Material Safety Data Sheets. Be advised that these items, if any, are only set apart for identification. If products, other than those specified, are not listed here, the Proposal will be viewed as providing the as-specified products.

Spec Section/Product Specified: _____

Manufacturer: _____

Product Proposed: _____

Manufacturer: _____

Spec Section/Product Specified: _____

Manufacturer: _____

Product Proposed: _____

Manufacturer: _____

Spec Section/Product Specified: _____

Manufacturer: _____

Product Proposed: _____

Manufacturer: _____

Spec Section/Product Specified: _____

Manufacturer: _____

Product Proposed: _____

Manufacturer: _____

NOTE: If applicable, attach additional sheets as necessary in this format. This form is included to establish a format for submission by the Proposer of an "or Equal" and will be utilized for the Technical Proposal submittal to the Authority for equal products by the Design-Builder. *This form may also be used during the Design and Construction Phases of the Contract.*

THIS PAGE NOT USED

SECTION 00434
PRICE PROPOSAL SCHEDULE

(Submit with Proposal)

A. DESCRIPTION OF WORK

1. The Design-Builder shall Design and Build the Facilities in the manner and at the locations set forth in the RFP Documents of this solicitation, and in accordance with the Technical and Price Proposals as finally accepted by the Authority. The Design-Builder shall design the Work pursuant to the Contract Documents and the Rules and Regulations of the Jurisdictional Authorities, and shall construct the facility in strict accordance with the Issued for Construction Specifications and Issued for Construction Drawings and in full compliance with the Rules and Regulations of the Jurisdictional Authorities.

B. BASIS FOR AWARD

1. The best value evaluation of the Proposal by the Authority will consider the Total Base Price as Finally Accepted.

C. PRICE PROPOSAL

The work includes designing and constructing of roof replacement system at three WMATA facilities – (1) T19 Jackson Graham Building [JGB], (2) C94 Revenue Collection Facility [RCF]; and (3) T38 Carmen Turner Facility [CTF] Building A, as indicated in the contract documents and as detailed in section 01110 Summary of work

Price Proposal Schedule

<u>Item #</u>	<u>Description</u>	<u>Note #</u>	<u>Est. Qty.</u>	<u>Unit</u>	<u>Unit Price</u>	<u>Total Amount</u>
Base						
1	T19 Jackson Graham Building General Conditions		1	Each	\$_____	\$_____
2	C94 Alexandria Yard Revenue Collection Facility General Conditions			Each	\$_____	\$_____
3	Carmen Turner Facility, Building A General Conditions			Each	\$_____	\$_____
4	T19 Jackson Graham Building New Roof Design			Each	\$_____	\$_____
5	C94 Alexandria Yard Revenue Collection Facility New Roof Design			Each	\$_____	\$_____
6	Carmen Turner Facility, Building- A, New Roof Design			Each	\$_____	\$_____
7	T19 Jackson Graham Building Roof Demolition and Construction			Each	\$_____	\$_____
8	C94 Alexandria Yard Revenue Collection Facility Roof Demolition and Construction			Each	\$_____	\$_____
9	Carmen Turner Facility, Building A, Roof Demolition and			Each	\$_____	\$_____

	Construction			
10	Permitting	Each	\$ _____	\$ _____
			Total Base Price	\${total amount}

SECTION 00451
REPRESENTATIONS AND CERTIFICATIONS FORM
(Submit with Price Proposal)

REPRESENTATIONS AND CERTIFICATIONS
(Federally Funded Supply/Service/Construction Contracts)

Instructions: Check or complete all applicable boxes or blocks on this form and submit it with your Offer.

1. TYPE OF BUSINESS ORGANIZATION

By submission of this offer, the offeror represents that it operates as an individual, a partnership, a limited liability company, a joint venture, a nonprofit organization, or a corporation, incorporated under the laws of the State of _____.

Name	Signature
Title	Company
Date	

2. AFFILIATION AND IDENTIFYING DATA

Each offeror shall complete 2.1, 2.2 if applicable, and 2.3 below, representing that:

2.1 It is, is not, owned or controlled by a parent company. For this purpose, a parent company is defined as one that either owns or controls the activities and basic business policies of the offeror. To own another company, means that the parent company must own at least a majority, i.e., more than fifty percent (50%), of the voting rights in that company. To control another company, such ownership is not required. If another company is able to formulate, determine or veto the offeror's basic business policy decisions, such other company is considered the parent of the offeror. This control may be exercised through the use of dominant minority voting rights, use of proxy voting, Contractual arrangements or otherwise.

2.2 If the offeror is owned or controlled by a parent company, it shall insert in the space below the name and main office address of the parent company:

Name of Parent Company

Main Office Address (including ZIP Code)

2.3 If the offeror has no parent company, it shall provide in the applicable space below its own employer's identification number (E.I.N.), (i.e., number used on Federal tax returns or, if it has a parent company, the E.I. N. of its parent company).

Offeror E.I. N.: _____ or, Parent Company's E.I. N.: _____

Name	Signature
Title	Company

Date	
------	--

3. PREVIOUS CONTRACTS AND COMPLIANCE REPORTS

This representation is applicable to federally assisted contracts. By submission of this offer, the offeror represents that:

- 3.1 It [] has, [] has not, participated in a previous contract or subcontract subject to either the Equal Opportunity Clause of this solicitation, or the clause contained in Parts II and IV of Executive Order 11246, as amended; that prohibits discrimination on the basis of race, color, creed, national origin, sex, age; and
- 3.2 It [] has, [] has not, filed all required compliance reports; and
- 3.3 Representations indicating submittal of required compliance reports signed by proposed subcontractors will be obtained prior to subcontract awards.

Name	Signature
Title	Company
Date	

4. DISADVANTAGED BUSINESS ENTERPRISE

This representation is applicable to federally assisted contracts. By submission of this offer, the offeror represents that:

- 4.1 It [] is, [] is not, a disadvantaged business enterprise.

"Disadvantaged Business Enterprise" means a for-profit small business concern that is at least fifty one percent (51%) owned by one or more individuals who are both socially and economically disadvantaged individuals or, in the case of a corporation, in which fifty one percent (51%) of the stock is owned by one or more such individuals; and whose management and daily business operations are controlled by one or more socially and economically disadvantaged individuals who own it.

"Socially and Economically Disadvantaged Individual" is defined in Appendix B. Notice of Requirements for Disadvantaged Business Enterprise (DBE). By submission of this offer, the offeror represents that:

- 4.2 It [] is, [] is not, currently certified by Metropolitan Washington Unified Certification Program (MWUCP) as a disadvantaged business enterprise.
- 4.3 **Special Certification Requirements for Transit Vehicle Manufacturers.** Each transit vehicle manufacturer, as a condition of being authorized to bid or propose on FTA funded transit vehicle procurements, must certify that it has complied with the DBE requirements of 49 C.F.R. Part 26.

The offeror represents that it [] is or [] is not a transit vehicle manufacturer and [] has or [] has not complied with the DBE requirements of 49 C.F.R Part 26.

Name	Signature
Title	Company

5. SMALL BUSINESS ENTERPRISE (MAY 2015)

“Small Business Enterprise” means a for profit small business concern that is at least fifty one percent (51%) owned by one (1) or more individual(s) who are economically disadvantaged. “Economically Disadvantaged Individual” is defined in Appendix B-1, Definitions, in Notice of Requirements for Small Business Enterprise (SBE) Program.

5.1 It is, is not, a small business enterprise. A firm must be a small business as defined by the U.S. Small Business Administration (SBA) by applying current SBA business size standards found in 13 C.F.R. Part 121 that are applicable to the type of work the firm seeks to perform in USDOT assisted contracts. The fifty one percent (51%) owner must be a U.S. citizen or permanent resident. A firm must be organized for profit in order to be eligible for SBE certification. The firm’s average gross receipts cannot exceed the overall USDOT size standard for a small business [\$23.98 million averaged over the three (3) previous fiscal years or part of year that the business has been in existence.] Set forth in 49 C.F.R. § 26.65, at least fifty one percent (51%) of the firm’s ownership must be held by individuals who meet the personal net worth (PNW) cap of \$1.32 million as prescribed by 49 C.F.R. § 26.67.

5.2 It is, is not, currently certified by WMATA as a small business enterprise.

Name	Signature
Title	Company
Date	

6. AFFIRMATIVE ACTION COMPLIANCE

This representation is applicable to federally assisted contracts of \$50,000 or more that are awarded to contractors with fifty (50) or more employees. By submission of this offer, the offeror represents that:

6.1 It has a workforce of _____ employees.

6.2 It has developed and has on file, or has not developed and does not have on file, at each establishment, affirmative action programs required by the rules and regulations of the Secretary of Labor (41 C.F.R. §§ 60.1 and 60.2), or

6.3 It has not previously had contracts subject to the written affirmative action program requirements of the rules and regulations of the U.S. Secretary of Labor.

Name	Signature
Title	Company
Date	

7. COVENANT AGAINST GRATUITIES

By submission of this offer, the offeror certifies, and in the case of a joint offer, each party thereto certifies as to its own organization, that in connection with this procurement:

Neither it nor any of its employees, representatives or agents have offered or given gratuities (in the form of entertainment, gifts or otherwise) to any Board member, employee or agent of the Authority with the view toward securing favorable treatment in the awarding, or administration of this Contract.

Name	Signature
Title	Company
Date	

8. CONTINGENT FEES

By submission of this offer, the offeror certifies, and in the case of a joint offer, each party thereto certifies as to its own organization, that in connection with this procurement:

8.1 It [] has, [] has not, employed or retained any company or persons (other than a full-time, bona fide employee working solely for the offeror) to solicit or secure this Contract, and

8.2 It [] has, [] has not, paid or agreed to pay any company or person (other than a full-time, bona fide employee working solely for the offeror) any fee, commission, percentage, or brokerage fee contingent upon or resulting from the award of this Contract.

Name	Signature
Title	Company
Date	

9. CLEAN AIR ACT AND CLEAN WATER ACT CERTIFICATION

This certification is applicable if the Contract will be federally assisted and the offer exceeds \$150,000, or the Contracting Officer believes that orders under an indefinite type Contract in any year will exceed \$150,000 or a facility to be used has been the subject of a conviction under the Clean Air Act [42 U.S.C. § 7413(c)(1)] or the Clean Water Act [33 U.S.C. § 1319(c)], is listed by the U.S. Environmental Protection Agency (EPA) as a violating facility, and the acquisition is not otherwise exempt:

9.1 Any facility to be utilized in the performance of this Contract [] is, or [] is not listed on the EPA's List of Violating Facilities;

9.2 Offeror will immediately notify the Contracting Officer, before award, of the receipt of any communications from the Administrator, or a designee of the EPA, indicating that any facility that it proposes to use in the performance of this Contract is under consideration to be listed on the EPA's List of Violating Facilities; and

9.3 Offeror will include a certification substantially the same as this certification, including this paragraph, in every non-exempt subcontract.

Name	Signature
Title	Company
Date	

10. DEBARMENT, SUSPENSION, INELIGIBILITY, AND VOLUNTARY EXCLUSION

This certification is applicable to federally assisted contracts over \$25,000.

10.1 Primary Covered Transactions. This certification applies to the offer submitted in response to this solicitation and will be a continuing requirement throughout the term of any resultant Contract.

10.1.1 In accordance with the provisions of 2 C.F.R. Part 1200 and 2 C.F.R. Part 180, Subpart C, the offeror certifies to the best of its knowledge and belief that it and its principals:

10.1.1.1 are not currently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal or state department or agency;

10.1.1.2 have not, within a three (3) year period preceding this offer, been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, state, or local) transaction or contract under a public transaction; violation of Federal or state antitrust statutes, or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

10.1.1.3 are not currently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, state, or local) with commission of any of the offenses enumerated in paragraph (1)(ii) of this certification; and have not, within a three (3) year period preceding this offer, had one (1) or more public transactions (Federal, state, or local) terminated for cause or default.

10.1.2 Where the offeror is unable to certify to any of the statements in this certification, the offeror shall attach an explanation to this offer.

10.2 Lower Tier Covered Transactions. This certification applies to a subcontract at any tier expected to equal or exceed \$25,000 and will be a continuing requirement throughout the term of this Contract.

10.2.1 The prospective lower tier subcontractor certifies, by submission of this offer, that neither it nor its principals is currently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal or state department or agency.

10.2.2 Where the prospective lower tier subcontractor is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

10.3 The Certification required by 10.2, above, shall be included in all applicable subcontracts and the Contractor shall keep a copy on file. The Contractor shall be required to furnish copies of certifications to the Contracting Officer upon his or her request.

Name	Signature
Title	Company
Date	

11. CERTIFICATION OF INDEPENDENT PRICE DETERMINATION

11.1 By submission of its offer, the offeror certifies, and in the case of a joint offer, each party thereto certifies as to its own organization, that in connection with this procurement:

11.1.1 The prices in this offer have been arrived at independently, without, for the purpose of restricting competition, any consultation, communication, or agreement with any other offeror or with any other competitor;

11.1.2 Unless otherwise required by law, the prices that are quoted in this offer have not been knowingly disclosed by the offeror and will not be knowingly disclosed by the offeror prior to award (in the case of a negotiated procurement), directly or indirectly, to any other offeror or to any competitor; and

11.1.3 No attempt has been made or will be made by the offeror to induce any other person or firm to submit or not to submit an offer, for the purpose of restricting competition.

11.2 Each person signing this offer certifies that:

11.2.1 He or she is the person in the offeror's organization responsible for the decision regarding the prices being offered herein and that he/she has not participated, and will not participate, in any action contrary to 11.1.1 through 11.1.3 above; or

11.2.2 He or she is not the person in the offeror's organization responsible for the decision regarding the prices being offered herein, but that he/she has been authorized in writing to act as agent for the persons responsible for such decision in certifying that such persons have not participated; and will not participate, in any action contrary to 11.1.1 through 11.1.3 above; or and as their agent he or she does hereby so certify.

Name	Signature
Title	Company
Date	

12. CERTIFICATION OF NONSEGREGATED FACILITIES

This certification is applicable to federally assisted contracts over \$10,000.

12.1 By submission of this offer, the offeror certifies, and in the case of a joint offer, each party thereto certifies as to its own organization, that in connection with this procurement:

12.1.1 It does not and will not maintain or provide for its employees, any segregated facilities at any of its establishments, and that it does not and will not permit its employees to perform their services at any location under its control, where segregated facilities are maintained.

- 12.1.2 The offeror agrees that a breach of this certification is a violation of the Equal Opportunity clause in this Contract.
- 12.1.3 As used in this certification, the term "segregated facilities" means any waiting rooms, work areas, rest rooms and wash rooms, restaurants and other eating areas, time clocks, locker rooms and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation, and housing facilities provided for employees that are segregated by explicit directive or are in fact segregated on the basis of race, color, religion or national origin, because of habit, local custom or otherwise.
- 12.1.4 It further agrees that (except where it has obtained identical certifications from proposed subcontractors for specific time periods) it will:
 - 12.2 Obtain identical certifications from proposed subcontractors before the award of subcontracts under which the subcontractor will be subject to the Equal Opportunity clause;
 - 12.3 Retain such certifications in its files; and
 - 12.4 Forward the following notice to such subcontractors (except if the proposed subcontractors have submitted identical certifications for specific time periods):

NOTICE TO PROSPECTIVE SUBCONTRACTORS OF REQUIREMENTS FOR CERTIFICATIONS OF NONSEGREGATED FACILITIES

A Certification of Non-segregated Facilities must be submitted prior to award of a subcontract exceeding \$10,000 that is not exempt from the provisions of the Equal Opportunity clause. The certification may be submitted either for such subcontract or for all subcontracts during a period (i.e., quarterly, semiannually or annually).

Name	Signature
Title	Company
Date	

13. NONDISCRIMINATION ASSURANCE

- 13.1 By submission of this offer, the offeror certifies, and in the case of a joint offer, each party thereto certifies as to its own organization, in connection with this procurement, that it will not discriminate on the basis of race, color, creed, religion, national origin, sex, age, disability, sexual preference and/or gender identity in the performance of this Contract. The offeror is required to insert the substance of this clause in all subcontracts and purchase orders. The Contractor's failure to carry out these requirements 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. The offeror further agrees by submitting this offer, that it will include this certification, without modification, in all subcontracts and purchase orders.

Name	Signature
Title	Company
Date	

14. CERTIFICATION OF RESTRICTIONS ON LOBBYING

This certification is applicable to federally assisted contracts if the offer exceeds \$100,000.

14.1 By submission of this offer, the offeror certifies, and in the case of a joint offer, each party thereto certifies as to its own organization, that to the best of his or her knowledge or belief:

14.1.1 No federally appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

14.1.2 If any funds other than federally appropriated funds have been paid or will be paid to any person for making lobbying contacts to an officer or employee of any agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with this Contract, the undersigned shall complete and submit Standard Form--LLL, "Disclosure of Lobbying Activities."

14.1.3 The undersigned shall require that the language of this certification be included in all sub-awards (including subcontracts, sub-grants and contracts under grants, loans and cooperative agreements) at all tiers and that all sub-recipients shall certify and disclose accordingly.

14.2 This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31 U.S.C. § 1352, as amended. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

14.3 The Contractor certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the Contractor understands and agrees that the provisions of 31 U.S.C.A. § 3801, *et.seq.* apply to this certification and disclosure, if any.

Name	Signature
Title	Company
Date	

15. BUY AMERICA ACT CERTIFICATION

The Buy America Act requirements apply to federally assisted construction contracts, and acquisition of goods or rolling stock contracts valued at more than \$150,000.¹

15.1 By submission of this offer, the offeror certifies, and in the case of a joint offer, each party thereto certifies as to its own organization, that in connection with this procurement it will 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

¹ If the funding for this Contract comes from an FTA grant issued before December 26, 2014, then the limit is \$100,000.

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.

15.2 An offeror must submit to the Authority, the appropriate Buy America Act certification (below) with all offers on FTA funded contracts, except those subject to a general waiver. Offers that are not accompanied by a completed Buy America Act certification must be rejected as nonresponsive. This requirement does not apply to lower tier subcontractors. Mark the applicable certifications below:

15.2.1 Certification requirement for procurement of steel, iron, or manufactured products:

- Certificate of Compliance with 49 U.S.C. § 5323(j)(1)*
The offeror hereby certifies that it will meet the requirements of 49 U.S.C. § 5323(j)(1) and the applicable regulations in 49 C.F.R. § 661.5.

- Certificate of Non-Compliance with 49 U.S.C. § 5323(j)(1)*
The offeror hereby certifies that it cannot comply with the requirements of 49 U.S.C. § 5323(j)(1) and 49 C.F.R. § 661.5, but it may qualify for an exception pursuant to 49 U.S.C. §§ 5323(j)(2)(A), 5323(j)(2)(B), or 5323(j)(2)(D), and 49 C.F.R. § 661.7.

15.2.2 Certification requirement for procurement of buses, other rolling stock and associated equipment:

- Certificate of Compliance with 49 U.S.C. § 5323(j)(2)(C)*
The offeror hereby certifies that it will comply with the requirements of 49 U.S.C. § 5323(j)(2)(C) and the regulations at 49 C.F.R. § 661.11.

- Certificate of Non-Compliance with 49 U.S.C. 5323§ (j)(2)(C)*
The offeror hereby certifies that it cannot comply with the requirements of 49 U.S.C. § 5323(j)(2)(C) and 49 C.F.R. § 661.11, but may qualify for an exception pursuant to 49 U.S.C. §§ 5323(j)(2)(A), 5323(j)(2)(B), or 5323(j)(2)(D), and 49 C.F.R. § 661.7.

Name	Signature
Title	Company
Date	

16. CERTIFICATION OF NON-DELINQUENT TAXES

This certification is applicable to federally assisted contracts.

16.1 By submission of this offer, the offeror certifies, and in the case of a joint offer, each party thereto certifies as to its own organization, that in connection with this procurement:

- 16.1.1** It has not been convicted over the past three (3) years of violating any Federal criminal tax law or failed to pay any tax.

- 16.1.2** It has certified if it has been notified of an unresolved tax lien or any unsatisfied Federal tax delinquency in excess of \$3,000 and that it is paying tax debts through an installment agreement or has requested a collections due process hearing.

- 16.1.3 The offeror agrees that a breach of this certification is a violation of the Federal Acquisition Regulation (FAR).
- 16.1.4 As used in this certification, the term "tax delinquency" means an outstanding debt for which a notice of lien has been filed in public records.
- 16.1.5 It further agrees that (except where it has obtained identical certifications from proposed subcontractors for specific time periods) it will:
 - 16.2 Obtain identical certifications from proposed subcontractors before the award of subcontracts under which the subcontractor will be subject to the FAR.;
 - 16.3 Retain such certifications in its files; and
 - 16.4 Forward the following notice to such subcontractors (except if the proposed subcontractors have submitted identical certifications for specific time periods):

NOTICE TO PROSPECTIVE SUBCONTRACTORS OF REQUIREMENTS FOR CERTIFICATION OF NON-DELINQUENT TAXES

A Certification of Non-Delinquent Taxes must be submitted prior to award of a subcontract exceeding \$100,000 that is not exempt from the provisions of the FAR. The certification may be submitted either for such subcontract or for all subcontracts during a period (i.e., quarterly, semiannually or annually).

Name	Signature
Title	Company
Date	

17. DISCLOSURES OF INTERESTS OF WMATA BOARD MEMBERS

For purposes of this disclosure, terms in bold are defined by the Code of Ethics for Members of the WMATA Board of Directors a copy of which is available at www.wmata.com. Financial interests include ownership interests and prospective and actual income. Firm includes parents, subsidiaries and affiliates.

By submission of this offer, the offeror certifies, and in the case of a joint offer, each party thereto certifies as to its own organization, that to the best of its knowledge, information and belief in connection with this procurement:

- 17.1 [] No WMATA **Board member, household member or business associate** has a financial interest in this firm, in a **financial transaction** with the Authority to which this firm is a party or prospective party, or in an **actual or prospective business relationship with the Authority** to which this firm is a party.
- 17.2 [] The following WMATA **Board member(s), household member(s) or business associate(s)** has a financial interest in this firm, in a **financial transaction** with the Authority to which this firm is a party or prospective party, or in an **actual or prospective business relationship with the Authority** to which this firm is a party, Include in "Nature of Interest" below, a description of the financial interest and (1) for ownership interests, the value of the interest, the name and address of the firm in which the interest is held, and the total equity or equivalent interest of the firm; and (2) for income, the amount of all income received by the **Board member, household member or**

business associate in the current and preceding fiscal year for services provided, and the name and address of the firm from which the income was received.

Name of Board Member Household Member or Business Associate	Nature of Interest
_____	_____
_____	_____
_____	_____

17.3 The certification 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-SENSITIVE² 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	

² See the Combined Glossary for a definition of “safety-sensitive.”

SECTION 00452
PROPOSAL DATA FORM

(Submit with Price Proposal)

Contract Number: _____

Date of Request: _____

Project Name: _____

Project Location: _____

1. Name of Firm: _____

2. Legal Address: _____

3. Legal Entity: Individual Partnership Joint venture Corporation

4. Date Organized: _____

5. State in which incorporated: _____

6. Names and Addresses of Officers or Partners:

a. _____

b. _____

c. _____

d. _____

e. _____

f. _____

7. How long has your firm been in business under its present name? _____

8. Attach as SCHEDULE 7 a list of current contracts, each with contract amount, owner, architect-engineer, and character or type of work and percentage of completion. Also, include those projects on which you are apparent low bidder, but for which you have not received an award of contract.

9. Attach as SCHEDULE 8 a list of contracts, each with contract amount, owner, architect engineer, and character or type of work, for contracts completed in the last 5 years.

10. What is the estimated work placement value required per year to complete the work described in SCHEDULE 7. 2018: \$_____ 2019: \$_____ 2020 \$_____

11. Have you ever been denied an award on which you were low bidder? Yes No If the answer is YES, attach as SCHEDULE 10 the full particulars regarding each occurrence.

12. Have you ever failed to complete any contract, other than current, on which you were the low bidder? Yes No If the answer is YES, attach as SCHEDULE 11, the full particulars regarding each occurrence.

13. Have you ever been assessed liquidated damages or actual damages for late completion within the last five years? Yes No If the answer is YES, attach as SCHEDULE 12 the full particulars regarding each occurrence.
14. Financial resources available as working capital for this Contract:
 - a. Cash on hand: \$ _____ Date: _____
 - b. Sources of credit: _____
15. Attach as SCHEDULE 14 certified financial statements and letters from banks regarding credit as required by Section 00200, INSTRUCTIONS TO PROPOSERS, of this Contract.
16. Attach as SCHEDULE 15 the design and construction experience of each officer and principal individual of your organization; include present position, years of design and construction experience, magnitude and type of work, and in what capacity.
17. What percentage of the Work (Contract amount) do you intend performing with your own personnel?
_____ %
18. Attach as SCHEDULE 17 a list of all Subcontractors and the percentage and character of work (contract amount) which each will perform.
19. Attach as exhibits completed Proposal Data Forms for each of the Subcontractors listed in SCHEDULE 17 above.
20. If the Design-Builder or Subcontractor is a joint venture, submit Proposal Data Forms for each member of the joint venture.

The above information is confidential and will not be divulged to any unauthorized person or persons. The signatory of this questionnaire certifies to the truth and accuracy of all statements, answers, and attachments.

For:

Firm Name: _____ DUNS#: _____

Signature: _____ Dated: _____

Name: _____

Title: _____

Location: _____

SECTION 00453

DISADVANTAGED BUSINESS ENTERPRISE (DBE) DATA

(Submit with the Best and Final Proposal [BAFO] Price Proposal)

For Disadvantaged Business Enterprise (DBE) Data and forms, refer to Appendix B of Section 00800, SUPPLEMENTARY CONDITIONS.

THIS PAGE NOT USED

SECTION 00491
TECHNICAL PROPOSAL AS FINALLY ACCEPTED

- A. **Instructions:** Insert here the Technical Proposal as finally accepted.
- B. See Section SUPPL00910, AMENDMENTS, for Amendment Letters.

THIS PAGE RESERVED

SECTION 00492
PRICE PROPOSAL AS NEGOTIATED AND ACCEPTED

- A. **Instructions:** Insert here the Price Proposal as Negotiated and Accepted.
- B. See Section 00910, AMENDMENTS, for Amendment Letters.

THIS PAGE RESERVED

END OF SECTION

SECTION 00500
AGREEMENT

NOTICE TO PROPOSERS:

- A. This Section includes the Design-Build Contract Form to be submitted by the successful Proposer and represents the legal instrument binding the two parties to the Work once the document is signed by the Authority and the Design-Builder.
- B. The following form is included for the Proposer's information and use in the event Proposer is awarded the Contract. It is not required to be submitted with the Proposal.

THIS PAGE NOT USED

SECTION 00510
DESIGN-BUILD CONTRACT FORM

Design/Builder: _____

Contract Number: _____

Date: _____

Contract For: _____

Contract Price: \$ _____

Contract Performance Time: Seven Hundred thirty (730) calendar days

In consideration of the covenants contained herein, the Washington Metropolitan Area Transit Authority (hereinafter called the Authority), represented by the Contracting Officer executing this Contract, and the individual, partnership, joint venture, or corporation named above (hereinafter, the Design-Builder), mutually agree to perform this Contract in strict accordance with its provisions. The Contract consists of: the RFP Documents and all documents referenced or attached to the RFP Documents including the following:

1. Technical Proposal and Price Proposal as finally accepted.
2. Other publications referenced in the RFP Documents.
3. Amendment Number(s): _____

ALTERATIONS: The following alterations were made to this Contract before it was signed by the parties hereto:

In Witness Whereof, the parties hereto have executed this Contract as of the date entered above.

Design-Builder/Contractor

Attest _____

*By: _____

Design-Builder/Contractor

Attest _____

*By: _____

Design-Builder/Contractor

Attest _____

*By: _____

Washington Metropolitan Area Transit Authority

By: _____

*NOTE: Execution for the Design-Builder that is an individual, corporation or partnership shall be accompanied by the Power of Execution (Section 00542) that follows. A Joint Venture Design-Builder must complete the Power of Attorney (Section 00541) that follows. All persons executing this Contract must complete the appropriate Certification of the person's authority to act on behalf of the Design-Builder.

SECTION 00540
ATTACHMENTS TO THE CONTRACT

The following attachments to supplement the Agreement Form are included for the Proposer's information and use in the event Proposer is awarded the Contract. They are not required to be submitted with the Proposal.

THIS PAGE RESERVED

SECTION 00541
POWER OF ATTORNEY

KNOW ALL PERSONS BY THESE PRESENTS, that _____,
constituting all of the venturers of the joint venture known as _____,
which is desirous of entering into a contract with the Washington Metropolitan Area Transit Authority, do hereby designate and appoint _____, one of the venturers hereinafter called the "Managing Sponsor," as their true and lawful attorney with the power, on their behalf and in the name and on behalf of the joint venture, to represent and bind the undersigned and the joint venture in all matters in connection with Contract, to make, execute, seal, and deliver on behalf of the joint venture and as its act and deed, any and all contracts, change orders, monthly and final payment certificates, and other like instruments. The undersigned specifically acknowledge and agree that the execution of such Proposal or Contract by the Managing Sponsor shall constitute the agreement of each venturer to be jointly and severally liable for any and all of the duties and obligations of the joint venture arising from such Proposal or Contract.

IN WITNESS WHEREOF, the undersigned have executed this Power of Attorney this _____ day of _____, 20____.

Design-Builder/Contractor

Attest _____

By: _____

Design-Builder/Contractor

Attest _____

By: _____

Design-Builder/Contractor

Attest _____

By: _____

THIS PAGE NOT USED

SECTION 00542
POWER OF EXECUTION

KNOW ALL PERSONS BY THESE PRESENTS, that _____,
constituting all of the venturers of the joint venture known as _____,

which is desirous of entering into a contract with the Washington Metropolitan Area Transit Authority, do hereby designate and appoint _____, one of the venturers hereinafter called the "Managing Sponsor," as their true and lawful attorney with the power, on their behalf and in the name and on behalf of the joint venture, to represent and bind the undersigned and the joint venture in all matters in connection with Contract, to make, execute, seal, and deliver on behalf of the joint venture and as its act and deed, any and all contracts, change orders, monthly and final payment certificates, and other like instruments. The undersigned specifically acknowledge and agree that the execution of such Proposal or Contract by the Managing Sponsor shall constitute the agreement of each venturer to be jointly and severally liable for any and all of the duties and obligations of the joint venture arising from such Proposal or Contract.

IN WITNESS WHEREOF, the undersigned have executed this Power of Execution this _____
day of _____, 20____.

Design-Builder/Contractor

Attest _____

By: _____

Design-Builder/Contractor

Attest _____

By: _____

Design-Builder/Contractor

Attest _____

By: _____

THIS PAGE NOT USED

SECTION 00550
NOTICE TO PROCEED (NTP)

THIS PAGE RESERVED

END OF SECTION

SECTION 00600
BONDS AND CERTIFICATES

This Section includes bond forms required to be submitted by the Design-Builder.

THIS PAGE NOT USED

SECTION 00610
BOND REQUIREMENTS

- A. Requirements: Within 10 Days after the prescribed forms are presented for signature to the Proposer to whom award is made, a written Contract and Attachments (Power of Attorney and Power of Execution) on the forms provided in Section 00500, AGREEMENT, shall be executed and delivered to the Contracting Officer, together with a performance bond and payment bond if the Contract price is \$100,000 or more, each with good and sufficient surety or sureties acceptable to the Authority. Corporations executing the bonds as sureties must be among those appearing on the U. S. Treasury Department's list of approved sureties and must be acting within the limitations set forth therein. The penal sums of such bonds shall be as follows:
1. Performance Bond: The penal sum of the performance bond shall equal 100 percent of the Contract Price.
 2. Payment Bond: The penal sum of the payment bond shall equal 100 percent of the Contract Price.
 - a. When the Contract Price is one million US dollars (\$1,000,000) or less, the penal sum of the payment bond shall be fifty (50) percent of the Contract price.
 - b. When the Contract Price is in excess of one million US dollars (\$1,000,000) but not more than five million US dollars (\$5,000,000) the penal sum shall be forty (40) percent of the Contract Price.
 - c. When the Contract Price is more than five million US dollars (\$5,000,000), the penal sum shall be two and a half million US dollars (\$2,500,000).
- B. Failure to Furnish: In the event the required bonds are not furnished as specified, the Contracting Officer may issue the Notice To Proceed, however, no payment will be made to the Design-Builder until the required bonds are furnished.

THIS PAGE NOT USED

SECTION 00611
PERFORMANCE BOND

PROPOSER'S INFORMATION NOTICE: The following is included for the Proposer's information and use in the event Proposer is awarded the Contract. It is not required to be submitted with the Proposal.

Contract Number: _____

Date: _____

Penal Sum of Bond: \$ _____

Date Bond Executed: _____

KNOW ALL PERSONS BY THESE PRESENTS, that we, the Principal and Surety(ies) hereto, are firmly bound to the Washington Metropolitan Area Transit Authority (hereinafter called the Authority) in the above penal sum for the payment of which we bind ourselves, our heirs, executors, administrators, and successors, jointly and severally: Provided, that, where the Sureties are corporations acting as co-sureties, we, the Sureties, bind ourselves in such sum "jointly and severally" as well as "severally" only for the purpose of allowing a joint action or actions against any or all of us, and for all other purposes each Surety binds itself, jointly and severally with the Principal, for the payment of such sum only as set forth opposite the name of such Surety, but if no limit of liability is indicated, the limit of liability shall be the full amount of the penal sum.

THE CONDITION OF THIS OBLIGATION IS SUCH that whereas the Principal entered into the Contract identified above:

NOW, THEREFORE, if the Principal shall perform and fulfill all the undertakings, covenants, terms, conditions and agreements of said Contract during the original term of said Contract and any extensions thereof that may be granted by the Authority, with or without notice to the Surety(ies), and during the life of any guaranty required under the contract, and shall also perform and fulfill all the undertakings, covenants, terms, conditions, and agreements of any and all duly authorized modifications of said Contract that may hereafter be made, notice of which modifications to the Surety(ies) being hereby waived, then the above obligation shall be void and of no effect. Surety acknowledges Authority can advance the date of payments to Design-Builder, and by so doing the Surety remains liable under the terms of the bond.

IN WITNESS WHEREOF, the Principal and Surety(ies) have executed this performance bond and have affixed their seals on the date set forth above.

Principals

1. Firm Name: _____ Firm Address: _____ _____ Name: _____ Title: _____ Signature: _____	Corporate Seal State of Incorporation: _____
2. Firm Name: _____ Firm Address: _____ _____ Name: _____ Title: _____ Signature: _____	Corporate Seal State of Incorporation: _____

3. Firm Name: _____ Firm Address: _____ _____ Name: _____ Title: _____ Signature: _____	Corporate Seal State of Incorporation: _____
-------------------------------------------------------------------------------------------------------------------------------	--------------------------------------------------------------------

Corporate Surety(ies)

Surety A Firm Name: _____ Firm Address: _____ _____ Name: _____ Title: _____ Signature: _____	Liability Limit: \$ _____	Corporate Seal State of Inc.: _____
Surety B Firm Name: _____ Firm Address: _____ _____ Name: _____ Title: _____ Signature: _____	Liability Limit: \$ _____	Corporate Seal State of Inc.: _____
Surety C Firm Name: _____ Firm Address: _____ _____ Name: _____ Title: _____ Signature: _____	Liability Limit: \$ _____	Corporate Seal State of Inc.: _____

Attach additional pages as needed.

Bond Premium Schedule	Total Premium	\$ _____
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Performance Bond Instructions:

4. This form is authorized for use in connection with contracts for design and construction work or the furnishing of labor, materials, equipment, supplies, and services.
5. The full legal name and business address of the Principal shall be inserted in the space designated "Principal" on the face of this form. The bond shall be signed by an authorized person. Where such person is signing in a representative capacity (e.g., an attorney-in-fact), but is not a member of the firm, partnership or joint venture, or an officer of the corporation involved, evidence of their authority must be furnished.
6. Corporation executing the bond as sureties must be among those appearing on the Treasury Department's therein. Where more than a single corporate surety is involved, their names and addresses (city and State) shall be inserted in the spaces (Surety A, Surety B, etc.) headed "Corporate Surety(ies)".

**SECTION 00612
PAYMENT BOND**

Contract Number: _____

Date: _____

Penal Sum of Bond: \$ _____

Date Bond Executed: _____

KNOW ALL MEN BY THESE PRESENTS, that we, the Principal and Surety(ies) hereto, are firmly bound to the Washington Metropolitan Area Transit Authority (hereinafter called the Authority) in the above penal sum for the payment of which we bind ourselves, our heirs, executors, administrators, and successors, jointly and severally: Provided, that, where the Sureties are corporations acting as co-sureties, we, the Sureties, bind ourselves in such sum "jointly and severally" as well as "severally" only for the purpose of allowing a joint action or actions against any or all of us, and for all other purposes each Surety binds itself, jointly and severally with the Principal, for the payment of such sum only as set forth opposite the name of such Surety, but if no limit of liability is indicated, the limit of liability shall be the full amount of the penal sum.

THE CONDITION OF THIS OBLIGATION IS SUCH that, whereas the Principal entered into the Contract identified above:

NOW, THEREFORE, if the Principal shall promptly make payment to all claimants as hereinafter defined supplying services, labor, material, and/or equipment in the prosecution of the Work provided for in said Contract, and any and all duly authorized modifications of said Contract that may hereafter be made, notice of which modifications to the Surety(ies) being hereby waived, then the above obligation shall be void and of no effect, otherwise it shall remain in full force and effect, subject, however, to the following conditions:

1. A claimant is defined as one having a direct contract with the Principal or with a subcontractor of the Principal for labor, material, or both, used or reasonably required for use in the performance of the Contract, labor and material being construed to include that part of water, gas, power, light, heat, oil, gasoline, telephone service, or rental of equipment directly applicable to the Contract.
2. The above-named Principal and Surety hereby jointly and severally agree with the Authority that every claimant as herein defined, who has not been paid in full before the expiration of a period of 90 Days after the date on which the last of such claimant's work or labor was done or performed, or materials were furnished by such claimant, may sue on this bond for the use of such claimant, prosecute the suit to final judgment for such sum or sums as may be justly due the claimant, and have execution thereon. The Authority shall not be liable for the payment of any costs or expenses of any such suit.
3. No suit or action shall be commenced hereunder by any claimant:
 - a. Unless claimant, other than one having a direct contract with the Principal, shall have given written notice to the Principal within 90 Days after such claimant did or performed the last of the work or labor, or furnished the last of the materials for which said claim is made, stating with substantial accuracy the amount claimed and the name of the party to whom the materials were furnished, or for whom the work or labor was done or performed. Such notice shall be served by mailing the same by registered mail or certified mail, postage prepaid, in an envelope addressed to the Principal at any place where it maintains an office or conducts business, or its residence or such notice shall be served in any manner in which legal process may be served in the state or District of Columbia in which the aforesaid Project is located, save that such service need not be made by a public officer.
 - b. After the expiration of one year following the date of final settlement of said Contract, it being understood, however, that if any limitation embodied in this bond is prohibited by any law controlling the construction hereof, such limitation shall be deemed to be amended so as to be equal to the minimum period of limitation permitted by such law.

- c. Other than in a state court of competent jurisdiction in and for the county or other political subdivision of the state in which the Project, or any part thereof, is situated or in the United States District Court for the district in which the Project, or any part thereof, is situated, and not elsewhere.

IN WITNESS WHEREOF, the Principal and Surety(ies) have executed this payment bond and have affixed their seals on the date set forth above.

Principals

1. Firm Name: _____ Firm Address: _____ _____ Name: _____ Title: _____ Signature: _____	<p style="text-align: center;">Corporate Seal</p> State of Incorporation: _____
2. Firm Name: _____ Firm Address: _____ _____ Name: _____ Title: _____ Signature: _____	<p style="text-align: center;">Corporate Seal</p> State of Incorporation: _____
3. Firm Name: _____ Firm Address: _____ _____ Name: _____ Title: _____ Signature: _____	<p style="text-align: center;">Corporate Seal</p> State of Incorporation: _____

Corporate Surety(ies)

Surety A Firm Name: _____ Firm Address: _____ _____ Name: _____ Title: _____	Liability Limit: \$ _____	<p style="text-align: center;">Corporate Seal</p> State of Inc.: _____
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Signature: _____		
Surety B Firm Name: _____ Firm Address: _____ Name: _____ Title: _____ Signature: _____	Liability Limit: \$ _____	Corporate Seal State of Inc.: _____
Surety C Firm Name: _____ Firm Address: _____ Name: _____ Title: _____ Signature: _____	Liability Limit: \$ _____	Corporate Seal State of Inc.: _____

Attach additional pages as needed.

Bond Premium Schedule	Total Premium	\$ _____
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Attach additional pages as needed.

Payment Bond Instructions

1. This form is authorized for use in connection with contracts for design work, construction work, or the furnishing of labor, materials, equipment, supplies, and services.
2. The full legal name and business address of the Principal shall be inserted in the space designated "Principal" on the face of this form. The bond shall be signed by an authorized person. Where such person is signing in a representative capacity (e.g., an attorney-in-fact), but is not a member of the firm, partnership or joint venture, or an officer of the corporation involved, evidence of their authority must be furnished.
3. Corporation executing the bond as sureties must be among those appearing on the Treasury Department's list of approved sureties and must be acting within the limitations set forth therein. Where more than a single corporate surety is involved, their names and addresses (city and State) shall be inserted in the spaces (Surety A, Surety B, etc.) headed "Corporate Surety(ies)".
4. Corporations executing the bond shall affix their corporate seals.
5. The name of each person signing this performance bond should be typed in the space provided.
6. The date this bond is executed must be later than the Contract execution date.

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SECTION 00613

PERFORMANCE AND PAYMENT BONDS (ADDITIONAL BOND SECURITY)

- A. If any surety upon any performance bond furnished in connection with this Contract becomes unacceptable to the Contracting Officer, or if any such surety fails to furnish reports as to its financial condition from time to time as requested by the Contracting Officer, the Design-Builder shall promptly furnish such additional security as may be required from time to time to protect the interest of the Authority and of persons supplying labor or materials in the prosecution of the Work contemplated by this Contract.

- B. If any surety upon any payment bond furnished in connection with this Contract becomes unacceptable to the Contracting Officer, or if any such surety fails to furnish reports as to its financial condition from time to time as requested by the Contracting Officer, the Design-Builder shall promptly furnish such additional security as may be required from time to time to protect the interest of the Authority and of persons supplying labor or materials in the prosecution of the Work contemplated by this Contract.

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SECTION 00620
CERTIFICATES

- A. This Section provides an area for conforming the RFP Documents with required Affidavits and Certificates provided by the Design-Builder; i.e., Certificates of Acceptance, Application for Payment, Insurance, Compliance including ADAAG Design and Construction Compliance and Checklists, Substantial Completion, Acceptance, and Final Payment.
- B. Instructions: Insert here all required Certificates to conform to the Contract Documents.

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END OF SECTION

SECTION 00700
GENERAL CONDITIONS

This section includes a compilation of contractual and legal requirements that list the rights, responsibilities, and relationships of the parties to a Contract and define duties and limits of authority for design professionals and construction management. This section shall be read in conjunction with "Section 00800, Supplementary Conditions," which specifies modifications to these General Conditions, and which will be cited using the same last 2 digits of the Section number; i.e., a modification to Section 00724 will be indicated as Section 00824.

00701 DEFINITIONS

A. AS USED THROUGHOUT THE CONTRACT, THE FOLLOWING TERMS SHALL HAVE THE MEANINGS SET FORTH BELOW:

1. **Acceptance:** Acknowledgement by the Authority of full and satisfactory physical completion and commissioning of all work including punch list items, all in accordance with the Contract.
2. **Agreement:** The Authority's form entitled " Contract Form" in this Request for Proposals (RFP) that, upon execution by the Design-Builder/Contractor and the Authority, creates the Contract between the two parties.
3. **Amendment:** Written or graphic instructions issued to clarify, revise, add, or delete RFP requirements that are issued before the execution of an Agreement.
4. **Approval of a Submittal or any other item** shall be solely for the purpose of establishing conformance to the RFP Documents.
5. **As-Built Drawings:** Drawings prepared by or through the Design-Builder/Contractor, which reflect final as-built condition of the project and include all known changes to the issued "For Construction" drawings.
6. **As-Built Specifications:** Those specifications prepared by or through the Design-Builder/Contractor in CSI format to reflect final information only and showing revisions from the "Issued for Construction" specifications.
7. **As shown, as indicated, as detailed, as described, as specified or words of similar import:** Shall be understood to mean that reference is made to the RFP..
8. **Authority:** The Washington Metropolitan Area Transit Authority ("WMATA," or "Metro"), created effective February 20, 1967, by Interstate Compact by and between Maryland, Virginia, the District of Columbia, and the Federal Government pursuant to Public Law 89-774, approved November 6, 1966.
9. **Basis of Design:** In a Design-Build contract, the RFP that shall be used by the Design-Builder for the preparation of the "Issued for Construction" specifications and drawings.
10. **Board of Directors:** The Board of Directors of the Washington Metropolitan Area Transit Authority.
11. **Claim:** A written demand or assertion by the Design-Builder/Contractor seeking, as a legal right, the payment of money, adjustment or interpretation of Contract terms, or other relief, arising under or relating to this Contract.
12. **Contract:** The written Agreement between the Authority and the Design-Builder/Contractor covering the work as set forth therein. The Contract consists of the RFP , all amendments issued before the effective date of the agreement, and all modifications issued after the effective date of the Contract; the Notice to Proceed; including the Design-Builder/Contractor's price and technical proposals, as finally accepted by the Authority.

13. Contracting Officer (CO): An employee with authority duly delegated from the Chief Procurement Officer to legally bind the Authority by signing a contractual instrument. The Contracting Officer is the Authority's primary point of contact for pre-award administration, modifications/changes above the limits of the Contracting Officer's Representative (COR), and final settlement.
14. Contracting Officer Representative (COR): The person to whom the Contracting Officer delegates authority and responsibility for certain post- award administration duties. The Contracting Officer's Representative is the Authority's primary point of contact with its Design-Builder/Contractor.
15. Contractor: In a Design-Bid-Build contract, the individual, partnership, firm, corporation, or other business entity that is contractually obligated to the Authority to furnish, through itself or others, the construction services described in the Contract, including all incidentals that are necessary to complete the work in accordance with the Contract. Wherever this contract references rights or responsibilities as applied to the Design-Builder/Contractor, they shall also apply to the Design-Builder on a Design-Build Contract.
16. Contract price: The amount payable to the Design-Builder/Contractor under the Contract based on lump-sum prices, unit prices, fixed prices or combination thereof, with adjustments made in accordance with the Contract.
17. Day: Calendar day except where the term "work day" or like terms are used.
18. Design-Builder: In a Design-Build contract, the individual, partnership, firm, corporation, or other business entity that is contractually obligated to the Authority to furnish, through itself or others, the design and construction services described in the Contract, including all incidentals that are necessary to complete the work in accordance with the Contract.
19. Designer: In a Design-Build contract, the individual, partnership, firm, corporation or other business entity that is either the Design-Builder, or employed or retained by the Design-Builder, to manage and perform the design services for the project.
20. Design Drawings: In a Design-Build contract, those drawings prepared by or through the Design-Builder to demonstrate compliance with the RFP..
21. Design Specifications: In a Design-Build contract, those specifications prepared by or through the Design-Builder/Contractor to demonstrate compliance with the RFP; or Equivalent or Equal or better quality and performance to that specified in the RFP. Equivalency determinations shall be made in WMATA's sole discretion.
22. Final Payment: The last payment made to the Design-Builder/Contractor following acceptance of the work, as more fully described herein. General Conditions: A compilation of contractual and legal requirements that lists the rights, responsibilities, and relationships of the parties to the Contract and defines duties and limits of authority for design professionals and construction management in performance of the contract..
23. General Conditions: A compilation and legal requirements that lists the rights, responsibilities and relationships of the parties to the Contract and defines duties and limits of authority for design professionals and construction management in performance of the contract.
24. General Requirements: A compilation of the conditions and performance requirements (Division 1) that govern the design and construction work.
25. Industry Standards: Drawings, documents, and specifications or portions thereof published by industry organizations. Industry Standards are not part of the Contract unless specifically listed as such in the technical specifications.
26. Issued "For Construction" Drawings/Specifications: Drawings, specifications, and documents that are prepared by the Authority to be used in construction, fabrication, and implementation of the project.

27. Jurisdictional Authority: Refers to Federal, State and local authorities or agencies having approval authority over work to which reference is made.
28. Legal Requirements: All Federal, State and local laws, ordinances, rules, orders, decrees, and regulatory requirements such as: building codes, mechanical codes, electrical codes, fire codes, Americans with Disabilities Act Accessibility Guidelines (ADAAG) and other regulations of any government or quasi-government entity that are applicable to the project.
29. MATOC (Multiple Award Task Order Contract): a type of Indefinite Delivery/Indefinite Quantity (IDIQ) procurement where multiple firms are pre-selected based on technical qualifications and awarded contracts for a general scope of services to be performed. Individual task orders for a specific scope of work are then competed among the pre-selected firms on a competitive basis.
30. Milestone: A specified date in the Contract by which the Design-Builder/Contractor is required to complete a designated portion or segment of the work
31. Modification: A written document issued pursuant to Section 00748, CHANGES, that alters the Statement/Scope of the Work, the Schedule, the Contract price, the period of performance, or makes any other change to the Contract after execution of the Contract.
32. Notice to Proceed: Written notice issued by the Authority establishing the date on which the Design-Builder/Contractor may commence work and directing the Design-Builder/Contractor to proceed with all or a portion of the work.
33. Operations Readiness Date (ORD): The date upon which the Authority certifies that the system and equipment are complete and capable of supporting revenue service.
34. Option: A unilateral right in the Contract by which, for a specified time or in a specified amount, the Authority may elect to purchase, at a predetermined price specified in the Contract, additional equipment, supplies, services, or work called for by the Contract.
35. Period of Performance: The time required for all work to be completed in accordance with the Contract. The period of performance begins upon the effective date of the Notice to Proceed and ends on the date of final acceptance.
36. Product Data: Information furnished by the Design-Builder/Contractor to describe materials used for some portion of the work, such as written or printed descriptions, illustrations, standard schedules, performance charts, instructions, brochures, and diagrams.
37. Project: The design and construction of the facility described in the RFP.
38. Project Schedule: The time allotted in the contract to complete the work without assessment of liquidated damages, or without the Authority's written extension of the work completion date.
39. Proposal: The written offer of a proposer submitted to the Authority as required by the RFP.
40. Proposer: The prospective Design-Builder/Contractor who submits proposals to perform the work of the Contract.
41. Punch List: Work that remains to be completed after substantial completion. This work must be completed as a condition of final completion and acceptance.
42. Shop Drawings: Fabrication, erection, layout, setting, schematic, and installation drawings prepared by the Design-Builder/Contractor for permanent structures, equipment, and systems that it designs to comply with the Contract, the "Issued for Construction" specifications and "Issued for Construction" drawings.

43. Site: The areas upon which construction work will be performed that are used by the Design-Builder/Contractor and subcontractors during the project as indicated in the RFP.
44. Subcontract: Any Contract between the Design-Builder/Contractor and an individual, firm, partnership, corporation or other business entity at any tier, to perform a portion of the work.
45. Submittal: Written or graphic document or sample prepared by the Design-Builder/Contractor or a subcontractor and submitted to the Authority, including shop drawings, product data, samples, schedules of material, or other data.
46. Substantial completion: Work or a portion thereof that has progressed to the point where it is sufficiently complete in accordance with the Contract (including receipt of test and inspection reports) so that it can be utilized for its intended purpose(s). After substantial completion, only incidental work will remain for physical completion in accordance with the Contract.
47. Substitution: A significant difference in material, equipment, or configuration, that meets the requirements of the RFP, but the Design-Builder/Contractor submits it in lieu thereof.
48. Supplementary Conditions: The term "Supplementary Conditions" means modifications to the General Conditions for requirements unique to a specific project.
49. Task Order: A defined scope of work that is competed among pre-selected Design-Builders/Contractors on a MATOC contract.
50. Utility: A public and/or private facility or installation, other than an Authority 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, internet, communications, radio, television, and cellular or wireless communications.
51. Utility standards: Drawings and specifications for utilities published or issued by municipalities or utility companies.
52. WMATA: Refers to the Washington Metropolitan Area Transit Authority, or the Authority.
53. WMATA CAD Manual: Manual that establishes drafting criteria for drawings and electronic files and provides templates for drawing/plotter configuration to Design-Builders.
54. WMATA Manual of Design Criteria: Document that outlines the design criteria, measures and process requirements that must be followed for the submittal of project information to the Authority, when constructing a project in the vicinity of, or impacting the Authority's systems and facilities.
55. WMATA Safety Manual: A compilation of the appropriate safety and reporting requirements for the project as specified herein.
56. WMATA Safety and Security Certification Program Plan: A compilation of the appropriate system safety and security certification requirements for the project.
57. Work: All 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.
58. Working Drawings: Plans prepared by the Design-Builder/Contractor for temporary structures such as decking, temporary bulkheads, excavation support, utilities support, groundwater control systems, 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 solicitation or Contract shall be resolved by giving precedence in the following order:
 - a. Contract Modifications (only) in Section 00904, AMENDMENTS AND MODIFICATIONS.
 - b. The Agreement Form and Attachments in Section 00500, AGREEMENT, Section 00600, BONDS AND CERTIFICATES, and Amendments (only) in Section 00900, AMENDMENTS AND MODIFICATIONS.
 - c. Representations and Certifications in Section 00451, REPRESENTATIONS AND CERTIFICATIONS FORM.
 - d. Supplementary Conditions in Section 00800, SUPPLEMENTARY CONDITIONS.
 - e. General Conditions in Section 00700, GENERAL CONDITIONS.
 - f. General Requirements - Division 1.
 - g. Project Specific Documents – RFP Drawings, Reports and Studies.
 - h. WMATA's Manual of Design Criteria
 - i. WMATA's Standard Specifications
 - j. WMATA's Standard Drawings.
 - k. Issued "For Construction" Specifications.
 - l. Issued "For Construction" Drawings.
- 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. In a Design-Build contract, during the design phase of the project, the Design-Builder shall keep at the work site, a copy of the Contract. During the construction phase of a project, the Design-Builder/Contractor shall keep at the jobsite, a copy of the "Issued For Construction" Specifications and "Issued For Construction" Drawings. The Design-Builder/Design-Builder/Contractor shall at all times give the Contracting Officer's Representative access thereto.
- B. The Division 1, General Requirements, shall govern the Contract.
- C. All provisions of WMATA's Standard Specifications and WMATA's Standard Drawings shall be incorporated into each respective document.
- D. In case of discrepancy between WMATA's Standard Specifications and WMATA's Standard Drawings, WMATA's Standard Specifications shall govern. In case of discrepancy among the figures within WMATA's Standard Drawings, the matter shall be promptly submitted, in writing, to the Contracting Officer's Representative in accordance with Section 01330, SUBMITTAL PROCEDURES, who will promptly resolve the discrepancy in writing. Conflicts among the requirements and criteria indicated in either WMATA's Standard Specifications, WMATA's Standard Drawings, or required by local, State, or Federal jurisdictions or utilities, as specified in Section 01112, DESIGN AND PROGRAM REQUIREMENTS, that affect the scope, cost, or quality of the work, shall be promptly submitted, in writing, to the Contracting Officer's Representative for a written determination in accordance with Section 01330, SUBMITTAL PROCEDURES. Any adjustment by the Design-Builder/Design-

Builder/Contractor without such a determination shall be at the Design-Builder/Design-Builder/Contractor's own risk and expense.

- E. Wherever in WMATA's Standard Specifications and/or in the "Issued for Construction" Specifications the imperative form of a verb 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's Representative is intended. Similarly, the words "approved," "acceptable," "satisfactory," or words of like import, shall mean "approved by," "acceptable to," or "satisfactory to" the Contracting Officer's Representative.
- F. Should it appear that the work to be performed is not sufficiently detailed or explained in the Contract, then the Design-Builder/Design-Builder/Contractor shall promptly ask the Contracting Officer's Representative, in writing, in accordance with Section 01330, SUBMITTAL PROCEDURES, for a written explanation. The Design-Builder/Design-Builder/Contractor shall promptly notify the Contracting Officer's Representative, of all errors, omissions, inconsistencies, or other defects including inaccuracies, that it discovers in the Contract, and shall provide options to the Contracting Officer's Representative to remedy such errors, omissions, or other defects. The Design-Builder/Design-Builder/Contractor shall obtain from the Contracting Officer's Representative, in writing, specific instructions regarding any such error, omission, or defect before proceeding with the design work affected thereby. Omission or misdescription of details of the work from the Contract that are necessary to carry out its intent shall not relieve the Design-Builder/Design-Builder/Contractor from performing such omitted or misdescribed work no matter how extensive.

00704 INTENT OF CONTRACT

- A. The Design-Builder/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. The Authority has detailed its requirements in the Contract. The Authority has not specified the precise details of performing the work, unless such details are essential for the successful completion of the work. The Design-Builder/Contractor shall not deviate from the Contract without the written Approval of the Authority.
- B. The Design-Builder/Contractor shall conduct a pre-design meeting jointly with the Authority. During the design of the project, the Design-Builder/Contractor and the Authority shall meet periodically and confer about the progress of the design as specified in Section 01312, PROJECT MEETINGS. At these design review meetings, the Design-Builder/Contractor shall identify the evolution of the design and all changes or deviations from the requirements of the Contract, as well as all associated potential changes. The Design-Builder/Contractor, in a timely manner, shall provide minutes of all such meetings to all attendees to review and approve as specified in Section 01312, PROJECT MEETINGS, in accordance with Section 01330, SUBMITTAL PROCEDURES. The Authority will review and approve subsequent design submittals that are consistent with the Contract, the Design Specifications and the Design Drawings pursuant to agreements reached at the design review meetings and documented in meeting minutes approved by the Authority. Any agreement that involves changes to the Contract shall be documented in a fashion consistent with Section 00748, CHANGES. The Authority will perform its design reviews solely for the purpose stated in Section 00719, AUTHORITY REVIEWS.
- C. It is the intent of the Contract to describe a functionally complete project to be designed and constructed in accordance with the "Issued for Construction" Specifications and "Issued for Construction" Drawings. All work, materials, or equipment that may reasonably be inferred from the Contract, from prevailing custom, or trade usage as being required to produce the intended results will be furnished and performed whether or not specifically listed. 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.

- D. The Design-Builder/Design-Builder/Contractor accepts the relationship of trust and confidence established between it and the Authority by the Contract. The Design-Builder/Design-Builder/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 most expeditious and economical manner consistent with the requirements of the Contract, the "Issued for Construction" Specifications and "Issued for Construction" Drawings. The Design-Builder/Contractor agrees to perform its design services in accordance with the responsibilities and requirements set forth in Section 00707, RESPONSIBILITY OF THE DESIGN-BUILDER/CONTRACTOR FOR DESIGN RELATED SERVICES, in Section 00708, REQUIREMENTS FOR PROFESSIONAL REGISTRATION, Section 01111, KEY DESIGN-BUILDER/CONTRACTOR FUNCTIONS, and in Section 01112, DESIGN REQUIREMENTS AND PROGRAM CRITERIA.
- E. The Design-Builder or Design-Builder/Contractor shall be responsible for performing and requiring its subcontractors to perform design, construction services and related services in all phases of the project in accordance with the best general practices as specified in Section 01111, KEY DESIGN-BUILDER/CONTRACTOR FUNCTIONS. Only new materials and workmanship of the best standard quality shall be used. Unless otherwise specified, the Design-Builder/Contractor shall furnish all work, services, labor, materials, tools, equipment, and incidentals, that are necessary to complete the work in a proper, substantial, and workmanlike manner in accordance with the Contract the "Issued for Construction" Specifications and the "Issued for Construction" Drawings.
- F. Nothing contained herein shall create a contractual relationship between the Authority and any party other than the Design-Builder/Contractor. However, it is understood and agreed that the Authority is an intended third-party beneficiary of all subcontracts for design, engineering, or construction services between the Design-Builder/Contractor and third parties related to those services. The Design-Builder/Contractor shall incorporate the obligations of this Contract into its respective subcontracts, supply agreements, and purchase orders.

00705 LEGAL REQUIREMENTS

- A. The Design-Builder/Contractor shall perform the work in accordance with all requirements as specified in Section 01410, REGULATORY REQUIREMENTS, in Section 01420, REFERENCES, in Section 00706, PERMITS AND RESPONSIBILITIES, and in Section 00707, RESPONSIBILITY OF THE Design-Builder FOR DESIGN RELATED SERVICES. The Contract price and period of performance may be adjusted to compensate the Design-Builder/Contractor for changes in the requirements enacted after the date of this Contract affecting the performance of the work. Such effects may include, without limitation, revisions the Design-Builder/Contractor is required to make to the Design Specifications and Design Drawings because of changes in requirements. Any change in requirements, which affects the method or manner of performance of the work, but not the final design of the work incorporated into the project, shall be at the Design-Builder/Contractor's risk and at no additional cost to the Authority.
- B. The Design-Builder/Contractor's failure to design or construct the work in conformance with all applicable 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 Design-Builder/Contractor shall remedy all such failures to design or construct the work in conformance with all such requirements at its own expense.
- C. The Design-Builder/Contractor shall be responsible for remaining informed of all changes in requirements that may occur after the Notice to Proceed and shall perform the work in accordance with such changed requirements.

00706 PERMITS AND RESPONSIBILITIES

- A. In a Design-Build Contract, the Design-Builder shall, without additional expense to the Authority, be responsible for obtaining necessary licenses, permits, and easements and for complying with applicable International, Federal, State, local, or municipal laws, codes, or regulations in connection with this Contract.
- B. The Design-Builder/Contractor shall be responsible for all damages to persons or property that occur as a result of its or its subcontractors' fault or negligence subject to an allocation or proportion of any such liability, loss, cost, or expense, if caused by a party indemnified hereunder. The Design-Builder/Contractor shall take proper safety and health precautions to protect the work, the workers, the public, and the property of others. The Design-Builder/Contractor shall also be responsible for all materials delivered and work performed until completion and acceptance of the entire project, except for any completed unit of construction that was accepted, in writing, by the Authority.

00707 RESPONSIBILITY OF THE DESIGN-BUILDER FOR DESIGN-RELATED SERVICES

- A. The Design-Builder shall be responsible for performing professional design and related services in all phases of the project as specified in Section 01111, DESIGN-BUILDER KEY STAFF, and in Section 01112, DESIGN AND PROGRAM REQUIREMENTS. The Design-Builder shall require its Designer to perform the services in accordance with 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 services of a similar nature. The Design-Builder shall be responsible for the professional quality, technical accuracy, completeness, and coordination of the services. The Authority will be relying upon such professional quality, technical accuracy, completeness, and coordination in utilizing the services for implementation of the project.
- B. The Design-Builder shall, without additional compensation, correct or revise all errors or deficiencies in its designs, drawings, specifications, and other services. In addition, the Design-Builder, in performing its design services, shall be responsible for project management, quality control/quality assurance, and other elements of the work required for the successful completion of the project.
- C. The Design-Builder shall be liable to the Authority for all costs of any kind caused by or resulting from the Design-Builder's failure to perform design services consistent with the terms and conditions of this Contract. Disagreements regarding the responsibility for costs, shall constitute a dispute within the meaning of Section 00730, DISPUTE RESOLUTION.
- D. Neither the Authority's review, approval, or acceptance of, nor payment for, the services required under this Contract shall be construed as a waiver of any rights or cause of action arising out of this Contract. The Design-Builder shall remain liable to the Authority in accordance with applicable law for all damages caused by the Design-Builder's performance of any of the services furnished under this Contract.
- E. The Design-Builder shall be responsible to the Authority for acts, errors, and/or omissions of its designer, subcontractors, suppliers, agents, and employees, whether employed directly or as subcontractors.
- F. The rights and remedies of the Authority provided for under this Contract are in addition to any other rights and remedies at law or in equity.

00708 REQUIREMENTS FOR PROFESSIONAL REGISTRATION

- A. All architecture, engineering, and other design services rendered by or through the Design-Builder under this Contract shall be accomplished, reviewed, and approved by Designers licensed to practice in the particular professional field involved in the jurisdiction where the project being designed will be

constructed. The Design-Builder 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 Design-Builder/Contractor shall provide project management and supervision.
- B. The Design-Builder/Contractor shall provide personnel for the positions specifically identified by the Authority in this Contract as required Key Staff and other personnel it deems essential for performance of the work. (See the Design-Builder/Contractor's Section 00491, TECHNICAL PROPOSAL AS FINALLY ACCEPTED). (See Section 01111, DESIGN-BUILDER/CONTRACTOR KEY STAFF, for responsibilities of key personnel.) All positions shall be filled by competent, full-time personnel satisfactory to the Contracting Officer's Representative.. Individuals holding any key position, shall not be changed without permission of the Contracting Officer's Representative. The Design-Builder/Contractor shall acquire written Authority approval for substitutions of key personnel as specified in Section 01111, DESIGN-BUILDER/CONTRACTOR KEY STAFF. The Design-Builder/Contractor shall provide the Authority, (in accordance with Section 01330, SUBMITTAL PROCEDURES), with all information as may be reasonably requested regarding proposed and actual substitutions.. The proposed and actual 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 Design-Builder/Contractor shall promptly remove from the project, any employee or other person performing services hereunder in a manner that the Authority deems is contrary to its best interests.
- C. The Design-Builder/Contractor shall present, as specified in Section 00725, COMMENCING THE WORK, and Section 01111, DESIGN-BUILDER/CONTRACTOR KEY STAFF, confirmation of the credentials of the individuals listed in Section 00491, TECHNICAL PROPOSAL AS FINALLY ACCEPTED, to the Contracting Officer's Representative for his or her review and acceptance in accordance with Section 01330, SUBMITTAL PROCEDURES.

00710 WORK BY DESIGN-BUILDER/CONTRACTOR

- A. The Design-Builder/Contractor shall perform, with its own organization, work equivalent to at least the percentage specified in Section 00810, WORK BY DESIGN-BUILDER/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 Design-Builder/Contractor's own payroll, together with the cost of materials installed, may be included in the above percentage. The Design-Builder/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 Design-Builder/Contractor requests a reduction in such percentage, and if the Contracting Officer's Representative determines that it would be in the Authority's best interests, the Contracting Officer's Representative may approve such a reduction at his or her sole discretion.

00711 SUBCONTRACTS AGREEMENTS:

- A. After Contract award, the Design-Builder/Contractor will be required to submit copies of a conformed and signed subcontract agreement with all subcontractors to be used on the Contract to the Contracting Officer or designee. The terms of payment for the subcontracts shall be in conformance with Section 00744, Method of Payment. The divisions or sections of the specifications are not intended to control the Design-Builder/Contractor in dividing the work among subcontractors or to limit the work performed by a trade.

- a. The Design-Builder/Contractor shall not enter into subcontracts totaling in amount, more than the percentage of the total Contract price permissible under Section 00710, WORK BY DESIGN-BUILDER/CONTRACTOR, without the written permission of the Contracting Officer.
- b. No subcontractor will be permitted to perform work until the subcontractor, or the Design-Builder/Contractor, in compliance with the provisions of Section 00777, INDEMNIFICATION AND INSURANCE REQUIREMENTS, has furnished satisfactory evidence of insurance, as required.
- c. The Design-Builder/Contractor shall, under this Contract, establish procedures to ensure timely payment of amounts due pursuant to the terms of its subcontracts. The Design-Builder/Contractor shall pay each subcontractor for satisfactory performance of its contract, or any billable portion thereof, no later than ten (10) days from the date of the Design-Builder/Contractor's receipt of payment from the Authority for work by that subcontractor. The Design-Builder/Contractor shall also release, any retention withheld from the subcontractor within ten (10) days of satisfactory completion of all work required by that subcontractor.
- d. The Design-Builder/Contractor shall certify on each payment request to the Authority that payment has been or will be made to all subcontractors in accordance with paragraph (a) above. The Design-Builder/Contractor shall notify the Contracting Officer with each payment request, of any situation where scheduled subcontractor payments have not been made.
- e. In the event of a claim by any subcontractor that the Design-Builder/Contractor has failed to comply with the terms of this article, the Design-Builder/Contractor agrees to fully cooperate in any Authority investigation, and, if deemed appropriate by the Authority, to implement appropriate remedial measures to ensure future compliance.
- f. The Design-Builder/Contractor agrees that the Contracting Officer may provide information that he or she deems appropriate in response to inquiries from subcontractors seeking to determine the status of the Authority's payments to the Design-Builder/Contractor.
- g. Nothing contained in this article or elsewhere in this Contract shall create a Contractual relationship between the Authority and any subcontractor, shall make the subcontractor an intended beneficiary of this Contract or shall alter or affect traditional concepts of privity of contract.

00712 OTHER CONTRACTS

- A. The Authority may award other contracts for additional work, and the Design-Builder/Contractor shall fully cooperate with such other Design-Builder/Contractors as may be directed by the Contracting Officer's Representative. The Design-Builder/Contractor shall not commit or permit any act, that will interfere with the performance of work by any other Design-Builder/Contractor.
- B. The Design-Builder/Contractor shall conduct all work in a manner that will minimize interference with the operations of other Design-Builder/Contractors involved in the performance of related work. All work shall be brought to a stage of completion that will conform to the Contract, the "Issued for Construction" Specifications and the "Issued for Construction" Drawings.

00713 CONFIDENTIALITY

The Design-Builder/Contractor or its Subcontractors shall not divulge any confidential or proprietary information, which is so designated by the Authority in the course of performance of this Contract.

00714 CONDITIONS AFFECTING THE WORK

The Design-Builder/Contractor shall be responsible for ascertaining the nature and location of the work, and the general and local conditions, that can affect the work or the cost thereof as described in Section 01711, ACCEPTANCE OF CONDITIONS. Any failure by the Design-Builder/Contractor to do so will not relieve the Design-Builder/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

The Design-Builder/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 conformation and 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 Design-Builder/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 as reasonably ascertainable from an inspection of the site, including a review of all exploratory work and information provided by the Authority, and made a part of this Contract. The Design-Builder/Contractor shall also examine the character and extent of existing work on the site or adjacent thereto, and any other work being performed thereon, at the time of the submission of its proposal as described in Section 01711, ACCEPTANCE OF CONDITIONS. Any failure by the Design-Builder/Contractor to review 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 of the Design-Builder/Contractor's conclusions or interpretations made on the basis of Authority-provided information.

00716 PRECONSTRUCTION INSPECTION

- A. The Design-Builder/Contractor will conditionally inspect buildings and/or structures in the immediate vicinity of the project, that may reasonably be expected to be affected by the work.
- B. Prior to beginning excavation or any other work, the Design-Builder/Contractor shall inform the Authority of buildings or structures on which it intends to perform work or that performance of the work will affect.
- C. The Design-Builder/Contractor shall provide the Authority with sufficient notice of this inspection and afford it an opportunity to participate in the inspection. The Design-Builder/Contractor shall submit for approval, in accordance with Section 01330, SUBMITTAL PROCEDURES, 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 Design-Builder/Contractor shall promptly, and before such conditions are disturbed, notify in writing the Contracting Officer, through the Contracting Officer's Representative, of (1) subsurface or latent physical conditions at the site that materially differ from those indicated in this Contract or (2) unknown physical conditions at the Site, of an unusual nature, that materially differ from those ordinarily encountered and generally recognized as inherent in work of the character provided for in this Contract.
- B. The Contracting Officer's Representative will promptly investigate the site conditions, after receiving the notice. If the Contracting Officer's Representative finds that such conditions do materially so differ and cause an increase or decrease, in the Design-Builder/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 shall be made and the Contract modified, in writing, accordingly.

- C. No claim or request for equitable adjustment by the Design-Builder/Contractor under this section will be allowed unless the Design-Builder/Contractor has given the notice required in Paragraph A above.
- D. No claim by the Design-Builder/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 Design-Builder/Contractor shall be subject to the general oversight and approval of the Authority.
- B. The Authority will not supervise, direct, or have control over, or be responsible for, the Design-Builder/Contractor's means, methods, techniques, sequences, or procedures of design and construction or the safety precautions and programs incidental to the work, or for any failure of the Design-Builder/Contractor to comply with requirements. The Authority will not be responsible for the Design-Builder/Contractor's failure to perform or furnish the work in accordance with the Contract, the "Issued for Construction" Specifications and "Issued for Construction" Drawings.

00719 AUTHORITY REVIEWS

- A. The Authority will review information submitted by the Design-Builder/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 Design-Builder/Contractor and in accordance with the planning, scheduling, and budgetary requirements and constraints of the project.
- B. The Authority will review and approve design submittals solely for the purpose of establishing their conformance to the Contract. Such review and approval shall not be deemed to transfer any liability from the Design-Builder/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 "Issued for Construction" Specifications and "Issued for Construction" Drawings and be compatible with the design concept of the completed project as a functioning whole as indicated in the Contract. Construction submittals requiring Authority review and approval are specified in WMATA's Standard 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 in this Contract) 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; (2) relieving the Design-Builder/Contractor of the responsibility for any errors including details, dimensions, and materials; or, (3) approving departures from details furnished by the Design-Builder/Contractor or the Authority, except as otherwise specified.
- D. The Authority reserves the right to review design and construction submittals and to disapprove any submittal when, in its sole judgment, the submittal deviates from the requirements of the Contract the "Issued for Construction" Specifications and the "Issued for Construction" Drawings 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 Design-Builder/Contractor's responsibility for the professional quality, technical accuracy, and the coordination of all designs, drawings, specifications, construction, and other services provided by the Design-Builder/Contractor under this Contract.

00720 SUBMITTALS

- A. The Design-Builder/Contractor shall submit for review and approval a preliminary schedule of required submittals, as described in Section 01330, SUBMITTAL PROCEDURES, including the times for submitting, reviewing, and processing each submittal.
- B. The Design-Builder/Contractor shall maintain a "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 completion 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 during the design, construction, and closeout of the project. The Authority's review of design or construction submittals shall be solely for the purposes stated in Section 00719, AUTHORITY REVIEWS. The Authority's review and approval of separate items, will not indicate approval of the assembly in which the item functions. The Design-Builder/Contractor shall make corrections to submittals as required and shall return corrected copies for additional review and approval.
- D. The Authority's review and approval of any submittal that it deems necessary shall not relieve the Design-Builder/Contractor from responsibility for any variations from the requirements of the Contract, the "Issued for Construction" Specifications, and the "Issued for Construction" Drawings unless the Authority has given written approval of each such variation by written notice incorporated in or accompanying the submittal.
- E. Where a submittal is required by the Contract, the "Issued for Construction" Specifications and the "Issued for Construction" Drawings, any related work provided prior to the appropriate review and approval of a submittal shall be at the sole risk, expense, and responsibility of Design-Builder/Contractor.

00721 VALUE ENGINEERING INCENTIVE

- A. This section applies to those value engineering change proposals (VECPs), that the Design-Builder/Contractor initiates and develops during Contract performance to modify the Authority's Design Criteria or other requirements of this Contract including commitments made in the Design-Builder/Contractor's proposal, as finally accepted. In order to be accepted under this section, each VECP shall:
 - a. Be identified by the Design-Builder/Contractor at the time of submittal to the Contracting Officer's Representative using the prescribed Authority VECP form;
 - b. Require a significant change to this Contract;
 - c. Decrease the Contract price;
 - d. 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;
 - e. Not require an unacceptable extension of original period of performance; and
 - f. Be reviewed and evaluated by way of a two-phase process.
 - 1) Phase One - Conditional Approval: In addition to the use of the Authority's VECP form, all VECPs that the Design-Builder/Contractor submits shall be in sufficient detail to clearly define the proposed change including the following items:

- a) A description of the difference between the existing and the proposed Contract requirements and the comparative advantages and disadvantages of each;
 - b) Contract requirements recommended by the Design-Builder/Contractor to be changed;
 - c) 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, implementation, Authority review of the VECP and the sharing arrangement as set forth in Paragraph E;
 - d) A statement from the Design-Builder/Contractor predicting all effects that the proposed VECP will have on the life-cycle costs of the work to include and identify separately, the cost for increased or decreased maintenance and operations;
 - e) A statement of the time by which the proposal must be accepted to obtain the maximum price reduction 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;
 - f) 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;
 - g) The identification of a project where the materials, methods of construction, and/or special equipment have been previously and successfully performed on construction similar to that which is being proposed under this Contract;
 - h) Preliminary architectural and engineering analysis, including calculations and 11 x 17-inch drawings, in sufficient detail, for each Contract requirement that must be changed if the VECP is accepted. The Design-Builder/Contractor shall make recommendations for accomplishing each change and state its effect on unchanged work.
- B. The Contracting Officer's Representative may, at any time during the two-phase review and evaluation process, reject part or all of the VECP by giving the Design-Builder/Contractor written notice thereof. Until final approval, the Design-Builder/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 Contracting Officer's Representative's acceptance or rejection of any such proposal shall be final and shall not be subject further review, under this Contract, at law or in equity.
- C. The Design-Builder/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's Representative. If the Design-Builder/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 Design-Builder/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:
- a. The Design-Builder/Contractor shall address, to the Authority's satisfaction, all design issues and review all comments prior to submitting the VECP to the Authority for final approval.

- b. An equitable adjustment to the Contract Price and appropriate changes to all other affected provisions of the Contract shall be made, in accordance with Section 00748, CHANGES, or other applicable sections of this Contract.
 - c. Fifty percent (50%) of the net savings resulting from the change shall be provided to the Design-Builder/Contractor and fifty percent (50%) of the net savings shall be provided to the Authority. Net savings shall be determined by deducting from the estimated gross savings, the Design-Builder/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 Design-Builder/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.
 - d. The Design-Builder/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.
 - e. Notwithstanding any review, Approval, or acceptance of any VECP by the Authority, the Design-Builder/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 Design-Builder/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 Design-Builder/Contractor, may also be submitted under this Contract.
- H. The Design-Builder/Contractor may restrict the Authority's right to use any VECP data by marking it with the following statement:
- "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 Design-Builder/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 Design-Builder/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 the Design, other Contract deliverables, and construction of the Work, thus reducing the potential for:
 - a. Adverse construction schedule and cost impacts;
 - b. Personal and public safety problems and incidents and their attendant costs;

- c. Those operational and maintenance problems, disruptions, and costs that result from design errors and omissions; and,
 - d. A poor quality design,
 - e. Poor construction quality,
 - f. Design deliverables and completed work, which does not comply with applicable codes and regulations.
- B. The Design-Builder/Contractor shall 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 Design-Build Quality Program is fundamental to all work performed by the Design-Builder/Contractor and will be considered by the Authority in assessing the Design-Builder/Contractor's progress, performance, and earnings entitlement.

00723 PROGRESS SCHEDULES AND REQUIREMENTS FOR MAINTAINING PROGRESS RECORDS

- A. Progress Schedules. Prepare and Submit to the Contracting Officer Representative for Approval schedules showing the order in which the Design-Builder/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 both design and 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 Design-Builder/Contractor as provided for in this Contract.
- B. If, in the opinion of the Contracting Officer Representative, the Design-Builder/Contractor falls significantly behind the Approved progress schedule for design or 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 Design-Builder/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 Design-Builder/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 construction plant. Such requirements by the Authority shall not be construed or interpreted in such a way as to infer 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 Design-Builder/Contractor.
- C. Failure of the Design-Builder/Contractor to comply with the requirements of the Contracting Officer Representative under this Section shall be grounds for determination that the Design-Builder/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 Design-Builder/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/OR 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/OR PROJECT SCHEDULE.

- B. The Authority may modify the Contract, pursuant to Section 00748, CHANGES, to extend the Period of Performance and/or Project Schedule as often and in periods as deemed necessary until completion of this Contract.
- C. Early Completion: If the Design-Builder/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 Design-Builder/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 Design-Builder/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. The Design-Builder/Contractor will commence the work within ten (10) days after the date of receipt of the Notice to Proceed (NTP). The Design-Builder/Contractor will prosecute the work diligently to complete it within the time specified in the Contract and meet all specified interim milestone dates.
- B. A Pre- Construction Conference will be held to establish a working understanding among the parties and to discuss the project goals, schedules, procedures for handling submittals, processing applications for payment, maintaining required records, quality control, and other matters.
- C. The following items require submittal and approval prior to commencement of design activities, construction activities, or offsite fabrication associated with the project. Submit in accordance with Section 01330, SUBMITTAL PROCEDURES:
 - a. Executed Contract (as specified in Section 00521, 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 ten (10) days after award of Contract.
 - b. Designer, builder, major subcontractors, and key project personnel confirmations (as specified in Section 00709, PROJECT MANAGEMENT AND SUPERINTENDENCE AND KEY PERSONNEL, and Section 01111, KEY DESIGN-BUILDER/CONTRACTOR FUNCTIONS), within ten (10) days after award of Contract.

00726 SUSPENSION OR DELAY OF WORK

- A. The Authority may order the Design-Builder/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 this Contract is delayed in a material manner or extent by the Authority's acts or omissions that are not expressly or impliedly authorized by this Contract or by applicable provisions of law, the Contracting Officer shall make an adjustment (excluding profit) for any increase in the cost of performance of this Contract caused by such delay and shall modify the Contract, in writing. The Contracting Officer shall make an adjustment to the delivery or performance dates and to any other Contractual provision, if such delay or interruption affected Contract compliance. The Contracting Officer shall make no adjustment under this Contract for any delay or interruption, if performance was or could have been delayed by any other cause, including, without limitation: (i) the fault or negligence of the Design-Builder/Contractor or any subcontractor; (ii) an act constituting a force majeure event pursuant to this Contract; or (iii) any other cause for which an adjustment is provided under any other article of this Contract, at law or in equity.

- (C) An adjustment pursuant to paragraph (B) shall not be allowed:
- a. For any costs incurred more than twenty (20) days before the Design-Builder/Contractor notifies the Contracting Officer, in writing, of the delay.
 - b. Unless the claim, in a sum certain, is asserted in writing as soon as practicable after the termination of the delay. In no event, shall a Design-Builder/Contractor assert a delay claim later than thirty (30) days after its termination. The delay claim shall be accompanied by appropriate documentation, specifically supporting the nature and extent of the claimed impact upon the cost and/or time required for performance. In any instance where it is not possible for the Design-Builder/Contractor to fully project such impact within the thirty (30) day period, it shall support the claim with such documentation as is then reasonably available, along with a statement of the anticipated time frame when the Design-Builder/Contractor expects to provide the additional materials. The Contracting Officer shall maintain the right throughout the process to request such additional materials as he or she shall reasonably require in consideration of the claim and shall be under no obligation to conclude his or her consideration of the claim prior to review of all relevant materials. Any adjustment to the Contract price pursuant this clause must be determined prior to final payment under this Contract.

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

- A. If the Design-Builder/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, or otherwise materially breaches any of its obligations under this Contract, the Contracting Officer may, by written notice ("Notice to Cure"), to the Design-Builder/Contractor, direct it to cure the breach within ten (10) days or such additional time as the Contracting Officer authorizes. If the Design-Builder/Contractor fails to cure the breach in the time specified in the Notice to Cure, the Contracting Officer may terminate this Contract, in whole or in designated part, for default, after providing notice ("Notice of Default") to the Design-Builder/Contractor.
- B. Upon receipt of a "Notice of Default," the Design-Builder/Contractor shall immediately cease performance of the work so terminated. 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, and other work product as may be on the site of the work or previously submitted to the Authority, all of which shall become the property of the Authority. Whether or not Contract is terminated, in whole or designated part, he Design-Builder/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.
- C. If liquidated damages are fixed and agreed to in this Contract, and if the Contracting Officer terminates this Contract, the resulting damage shall consist of liquidated damages assessed daily until such reasonable time that the final project is accepted by the Authority, together with any increased costs occasioned to the Authority.
- D. If liquidated damages are fixed and agreed to in this Contract, and if the Contracting Officer does not so terminate the Contract, the resulting damage from any delay shall consist of such liquidated damages assessed daily until the work is accepted.
- E. The Contract shall not be terminated and/or the Design-Builder/Contractor shall not be charged with resulting damage under the following circumstances:
 - a. If the delay in the completion of the Contract arises from unforeseeable causes beyond the control and without the fault or negligence of the Design-Builder/Contractor, including, but not restricted to, acts of God, acts war or insurrection, fires, floods, strikes, freight embargoes, unusually severe weather, or other events or circumstances of like nature.

- 1) Unusually severe weather conditions:
- 2) Pursuant to Paragraph E.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.
- 3) The column below labeled WORKING DAYS represents the average delays, that may be expected in each month named within the Washington Metropolitan Area, based on a five (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

- 4) 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.

- F. The design-builder/contractor, within ten (10) days from the beginning of any such delay, must notify the contracting officer of the causes for the delay, unless the contracting officer grants a further extension for the notice. Upon receipt of the notice, the contracting officer will ascertain the facts and the extent of the delay and may extend the time for completing the contract 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 00730, dispute resolution.
- G. If, after notice of termination for default of the Contract under the provisions of this section, it is determined for any reason, that the Design-Builder/Contractor was not in default or that the default was excusable, the termination shall be converted to a termination for convenience and the rights and obligations of the parties shall be determined in accordance with Section 00728, TERMINATION FOR CONVENIENCE OF THE AUTHORITY.
- H. Any dispute or disagreement regarding any issue arising under this section shall be subject to adjudication in accordance with the "Disputes" section of this Contract. In no event shall the Authority's issuance of a "Notice to Cure" pursuant to paragraph (A) be the basis of a dispute pursuant to the "Disputes" section or otherwise be subject to further review under this Contract or otherwise. The pendency of any dispute shall not constitute a basis for the delay or suspension of, or otherwise affect the Authority's right to proceed in accordance with

this section, including without limitation, its right to complete the work or its right to insist that the Design-Builder/Contractor complete any portion of the Contract that was not terminated.

- I. The rights and remedies of the Authority provided in this Section are in addition to any other rights and remedies provided under this Contract, at law or in equity.

00728 TERMINATION FOR THE CONVENIENCE OF THE AUTHORITY

- A. The Contracting Officer may terminate this Contract in whole or, in part, if he or she determines that a termination is in the Authority's interests. The Contracting Officer shall terminate, by delivery to the Design-Builder/Contractor by certified mail, return receipt requested, of a Notice of Termination specifying the nature, extent of the termination, and the date upon which such termination becomes effective.
- B. After receipt of a Notice of Termination, except as the Contracting Officer otherwise directs, the Design-Builder/Contractor shall immediately:
 - a. Discontinue all services and stop all work under the Contract on the date and to the extent specified in the Notice of Termination;
 - b. Complete performance of work not terminated;
 - c. Place no further orders or subcontracts for materials, services, or facilities, except as may be necessary to complete the remaining portion of the Contract; terminate all orders and subcontracts to the extent that they relate to the work terminated;
 - d. Assign to the Authority, to the extent directed by the Contracting Officer, all of the right(s), title, and interest(s) of the Design-Builder/Contractor under the orders and subcontracts so terminated. The Contracting Officer shall have the right to settle or pay any termination costs or all claims arising out of the termination and shall have no further liability to the Design-Builder/Contractor for the work that was the subject of such subcontracts.
 - e. Settle all outstanding liabilities and all claims arising from termination of orders and subcontracts, with the approval of the Contracting Officer;
 - f. As the Contracting Officer directs, transfer title and deliver to the Authority:
 - 1) Parts, work in process, completed work, supplies, and other material procured as a part of, or acquired for the work terminated on.
 - 2) All data, completed or partially completed plans, design specifications and design drawings, reports, estimates, summaries, and other information and materials that would have been required to be furnished to the Authority if the Contract had been completed.
 - g. Take any action that may be necessary, or as the Contracting Officer directs, for the protection and preservation of property related to this Contract that is in the Design-Builder/Contractor's possession or control, and in which the Authority has or may acquire an interest. Use its best efforts to sell, as the Contracting Officer authorizes, any property of the types referred to in Paragraph B.6 above. The Design-Builder/Contractor:
 - 1) Will not be required to extend credit to any purchaser, and
 - 2) May acquire any such property under the conditions the Contracting Officer prescribes. The proceeds of any such transfer or disposition shall be applied to reduce any payments to be made to the Design-Builder/Contractor under this Contract, shall be credited to the price or cost of the work or paid in any other manner as the Contracting Officer may direct.

- C. After receipt of a Notice of Termination, submit to the Contracting Officer through the Contracting Officer's Representative its termination settlement proposal (TSP) in the form that the Contracting Officer prescribes, detailing the costs to which it asserts entitlement pursuant to this section. The TSP shall be submitted promptly, but in no event later than on (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 Design-Builder/Contractor made in writing. However, if the Contracting Officer determines that the facts justify such action, the Contracting Officer may act upon any TSP at any time after such 1-year period or any extension thereof. Upon failure of the Design-Builder/Contractor to submit its TSP within the time allowed, the Contracting Officer may determine, on the basis of information available to him or her, the amount, if any, due to the Design-Builder/Contractor by reason of the termination and shall authorize payment in the amount so determined.
- D. Subject to the provisions of Paragraph C above, the Design-Builder/Contractor and the Contracting Officer may agree upon the whole, or any part, of the amount or amounts to be paid to the Design-Builder/Contractor for the total or partial termination, which amount may include a reasonable allowance for profit on work done. The agreed amount 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.
- E. The Contract shall be amended accordingly, and the Design-Builder/Contractor will be paid the agreed amount. Nothing in Paragraph F below, prescribing the amount to be paid in the event of a disagreement upon the whole or any part of the amount to be paid to the Design-Builder/Contractor by reason of the termination, shall be deemed to limit, restrict, or otherwise affect the amount that may be agreed upon pursuant to Paragraph D above.
- F. In the event of a disagreement, as provided in Paragraph D above, over amount to be paid to the Design-Builder/Contractor, the Contracting Officer will pay the Design-Builder/Contractor the amounts he or she determines as follows, but without duplication of any amounts agreed upon in accordance with Paragraph D:
- a. The costs incurred prior to the effective date of the Notice of Termination, in performance of the work terminated, shall, without duplication of any items, be as follows:
 - 1) Termination costs under subcontracts or orders that are properly chargeable to the terminated portion of the Contract, if not excluded,
 - 2) A sum, representing profit on Paragraph D above, that the Contracting Officer determines to be fair and reasonable, pursuant to section 49.202 of the Federal Acquisition Regulation in effect on the date of this Contract. If it appears that the Design-Builder/Contractor would have sustained a loss on the entire Contract had it been completed, the Contracting Officer will allow no profit and will reduce the settlement to reflect the indicated rate of loss.
 - b. The reasonable indirect costs of settlement of the work terminated, including:
 - 1) Accounting, legal, clerical, and other expenses reasonably necessary for the preparation of TSP(s);
 - 2) The termination and settlement of subcontracts (excluding the amounts of such settlements); and
 - 3) Storage, transportation, and other costs incurred, reasonably necessary for the preservation, protection, or disposition of the termination inventory.
- G. Except for normal spoilage, and except to the extent that the Contracting Officer otherwise expressly assumed the risk of loss, there will be excluded from the amounts payable to the Design-Builder/Contractor 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 a third party.

- H. The cost principles and procedures of FAR Part 31 in effect on the date of this Contract, shall govern all costs claimed, agreed to, or determined under this article, except that the Authority shall not be obligated to pay interest, however represented, on any claimed costs.
- I. The Design-Builder/Contractor shall have the right of appeal, under Section 00730, DISPUTE RESOLUTION, from the Contracting Officer's determination under Paragraphs C or E above. If the Design-Builder/Contractor failed to Submit its TSP within the time provided in Paragraph C above or failed to request extension of such time, it shall waive its rights to appeal the Contracting Officer's determination.
- J. In arriving at the amount due the Design-Builder/Contractor under this section, the following will be deducted:
- a. All unliquidated advances or other payments to the Design-Builder/Contractor, under the terminated portion of this Contract.
 - b. The value, as the Contracting Officer determines, of any claim, which the Authority may have against the Design-Builder/Contractor under with this Contract, including any third party claim if the Contracting Officer is not satisfied that sufficient insurance coverage is in place; and.
 - c. The agreed price for, or the proceeds from sale of any materials, supplies, or other items that the Design-Builder/Contractor procured or sold, pursuant to the provisions of this section, and not otherwise recovered by or credited to the Authority.
- K. If the Design-Builder/Contractor asserts that any partial termination, has rendered enforcement of the remainder of the Contract at the remaining Contract price inequitable, the Design-Builder/Contractor may file with the Contracting Officer's Representative, a request in writing for an equitable adjustment to the price for the continued portion of the Contract, Such proposal shall be submitted within ninety (90) days from the effective date of termination, unless the Contracting Officer extends it in writing, and shall be accompanied by appropriate supporting documentation.
- L. The Authority may, under such terms and conditions as it may prescribe, make partial payments and payments on account against costs incurred by the Design-Builder/Contractor in connection with the terminated portion of this Contract whenever in the opinion of the Contracting Officer, the aggregate of such payments are within the total amount to which the Design-Builder/Contractor will be entitled. If such payments are in excess of the amount finally agreed to under this section, such excess shall be payable to the Authority, upon demand, for the period from the date that such excess payment is received by the Design-Builder/Contractor to the date of repayment, together with interest computed at the rate of six percent (6%) per annum, No interest shall be charged on any such excess, if the payment is attributable to a reduction or other disposition of termination inventory until ten (10) days thereafter, or such later date as the Contracting Officer determines by reason of the circumstances.
- M. The Design-Builder/Contractor's responsibilities and obligations under this section shall remain in full force and effect notwithstanding the pendency of any dispute or other delay relating to determination of the appropriate price adjustment or any other issue arising from the termination for convenience.
- N. Unless otherwise provided for in this Contract, or by applicable statute, the Design-Builder/Contractor, and all subcontractors whose work is encompassed in the termination settlement shall preserve, all of its books, records, documents, and other evidence bearing on the costs and expenses under this Contract for three (3) years after final settlement. The Design-Builder/Contractor shall make these records and documents available to the Authority, its governing jurisdictions and any other Federal, state, or local entities providing funding for this Contract, and to the U.S. Comptroller General or the agents or representatives of any of them, at the Design-Builder/Contractor's office, at all reasonable times, without any direct charge.

00729 ASSIGNMENT

- A. The Design-Builder/Contractor shall not transfer or assign any of its rights or obligations under this Contract, or any portion thereof to any other party, without the Contracting Officer's consent. 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 Design-Builder/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 at the Contracting Officer's discretion after review of the facts and circumstances surrounding each request. The Contracting Officer shall not approve the assignment unless the surety, in writing, agrees to the assignment and accepts the assignee as the Design-Builder/Contractor and principal on the payment and performance bonds.
- B. This Contract may be assigned to a bank, trust company, or other financing institution, including any Federal lending agency. It is the Authority's intent to recognize assignments only to bona fide lending institutions; therefore, assignment to any private corporation, business, or individual, that does not qualify as such, is specifically prohibited and void *ab initio*.
- C. Any attempt to transfer by assignment not authorized by the Contracting Officer shall constitute a breach of this Contract, and the Contracting Officer may terminate the Contract for default., and the Design-Builder/Contractor and its sureties shall be liable to the Authority for excess costs incurred by the Authority.

00730 DISPUTE RESOLUTION

- A. Any dispute arising under or related to this Contract that are not disposed of by agreement, will be decided by the Contracting Officer, who will reduce his or her decision to writing and mail, by certified mail, return receipt requested, a copy thereof to the Design-Builder/Contractor. The Contracting Officer's decision is final and conclusive unless, within thirty (30) calendar days from receipt the Design-Builder/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's 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 or board of competent jurisdiction, it determines that the decision was fraudulent, or capricious, or arbitrary, or so grossly erroneous as necessarily to imply bad faith, or is not supported by substantial evidence. In any appeal under this Section, the appellant 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 Design-Builder/Contractor shall proceed diligently with the performance of this Contract in accordance with the Contracting Officer's decision. The Armed Services Board of Contract Appeals ("ASBCA") is the authorized representative of the Board of Directors for final decisions on appeal..
- 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 questions of law.

00731 USE AND POSSESSION PRIOR TO COMPLETION

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 Design-Builder/Contractor, will be relieved of the responsibility for loss or damage to the work other than that resulting from the Design-Builder/Contractor's fault or negligence or that of its Subcontractors or agents. If such possession or use by the Authority delays the Contract or causes additional expense to the Design-Builder/Contractor, an

equitable adjustment to the Contract price or the time of completion will be made and the Contract will be modified in writing, accordingly.

00732 ACCEPTANCE AND INSPECTION OF WORK

- A. "Acceptance," as used in this section, means the Contracting Officer's Representative's acts approving specific services in 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, the COR's acceptance 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 for latent defects, fraud, willful misconduct or such gross mistakes as may amount to fraud, or as otherwise provided in this Contract. All punch list items identified during final inspections and noted at the time of acceptance shall be corrected by the Design-Builder/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 Design-Builder/Contractor if and when discovered, but no later than acceptance except for latent defects, fraud, willful misconduct or such gross mistakes as may amount to fraud which may be discovered following such acceptance. This notice will state either:
 - a. That the Design-Builder/Contractor shall correct or re-perform defective or nonconforming services; or,
 - b. That the Authority does not require correction or re-performance. The Design-Builder/Contractor shall be liable to the Authority for all costs incurred of any kind caused by or resulting from the Design-Builder/Contractor's defective workmanship or noncompliance with the Contract, the Design Specifications and Design Drawings.
- D. If the Design-Builder/Contractor or the Authority deems it necessary, to make an examination of work already completed, by removing or tearing it out before final acceptance, the Design-Builder/Contractor shall, on request, promptly furnish all necessary facilities, labor, and material to do so. If such work is found to be defective or nonconforming in any material respect, the Design-Builder/Contractor shall pay for all of the expenses of such examination and of satisfactory reconstruction and pay all delay damages. If, however, such work is found to meet Contract requirements, the "Issued for Construction" Specifications and "Issued for Construction" Drawings, an equitable adjustment will be made to the Contract price to compensate the Design-Builder/Contractor for the additional services involved in such examination and reconstruction. If completion of the work has been delayed thereby, the Contracting Officer may grant the Design-Builder/Contractor a suitable extension of time.
- E. All work, which includes but is not restricted to, materials, workmanship, and fabrication of components, shall be subject to the Authority's inspection and testing, 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 Design-Builder/Contractor of the responsibility for providing quality control measures to ensure that the work strictly complies with the Contract, the "Issued for Construction" Specifications and the "Issued for Construction" Drawings. No inspection or testing by the Authority shall be construed as acceptance. Inspection or testing shall not relieve the Design-Builder/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 Design-Builder/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 Contract. 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 this Contract. If the Authority does not witness tests, due to the Design-Builder/Contractor's failure to provide timely notice, such tests shall have no effect. Special, full scale and performance tests shall be performed as described in the Contract, the Design Specifications and Design Drawings.

- G. If the Design-Builder/Contractor is required to correct or re-perform any services, they shall be done without additional cost or fee to the Authority, and they shall be subject to this section to the same extent as work initially performed. If the Design-Builder/Contractor fails or refuses to correct or revise errors or deficiencies in its performance within thirty (30) days of the Authority's request, the Authority may, by contract or otherwise, correct or replace the services with similar ones and charge the Design-Builder/Contractor with the cost incurred or make an equitable adjustment to the Contract price.
- H. Disagreement regarding the responsibility for costs for corrective actions, either incurred by the Design-Builder/Contractor or by the Authority, 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 under this Contract, at law or in equity.
- J. The Design-Builder/Contractor shall give the Contracting Officer's Representative at least fourteen (14) days advance notice of the date that the work, or separate portion thereof, will be fully completed and ready for final inspection, testing, and acceptance in accordance with this Contract.

00733 AUTHORITY-FURNISHED PROPERTY

- A. The Authority will make available to the Design-Builder/Contractor, for use only in connection with this Contract, the property, if any, described in the Section 00833, 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 Design-Builder/Contractor in a timely fashion, the Contracting Officer will, upon timely written request from the Design-Builder/Contractor, 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 Design-Builder/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 Design-Builder/Contractor, upon acceptance of Authority-furnished property, assumes the risk of and shall be responsible for loss, theft 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 Design-Builder/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 theretofore delivered to the Authority as directed. The net proceeds of such disposal will be credited to the Design-Builder/Contractor's price or paid in such other manner the Contracting Officer directs.

00734 MATERIAL, WORKMANSHIP, AND EQUIPMENT

- A. All equipment, materials, 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 Design-Builder/Contractor of its obligations to satisfy its requirements under the Contract.
- B. Reference to any equipment, materials, or articles to be incorporated in the project and any patented processes, by trade name, make, or catalog number in the Contract "Issued for Construction"

Specifications and the "Issued for Construction" Drawings shall be regarded as establishing a standard of quality and shall not be construed as limiting competition. The Design-Builder/Contractor may, at its option, use any equipment, material, article, or process that in the Authority's judgment, is equal to that named. When required by this Contract or when called for by the Authority, the Design-Builder/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, samples and information regarding performance, capacity, nature, and rating of machinery and other equipment, that the Design-Builder/Contractor contemplates incorporating in the work. Machinery, equipment, material, and articles installed or used without required approval shall be at the risk of subsequent rejection.

- C. The Design-Builder/Contractor shall provide construction equipment in first class working order and safe condition, of sufficient quantities and sizes to complete the work as specified in the Contract, the "Issued for Construction" Specifications and "Issued for Construction" Drawings 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 agency.

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 Design-Builder/Contractor shall preserve and protect all existing vegetation such as trees, shrubs, and grass on or adjacent to the work site, that are not to be removed and that do not unreasonably interfere with the work. Care shall be taken in removing trees authorized for removal to avoid damage to vegetation that will remain in place. The Design-Builder/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 Design-Builder/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. The Design-Builder/Contractor shall repair or restore any damage to such facilities that results from failure to comply with Contract requirements or the failure to exercise reasonable care in the performance of the work. If the Design-Builder/Contractor fails or refuses to repair any such damage promptly, the Contracting Officer's Representative may have the necessary work performed and charge the costs thereof to the Design-Builder/Contractor.

00737 OPERATIONS AND STORAGE AREAS

- A. All of the Design-Builder/Contractor's operations, including storage, shall be confined to areas that the Contracting Officer's Representative approves. Temporary buildings such as storage sheds, shops, and offices may be erected by the Design-Builder/Contractor only with the Contracting Officer's approval and shall be built without expense to the Authority. Such temporary buildings and utilities shall remain the Design-Builder/Contractor's property and shall be removed by the Design-Builder/Contractor at its expense upon the completion of the work. With the written consent of the Contracting Officer, 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 Design-Builder/Contractor shall, under regulations prescribed by the Contracting Officer, use only established roadways or construct and use such temporary roadways as may be authorized by the Contracting Officer. 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 Design-Builder/Contractor, and damaged roads, curbs, or sidewalks shall be repaired by or at the expense of the Design-Builder/Contractor.

00738 ACCIDENT PREVENTION

- A. To protect the life and health of employees and other persons, to prevent damage to property, materials, supplies, and equipment, and to avoid work interruptions in the performance of this Contract, the Design-Builder/Contractor shall comply with all pertinent provisions of the Authority's 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's Representative may determine to be reasonably necessary for that purpose.

- B. All work under this Contract shall be performed in a skillful and workmanlike manner. The Contracting Officer's Representative may, in writing, require the Design-Builder/Contractor to remove from the project any employee the Contracting Officers Representative deems to be contrary to the best interests of the Authority.
- C. The Design-Builder/Contractor shall maintain an accurate record of and shall report to the Contracting Officer's Representative in the manner and on the forms he or she prescribes, exposure data and reports of 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's Representative will notify the Design-Builder/Contractor if there is any noncompliance with the foregoing provisions and the action(s) to be taken. The Design-Builder/Contractor shall, after receipt of such notice, immediately take corrective action. Such notice, when delivered to the Design-Builder/Contractor or its representative at the work site, shall be deemed sufficient for this purpose. If the Design-Builder/Contractor fails or refuses to promptly comply, the Contracting Officer's 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 work order shall be made the subject of a claim for extension of time or for the Design-Builder/Contractor's excess costs or damages..
- E. The Design-Builder/Contractor shall ensure compliance with this section by subcontractors.
- F. Prior to commencement of the Work, the Design-Builder/Contractor shall:
 - a. Submit, in writing in accordance with Section 01330, SUBMITTAL PROCEDURES, an accident prevention plan;
 - b. Meet, with the Authority to discuss and develop an agreement regarding the administration of the overall safety program.

00739 FIRE PROTECTION EQUIPMENT AND LIFE SAFETY AGREEMENT

The Design-Builder/Contractor shall submit, in accordance with Section 01330, SUBMITTAL PROCEDURES, a plan for a fire protection systems and equipment as specified in Section 01114, SAFETY/ENVIRONMENTAL REQUIREMENTS, for use during the term of this 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 performance under this Contract, the Design-Builder/Contractor will be paid the sums set forth in this Contract, which shall constitute complete payment for all work required to be performed under this Contract and for all expenditures, that may be made and expenses incurred. The basis of payment will be the Contract price, as shown on Section 00521, DESIGN-BUILD 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 ninety (90) day schedule as specified in Section 01322, CONTRACT PROGRESS REPORTING, and the Approved Quality Manager's Quality Compliance Certification shall be the basis for progress payments to the Design-Builder/Contractor.
- C. When satisfactory progress has not been achieved by the Design-Builder/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.

- D. The basis of payment will be the total base price as negotiated and accepted. The basis of payment 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 PRICE PROPOSAL SCHEDULE

Payment for the various proposal items listed in the Price Proposal Schedule shall constitute full compensation for furnishing all, labor, equipment, appliances, and materials and for performing all operations required to complete the Work in conformity with the Contract, the "Issued for Construction" Specifications and "Issued for Construction" Drawings developed by the Design-Builder/Contractor. All costs for work not specifically mentioned in the Price Proposal Schedule shall be included in the Contract Prices for the items listed.

00743 VARIATION IN ESTIMATED QUANTITIES

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 Design-Builder/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 Design-Builder/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 Design-Builder/Contractor from Design-Builder/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 Design-Builder/Contractor's progress payment requests will be reviewed based on the scheduled and actual progress of the Work as reflected on the design schedule, cost-loaded progress schedule

or bar graph as applicable, and monthly updates. The Design-Builder/Contractor shall not be entitled to progress payments, and the Authority shall have no obligation to review or approve progress payment requests if the Design-Builder/Contractor has failed to submit or update the schedules, if the applicable schedule or update submitted by the Design-Builder/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 Design-Builder/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. The Contracting Officer may delegate this function to the Contracting Officer Representative, if the amount of the progress payment is within the COR's warrant authority.

- 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 Design-Builder/Contractor at locations other than the Site may also be taken into consideration if the Design-Builder/Contractor furnishes satisfactory evidence that the Design-Builder/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 Design-Builder/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 Design-Builder/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 Design-Builder/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 Design-Builder/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 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 Design-Builder/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 Design-Builder/Contractor under this Contract will be paid upon the presentation of a properly executed voucher as specified in Section 01775, CLOSEOUT, and after the Design-Builder/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 Design-Builder/Contractor from the operation of the release. If the Design-Builder/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 from the Design-Builder/Contractor at the appropriate percentage for work, or portions thereof, that it deems to be defective or in nonconformance with the requirements of the RFP Documents and the Issued for Construction Specifications and Issued for Construction Drawings.
- 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.

00745 PROGRESS PAYMENTS FOR LUMP SUM ITEMS

If requested, the Design-Builder/Contractor shall furnish to the Contracting Officer Representative in a breakdown of the total Contract Price for every lump sum item on the Price Proposal 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.

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

Payment under this Contract shall be subject to any garnishment and 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 the terms of its Subcontracts. The Contractor shall pay each Subcontractor for satisfactory performance of

its contract, no later than 10 Days from the date of the Design-Builder/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 Design-Builder/Contractor has failed to comply with this Section, the Design-Builder/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 Design-Builder/Contractor agrees that the Authority may provide appropriate information to interested Subcontractors who want to determine the status of Authority payments to the Design-Builder/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:
 - a. In the Scope of the Work or Contract Documents;
 - b. In the RFP Documents, the Issued for Construction Specifications, and the Issued for Construction Drawings;
 - c. In the method or manner of performance of the Work;
 - d. In the Authority-furnished facilities, equipment, materials, services, or Site; or
 - e. 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 Design-Builder/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 Design-Builder/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 Design-Builder/Contractor to an equitable adjustment hereunder.
- D. If any change under this Section causes an increase or decrease in the Design-Builder/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 Design-Builder/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 Design-Builder/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 Design-Builder/Contractor for an equitable adjustment hereunder will be allowed if asserted after Final Payment under this Contract.
- G. 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.

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.
- C. As part of its proposal for any Contract modification requiring a price adjustment in excess of \$100,000, the Design-Builder/Contractor shall submit to the Contracting Officer, cost or pricing data under the conditions described in this paragraph and certify that, to the best of its knowledge and belief, the cost or pricing data submitted is accurate, complete and current as of the date submitted. At the Contracting Officer's discretion, the Design-Builder/Contractor, may be required to submit cost or pricing data for price adjustments less than \$100,000.

- D. The Design-Builder/Contractor shall ensure that this article is included in all subcontracts at any tier, if the value of the subcontracted work exceeds \$100,000.

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 Design-Builder/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 Priced Adjustments. Unless expressly waived in writing in advance by the Contracting Officer, the Design-Builder/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 Design-Builder/Contractor shall generate 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 Design-Builder/Contractor's accounting system as being applicable to the pricing adjustment request.
- C. Post-Pricing Adjustments.
- a. 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 Design-Builder/Contractor and the Contracting Officer Representative prior to the commencement of work for which the pricing adjustment is requested, the Design-Builder/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 Design-Builder/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) Work claimed or determined to be related to other actual or proposed pricing adjustment, including but not limited to, changes orders, differing site conditions, and the like. The accounts and records so established shall accumulate such costs under logical costs groups, such as material, labor, equipment, subcontracts, field overhead and the like. The Design-Builder/Contractor shall record these costs on a form approved by the Contracting Officer.
- D. 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 Design-Builder/Contractor shall maintain field records associated with these costs on a form approved by the Contracting Officer Representative. Subject to agreement between the Design-Builder/Contractor and the Contracting Officer Representative, or upon direction of the Contracting Officer Representative for work under Section 00748, CHANGES, the Design-Builder/Contractor shall use Authority Forms (Daily Report - Labor, Materials, and Equipment), to be supplied by the Authority at the request of the Design-Builder/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.

- E. 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 Design-Builder/Contractor or Subcontractor(s):
- a. At the office of the Design-Builder/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;
 - b. 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 Design-Builder/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.a and D.2.b 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 00729, 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.
- F. When asserting a Claim under the various Sections of this Contract, the Design-Builder/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 Design-Builder/Contractor on its Claim until such records are made available and access is permitted.
- G. Limitation on Pricing Adjustments.
- a. In the event the Design-Builder/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 ten percent (10%) 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 Design-Builder/Contractor or Subcontractor; or
 - 2) An Authority estimate adopted by the Contracting Officer; or
 - 3) A combination of Paragraphs F.1.a and F.21.b above.
 - b. The Design-Builder/Contractor and Subcontractors will not be allowed any profit for the work for which the Design-Builder/Contractor or Subcontractor fails to originate, maintain, or to make available any accounts or records as required under this Contract.
- H. Flow-down clause.

The Design-Builder/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, the Contracting Officer and the Contracting Officer Representative under this Contract.

00751 AUDIT - PRICE ADJUSTMENTS

- A. General: The Contracting Officer and his or her representatives, including representatives of the Authority's governing jurisdictions, any federal, state, or local entity providing funding for this Contract and the Comptroller General of the United States, shall have access, audit, and inspection rights as 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 Design-Builder/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 Design-Builder/Contractor's plant, or such parts thereof, as may be engaged in the performance of this Contract.
- C. Cost or pricing data: If the Design-Builder/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 general public, prices of commercial items sold in substantial quantities to the general 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 Design-Builder/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 accounts, records and cost information required to be originated under this Contract, together with all other accounts, records and cost information related to this Contract, shall be maintained and made available by the Design-Builder/Contractor and subcontractor(s):
 - a. At their offices at all reasonable times, for inspection, audit, reproduction or such other purposes as may be required by the Contracting Officer, by anyone he or she authorizes or pursuant to any other provision of this Contract; and
 - b. Except to the extent otherwise expressly set forth in this Contract, until three (3) years from the date of final payment under this Contract. If this Contract is completely or partially terminated, such records shall be maintained for a period of three (3) years from either the date of any resulting final settlement or the date of final payment, whichever is later. If a pricing adjustment results in any dispute or litigation related to this Contract, such records shall be maintained for a period equal to the later of three (3) years from the date of final payment or one (1) year following the final disposition of the dispute or litigation.
- E. The Design-Builder/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

The Design-Builder/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 \$100,000 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 \$100,000.

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.
- B. 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 Design-Builder/Contractor furnished cost or pricing data in accordance with Section 01330, SUBMITTAL PROCEDURES, which was not complete, accurate, and current as certified in the Design-Builder/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 Design-Builder/Contractor in accordance with Section 01330, SUBMITTAL PROCEDURES, but which was not complete, accurate, and current as of the date certified in the Design-Builder/Contractor's Certificate of Current Cost or Pricing Data; or
 4. The Design-Builder/Contractor or a Subcontractor or prospective Subcontractor furnished any data, not within Paragraphs B.1, B.2, or B.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 Design-Builder/Contractor if there was not a Subcontract, was less than the prospective Subcontract cost estimate submitted by the Design-Builder/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 Design-Builder/Contractor may wish to include an article in each such Subcontract requiring the Subcontractor to appropriately indemnify the Design-Builder/Contractor. However, the inclusion of such an article and the terms thereof are matters of negotiation and agreement between the Design-Builder/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.)

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 Design-Builder/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 Design-Builder/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 Design-Builder/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 Design-Builder/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 \$100,000. The Design-Builder/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 \$100,000. The requirements of this Section shall be limited to such price adjustments:
- a. The Design-Builder/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.
- b. The Design-Builder/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 Design-Builder/Contractor shall insert the substance of this Section in each Subcontract hereunder, which exceeds \$100,000.

00755 FINAL PAYMENT

- A. The Authority will make Final Payment to the Design-Builder/Contractor following Acceptance of Work, including receipt of releases from owners of property affected by the Design-Builder/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 Design-Builder/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 Design-Builder/Contractor will be deemed thereby to have released the Authority from all Claims of the Design-Builder/Contractor and all liability to the Design-Builder/Contractor for things done or furnished in connection with the Work and for every act and neglect of the Authority and others relating to or arising out of the Work.

00756 ACCESS AND EXAMINATION OF RECORDS

- A. The Design-Builder/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 Design-Builder/Contractor, which are directly pertinent to this Contract for the purposes of making audits, examinations, excerpts, and transcriptions. The Design-Builder/Contractor also agrees, pursuant to 49 CFR. 633.17 to provide the FTA Administrator or its authorized representatives including any PMO Design-Builder/Contractor access to Design-Builder/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 Design-Builder/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. Design Builder 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 Design-Builder/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 Design-Builder/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 Design-Builder/Contractor involving transactions related to this Contract, for the purpose of making audit, examination, excerpts, and transcription.
- E. The Design-Builder/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 audit, examination, excerpts, and transcription. The term "Subcontract," as used in this Section, excludes:
 - a. Purchase Orders Not Exceeding \$2,500 and,
 - b. 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 Design-Builder/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 Design-Builder/Contractor also guarantees that when installed all materials and equipment were free from defects and will remain so for a period of at least two 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 Design-Builder/Contractor in writing of such defects. The Authority thereupon shall have the right, by a written notice to that effect, to require the Design-Builder/Contractor to repair or replace all inferior or defective work, material, or equipment or permit it to remain in place and assess the Design-Builder/Contractor the costs it (the Design-Builder/Contractor) would have incurred had the Design-Builder/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 Design-Builder/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 Design-Builder/Contractor in writing when such damage occurs. The Authority shall have the right to require the Design-Builder/Contractor to repair or replace such damaged areas or equipment, or elect to permit such damage to remain as is and assess the Design-Builder/Contractor the costs it would have incurred had it been required to effect repair or replacement.
- E. Should the Design-Builder/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 Design-Builder/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 Design-Builder/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 Design-Builder/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, appliance, and plant on the Work Site necessary for completing the Work. The Design-Builder/Contractor and its sureties shall be liable for damages to the Authority resulting from the Design-Builder/Contractor's refusal or failure to complete the Work within this specified time, whether or not the Design-Builder/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 Design-Builder/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 Design-Builder/Contractor for the benefit of the Authority without the necessity of separate transfer or assignment thereof, provided that, if directed by the Authority, the Design-Builder/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 Design-Builder/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 WMATA Standard 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 Design-Builder/Contractor within two 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 five percent within a period of two 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 Design-Builder/Contractor's Issued for Construction Specifications and Issued for Construction Drawings, and intent of this Contract anytime during a period extending for two years following their Acceptance by the Authority.
- B. Notice of deficiency to Design-Builder/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 Design-Builder/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 Design-Builder/Contractor independently discovers a deficiency in accepted materials, equipment, systems, or subsystems, the Design-Builder/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 Design-Builder/Contractor concerning correction of deficiencies: Within 30 Days after receipt of the Design-Builder/Contractor's recommendations for corrective action and adequate supporting information, the Contracting Officer, at its sole discretion, will give the Design-Builder/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 Design-Builder/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 Design-Builder/Contractor or receipt of notice of discovery of a deficiency by the Authority.
- F. Correction of deficiencies by Design-Builder/Contractor: The Design-Builder/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 Design-Builder/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 Design-Builder/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 Design-Builder/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 Design-Builder/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:
 - a. Obtain detailed recommendations for corrective action;
 - b. Either:
 - 1) Correct the materials, equipment, systems or subsystems, or
 - 2) Replace the materials, equipment, systems or subsystems; and if the Design-Builder/Contractor fails to furnish timely disposition instructions, the Contracting Officer may dispose of non-conforming materials, equipment, systems or subsystems for the Design-Builder/Contractor's account in a reasonable manner, in which case the Authority is entitled to reimbursement from the Design-Builder/Contractor or from the proceeds for the reasonable expense of care and disposition, as well as for excess costs incurred or to be incurred;
 - c. and obtain applicable data and reports.
 - d. Charge to the Design-Builder/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 five 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.
 - a. Disassembly/reassembly expense: The Design-Builder/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.
 - b. Transportation charges:
 - 1) When the Authority returns supplies to the Design-Builder/Contractor for correction or replacement pursuant to this Section, the Design-Builder/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 Design-Builder/Contractor's plant, in addition to any charges provided for in Paragraph J.2.b below. The Design-Builder/Contractor shall also bear the responsibility for the supplies while in transit.
 - 2) When compliance with the terms of this Section by the Design-Builder/Contractor involves shipment of corrected or replacement supplies from the Design-Builder/Contractor to the

Authority, the Design-Builder/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 Design-Builder/Contractor's plant to the designated destination point under this Contract, in addition to any charges provided for Paragraph J.2.a above. The Design-Builder/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 Design-Builder/Contractor's obligations to correct deficiencies, nor shall there be any adjustment of the delivery schedule or Contract Performance Time 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 Design-Builder/Contractor shall not be responsible under this Section for the correction of deficiencies in Authority-furnished property, except for deficiencies in installation, unless the Design-Builder/Contractor performs or is obligated to perform any modifications or other work on such property. In that event, the Design-Builder/Contractor shall be responsible for correction of deficiencies to the extent of such modifications or other work.
- M. The Design-Builder/Contractor shall not be responsible under this Section for the correction of deficiencies caused by the Authority.

00759 COVENANT AGAINST CONTINGENT FEES

- A. The Design-Builder/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 Design-Builder/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.
- B. If fraud is suspected, the Authority's only remedy prior to final adjudication by a court of competent jurisdiction is to report the matter to the Authority'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 agency providing funding under this Contract and/or appropriate federal, state and/or local law enforcement authorities.

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. An organizational conflict of interest (OCI) exists when the nature of the work to be performed under a proposed contract or a subcontract may, without some restriction on future activities result in an unfair competitive advantage to the Design-Builder/Contractor or subcontractor; because of (1) unequal access to information, (2) biased ground rules or (3) impaired objectivity. An unequal access to information OCI may exist if in performing a Contract, a Design-Builder/Contractor obtains access to non-public information that provides a competitive advantage to it in a later competition. A biased ground rules OCI may exist if the Design-Builder/Contractor has a role in setting rules for a source selection in which it will compete. An impaired objectivity OCI may exist if, in performing a Contract, a Design-Builder/Contractor is called upon to evaluate an offer from or performance by itself or an affiliated entity.
- B. In the event that the Design-Builder/Contractor believes that it or any of its potential subcontractors may have an OCI, it shall notify the Contracting Officer, in writing, within five (5) working days after it becomes aware of the potential or actual OCI. The written notification shall identify the nature and circumstances of the perceived conflict and propose appropriate measures to eliminate or mitigate the OCI. The Contracting Officer will review the circumstances and the proposed mitigation plan and notify the Design-Builder/Contractor stating whether: (1) no mitigation is required; (2) the conflict cannot be mitigated; or (3) the conflict can be mitigated and he or she accepts the proposed measures, or recommends additional measures.
- C. The Design-Builder/Contractor's failure to identify such perceived conflicts may result in the Contract being rescinded or terminated.
- D. Should the Design-Builder/Contractor identify or become aware of a conflict during the term of this Contract, including any extension thereof that it could not reasonably anticipate prior to award, it shall notify the Contracting Officer in accordance with paragraph (b), or request an exception to the restriction with supporting rationale. The Contracting Officer shall consider the Design-Builder/Contractor's proposed measures to mitigate or eliminate the conflict, or the request for an exception.
- E. If the proposed measures are not determined to be feasible or are otherwise not acceptable to the Contracting Officer, he or she may terminate the Contract. If the Contracting Officer does not grant a request for an exception, and the Contract is not terminated, the Design-Builder/Contractor shall be notified in writing and be given ten (10) days from the date of the written notification to take all necessary actions to comply with this clause.
- F. If the proposed measures are determined to be acceptable to the Contracting Officer, he or she may grant a specific exception to this restriction, when in the Contracting Officer's judgment, the exception

will not create a conflict between the Design-Builder/Contractor's duties and obligations under this Contract and the duties and obligations imposed on the Design-Builder/Contractor under another contractual or other relationship.

- G. If the Design-Builder/Contractor fails to comply with the terms of this clause, and no fraud is suspected, the Contracting Officer, may withhold payments due under this Contract until such time as the Design-Builder/Contractor is in compliance or, should the non-compliance remain uncorrected at the expiration of ten (10) days from the Contracting Officer's written notice as provided in paragraph (b), terminate the contract for default pursuant to this Contract.
- H. If fraud is suspected, the Authority's only remedy prior to a final determination by a court of competent jurisdiction is to report the matter to the Authority'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.
- I. The Design-Builder/Contractor, in performing this Contract, shall avoid any conduct that might result in or give the appearance of creating for Board members or employees of the Authority in their relationship with the Design-Builder/Contractor, any conflicts of interest or favoritism and/or the appearance thereof and shall avoid any conduct that might result in a Board member, or employee failing to adhere to any Code of Ethics or standards of conduct adopted by the Authority's Board of Directors.
- J. The Contracting Officer's determination under this clause shall be final and shall be considered a question of fact within the meaning of the "Disputes" article of this Contract.

00763 EMPLOYMENT RESTRICTION WARRANTY

- A. The Design-Builder/Contractor warrants that it will not offer employment to, solicit or discuss prospective employment with, or otherwise engage in substantive employment related discussions or communications with, any present or former Board member of the Authority who has been involved, directly or indirectly, in any matter of financial interest to the Design-Builder/Contractor until at least two (2) years after the Board member has ceased involvement in the matter. The post-employment restriction on former Authority employees is one (1) year from the date of their last employment with the Authority. The Design-Builder/Contractor shall not knowingly engage in communications of the nature described above with any immediate family member or member of the household of any Authority employee or Board member during the period when such employee or Board member is involved in any matter of financial interest to the Design-Builder/Contractor.
- B. If a former Board member or employee of the Authority is eventually hired, the Design-Builder/Contractor shall ensure that the former Board member or employee is not involved in negotiating or otherwise dealing with the Authority on any particular matter over which he or she had responsibility during his or her tenure.
- C. Should the Design-Builder/Contractor fail to comply with the provisions hereof, and no fraud is suspected, the Contracting Officer shall have the right to withhold payment under this Contract in an amount not to exceed two percent (2%) of the total Contract amount as liquidated damages to the Authority, such withholding to be in addition to any other withholding or retainage under this Contract. Any dispute shall be settled in accordance with the "Disputes" clause of this Contract.
- D. If fraud is suspected, the Authority's only remedy prior to a final decision by a court of competent jurisdiction is to report the matter to the Authority'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.

00764 CIVIL RIGHTS

- A. *Nondiscrimination Assurance.* In accordance with Title VI of the Civil Rights Act, as amended, 42 U.S.C. §2000 (d), 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, D.C. law and Federal transit law at 49 U.S.C. §5332, the Design-Builder/Contractor, sub-recipient, or subcontractor agrees that it will not discriminate against any employee or applicant for employment because of race, color, creed, religion, national origin, sex, age, sexual preference, gender identity and/or disability. In addition, the Design-Builder/Contractor, sub-recipient, or subcontractor agrees to comply with applicable Federal implementing regulations and other regulations that FTA may issue.
- B. The Design-Builder/Contractor, sub-recipient, or Subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this Contract. The Design-Builder/Contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of DOT-assisted contracts. Failure by the Design-Builder/Contractor to carry out these requirements is a material breach of this Contract, which may result in the termination of this Contract or such other remedy as the recipient deems appropriate.
- C. Equal Employment Opportunity: The following equal employment opportunity requirements apply to this Contract.
- a. *Race, Color, Creed, National Origin, Sex.* In accordance with Title VII of the Civil Rights Act, as amended, 42 U.S.C. §2000(e), and Federal transit laws at 49 U.S.C. §5332, the Design-Builder/Contractor agrees to comply with all applicable equal opportunity requirements of the U.S. Department of Labor (U.S. DOL) including, but not limited to "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor, " 41 C.F.R. Part 60 *et. seq.*, [implementing 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. § 2000(e) note], and with any applicable Federal statutes, executive orders, regulations, and Federal policies that may in the future affect construction activities undertaken in the course of this Contract. The Design-Builder/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 Design-Builder/Contractor agrees to comply with any implementing requirements that FTA may issue.
- b. *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 Design-Builder/Contractor agrees to refrain from discrimination against present and prospective employees for reason of age. In addition, the Design-Builder/Contractor agrees to comply with any implementing requirements that FTA may issue.
- c. *Disabilities.* In accordance with section 102 of the Americans with Disabilities Act, as amended, 42 U.S.C. §12112, the Design-Builder/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 Design-Builder/Contractor agrees to comply with any implementing requirements that FTA may issue.
- D. Special DOL EEO Clause for Construction Projects: The equal opportunity clause published at 41 CFR 60-1.4(a) of this chapter is required to be included in, and is part of, all nonexempt Federal contracts and subcontracts, including construction contracts and subcontracts. The equal opportunity clause published at 41 CFR 60-1.4(b) is required to be included in, and is a part of, all nonexempt federally

assisted construction contracts and subcontracts. In addition to the clauses described above, all Federal contracting officers, all applicants and all non-construction Design-Builder/Contractors, as applicable, shall include the specifications set forth in this section in all Federal and federally assisted construction contracts in excess of \$10,000 to be performed in geographical areas designated by the Director pursuant to §60-4.6 of this part and in construction subcontracts in excess of \$10,000 necessary in whole or in part to the performance of non-construction Federal contracts and subcontracts covered under the Executive order.

When undertaking "construction" as recognized by the U.S. Department of Labor (U.S. DOL), the Contractor agrees to comply with U.S. DOL regulations "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor," 41 C.F.R. Part 60, and Executive Order 11246 "Equal Employment Opportunity," as amended by Executive Order 11375, "Amending Executive Order 11246, Relating to Equal Employment Opportunity," 42 U.S.C. § 2000 (e) note

**STANDARD FEDERAL EQUAL EMPLOYMENT OPPORTUNITY CONSTRUCTION CONTRACT SPECIFICATIONS
(EXECUTIVE ORDER 11246)**

1. As used in these specifications:

- a. "Covered area" means the geographical area described in the solicitation from which this contract resulted;
- b. "Director" means Director, Office of Federal Contract Compliance Programs, United States Department of Labor, or any person to whom the Director delegates authority;
- c. "Employer identification number" means the Federal Social Security number used on the Employer's Quarterly Federal Tax Return, U.S. Treasury Department Form 941.
- d. "Minority" includes:
 - (i) Black (all persons having origins in any of the Black African racial groups not of Hispanic origin);
 - (ii) Hispanic (all persons of Mexican, Puerto Rican, Cuban, Central or South American or other Spanish Culture or origin, regardless of race);
 - (iii) Asian and Pacific Islander (all persons having origins in any of the original peoples of the Far East, Southeast Asia, the Indian Subcontinent, or the Pacific Islands); and
 - (iv) American Indian or Alaskan Native (all persons having origins in any of the original peoples of North America and maintaining identifiable tribal affiliations through membership and participation or community identification).

2. Whenever the Design-Builder/Contractor, or any Subcontractor at any tier, subcontracts a portion of the work involving any construction trade, it shall physically include in each subcontract in excess of \$10,000 the provisions of these specifications and the Notice which contains the applicable goals for minority and female participation and which is set forth in the solicitations from which this contract resulted.

3. If the Design-Builder/Contractor is participating (pursuant to 41 CFR 60-4.5) in a Hometown Plan approved by the U.S. Department of Labor in the covered area either individually or through an association, its affirmative action obligations on all work in the Plan area (including goals and

timetables) shall be in accordance with that Plan for those trades which have unions participating in the Plan. Design-Builder/Contractors must be able to demonstrate their participation in and compliance with the provisions of any such Hometown Plan. Each Design-Builder/Contractor or Subcontractor participating in an approved Plan is individually required to comply with its obligations under the EEO clause, and to make a good faith effort to achieve each goal under the Plan in each trade in which it has employees. The overall good faith performance by other Design-Builder/Contractors or Subcontractors toward a goal in an approved Plan does not excuse any covered Design-Builder/Contractor's or Subcontractor's failure to take good faith efforts to achieve the Plan goals and timetables.

4. The Design-Builder/Contractor shall implement the specific affirmative action standards provided in paragraphs 7 a through p of these specifications. The goals set forth in the solicitation from which this contract resulted are expressed as percentages of the total hours of employment and training of minority and female utilization the Design-Builder/Contractor should reasonably be able to achieve in each construction trade in which it has employees in the covered area. Covered Construction Design-Builder/Contractors performing construction work in geographical areas where they do not have a Federal or federally assisted construction contract shall apply the minority and female goals established for the geographical area where the work is being performed. Goals are published periodically in the FEDERAL REGISTER in notice form, and such notices may be obtained from any Office of Federal Contract Compliance Programs office or from Federal procurement contracting officers. The Design-Builder/Contractor is expected to make substantially uniform progress in meeting its goals in each craft during the period specified.
5. Neither the provisions of any collective bargaining agreement, nor the failure by a union with whom the Design-Builder/Contractor has a collective bargaining agreement, to refer either minorities or women shall excuse the Design-Builder/Contractor's obligations under these specifications, Executive Order 11246, or the regulations promulgated pursuant thereto.
6. In order for the nonworking training hours of apprentices and trainees to be counted in meeting the goals, such apprentices and trainees must be employed by the Design-Builder/Contractor during the training period, and the Design-Builder/Contractor must have made a commitment to employ the apprentices and trainees at the completion of their training, subject to the availability of employment opportunities. Trainees must be trained pursuant to training programs approved by the U.S. Department of Labor.
7. The Design-Builder/Contractor shall take specific affirmative actions to ensure equal employment opportunity. The evaluation of the Design-Builder/Contractor's compliance with these specifications shall be based upon its effort to achieve maximum results from its actions. The Design-Builder/Contractor shall document these efforts fully, and shall implement affirmative action steps at least as extensive as the following:
 - a. Ensure and maintain a working environment free of harassment, intimidation, and coercion at all sites, and in all facilities at which the Design-Builder/Contractor's employees are assigned to work. The Design-Builder/Contractor, where possible, will assign two or more women to each construction project. The Design-Builder/Contractor shall specifically ensure that all foremen, superintendents, and other on-site supervisory personnel are aware of and carry out the Design-Builder/Contractor's obligation to maintain such a working environment, with specific attention to minority or female individuals working at such sites or in such facilities.
 - b. Establish and maintain a current list of minority and female recruitment sources, provide written notification to minority and female recruitment sources and to community organizations when the Design-Builder/Contractor or its unions have employment opportunities available, and maintain a record of the organizations' responses.

- c. Maintain a current file of the names, addresses and telephone numbers of each minority and female off-the-street applicant and minority or female referral from a union, a recruitment source or community organization and of what action was taken with respect to each such individual. If such individual was sent to the union hiring hall for referral and was not referred back to the Design-Builder/Contractor by the union or, if referred, not employed by the Design-Builder/Contractor, this shall be documented in the file with the reason therefor, along with whatever additional actions the Design-Builder/Contractor may have taken.
- d. Provide immediate written notification to the Director when the union or unions with which the Design-Builder/Contractor has a collective bargaining agreement has not referred to the Design-Builder/Contractor a minority person or woman sent by the Design-Builder/Contractor, or when the Design-Builder/Contractor has other information that the union referral process has impeded the Design-Builder/Contractor's efforts to meet its obligations.
- e. Develop on-the-job training opportunities and/or participate in training programs for the area which expressly include minorities and women, including upgrading programs and apprenticeship and trainee programs relevant to the Design-Builder/Contractor's employment needs, especially those programs funded or approved by the Department of Labor. The Design-Builder/Contractor shall provide notice of these programs to the sources compiled under 7b above.
- f. Disseminate the Design-Builder/Contractor's EEO policy by providing notice of the policy to unions and training programs and requesting their cooperation in assisting the Design-Builder/Contractor in meeting its EEO obligations; by including it in any policy manual and collective bargaining agreement; by publicizing it in the company newspaper, annual report, etc.; by specific review of the policy with all management personnel and with all minority and female employees at least once a year; and by posting the company EEO policy on bulletin boards accessible to all employees at each location where construction work is performed.
- g. Review, at least annually, the company's EEO policy and affirmative action obligations under these specifications with all employees having any responsibility for hiring, assignment, layoff, termination or other employment decisions including specific review of these items with onsite supervisory personnel such as Superintendents, General Foremen, etc., prior to the initiation of construction work at any job site. A written record shall be made and maintained identifying the time and place of these meetings, persons attending, subject matter discussed, and disposition of the subject matter.
- h. Disseminate the Design-Builder/Contractor's EEO policy externally by including it in any advertising in the news media, specifically including minority and female news media, and providing written notification to and discussing the Design-Builder/Contractor's EEO policy with other Design-Builder/Contractors and Subcontractors with whom the Design-Builder/Contractor does or anticipates doing business.
- i. Direct its recruitment efforts, both oral and written, to minority, female and community organizations, to schools with minority and female students and to minority and female recruitment and training organizations serving the Design-Builder/Contractor's recruitment area and employment needs. Not later than one month prior to the date for the acceptance of applications for apprenticeship or other training by any recruitment source, the Design-Builder/Contractor shall send written notification to organizations such as the above, describing the openings, screening procedures, and tests to be used in the selection process.
- j. Encourage present minority and female employees to recruit other minority persons and women and, where reasonable, provide after school, summer and vacation employment to minority

- and female youth both on the site and in other areas of a Design-Builder/Contractor's work force.
- k. Validate all tests and other selection requirements where there is an obligation to do so under 41 CFR part 60-3.
 - l. Conduct, at least annually, an inventory and evaluation at least of all minority and female personnel for promotional opportunities and encourage these employees to seek or to prepare for, through appropriate training, etc., such opportunities.
 - m. Ensure that seniority practices, job classifications, work assignments and other personnel practices, do not have a discriminatory effect by continually monitoring all personnel and employment related activities to ensure that the EEO policy and the Design-Builder/Contractor's obligations under these specifications are being carried out.
 - n. Ensure that all facilities and company activities are non-segregated except that separate or single-user toilet and necessary changing facilities shall be provided to assure privacy between the sexes.
 - o. Document and maintain a record of all solicitations of offers for subcontracts from minority and female construction Design-Builder/Contractors and suppliers, including circulation of solicitations to minority and female Design-Builder/Contractor associations and other business associations.
 - p. Conduct a review, at least annually, of all supervisors' adherence to and performance under the Design-Builder/Contractor's EEO policies and affirmative action obligations.
8. Design-Builder/Contractors are encouraged to participate in voluntary associations which assist in fulfilling one or more of their affirmative action obligations (7a through p). The efforts of a Design-Builder/Contractor association, joint Design-Builder/Contractor-union, Design-Builder/Contractor-community, or other similar group of which the Design-Builder/Contractor is a member and participant, may be asserted as fulfilling any one or more of its obligations under 7a through p of these Specifications provided that the Design-Builder/Contractor actively participates in the group, makes every effort to assure that the group has a positive impact on the employment of minorities and women in the industry, ensures that the concrete benefits of the program are reflected in the Design-Builder/Contractor's minority and female workforce participation, makes a good faith effort to meet its individual goals and timetables, and can provide access to documentation which demonstrates the effectiveness of actions taken on behalf of the Design-Builder/Contractor. The obligation to comply, however, is the Design-Builder/Contractor's and failure of such a group to fulfill an obligation shall not be a defense for the Design-Builder/Contractor's noncompliance.
9. A single goal for minorities and a separate single goal for women have been established. The Design-Builder/Contractor, however, is required to provide equal employment opportunity and to take affirmative action for all minority groups, both male and female, and all women, both minority and non-minority. Consequently, the Design-Builder/Contractor may be in violation of the Executive Order if a particular group is employed in a substantially disparate manner (for example, even though the Design-Builder/Contractor has achieved its goals for women generally, the Design-Builder/Contractor may be in violation of the Executive Order if a specific minority group of women is underutilized).

10. The Design-Builder/Contractor shall not use the goals and timetables or affirmative action standards to discriminate against any person because of race, color, religion, sex, sexual orientation, gender identity, or national origin.
11. The Design-Builder/Contractor shall not enter into any Subcontract with any person or firm debarred from Government contracts pursuant to Executive Order 11246.
12. The Design-Builder/Contractor shall carry out such sanctions and penalties for violation of these specifications and of the Equal Opportunity Clause, including suspension, termination and cancellation of existing subcontracts as may be imposed or ordered pursuant to Executive Order 11246, as amended, and its implementing regulations, by the Office of Federal Contract Compliance Programs. Any Design-Builder/Contractor who fails to carry out such sanctions and penalties shall be in violation of these specifications and Executive Order 11246, as amended.
13. The Design-Builder/Contractor, in fulfilling its obligations under these specifications, shall implement specific affirmative action steps, at least as extensive as those standards prescribed in paragraph 7 of these specifications, so as to achieve maximum results from its efforts to ensure equal employment opportunity. If the Design-Builder/Contractor fails to comply with the requirements of the Executive Order, the implementing regulations, or these specifications, the Director shall proceed in accordance with 41 CFR 60-4.8.
14. The Design-Builder/Contractor shall designate a responsible official to monitor all employment related activity to ensure that the company EEO policy is being carried out, to submit reports relating to the provisions hereof as may be required by the Government and to keep records. Records shall at least include for each employee the name, address, telephone numbers, construction trade, union affiliation if any, employee identification number when assigned, social security number, race, sex, status (e.g., mechanic, apprentice trainee, helper, or laborer), dates of changes in status, hours worked per week in the indicated trade, rate of pay, and locations at which the work was performed. Records shall be maintained in an easily understandable and retrievable form; however, to the degree that existing records satisfy this requirement, Design-Builder/Contractors shall not be required to maintain separate records.
15. Nothing herein provided shall be construed as a limitation upon the application of other laws which establish different standards of compliance or upon the application of requirements for the hiring of local or other area residents (e.g., those under the Public Works Employment Act of 1977 and the Community Development Block Grant Program).
 - A. ***The Design-Builder/Contractor also agrees to include these requirements in each Subcontract, financed in whole or in part, with federal assistance provided by the FTA, modified only, if necessary, to identify the affected parties.***
 - B. Failure by the Design-Builder/Contractor, sub-recipient, or subcontractor to carry out these requirements is a material breach of this Contract, that may result in the termination or such other remedy as the Authority deems appropriate.

00765 DISADVANTAGED BUSINESS ENTERPRISE

- A. In connection with the performance of this Contract, the Design-Builder/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. 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.
- C. If the Design-Builder/Contractor is found to be in noncompliance with the DBE requirements 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 Design-Builder/Contractor.
- D. If the Contract value is over \$150,000, the prime Design-Builder/Contractor will be responsible for submitting a monthly report of the status of its DBE subcontractors to the Contracting Officer.
- E. If the Design-Builder/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.
- F. 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 Design-Builder/Contractor agrees to accomplish the maximum amount of subcontracting to small business concerns that the Design-Builder/Contractor finds to be consistent with the efficient performance of this Contract.

00767 DAVIS-BACON AND COPELAND ANTI-KICKBACK ACTS

- A. Minimum Wages:
 - a. 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 Design-Builder/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 Design-

Builder/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.

- b. 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:
 - 1) Except with respect to helpers as defined in 29 C.F.R. 5.2(n)(4), the work to be performed by the classification requested is not performed by a classification in the wage determination; and
 - 2) The classification is utilized in the area by the construction industry, and
 - 3) The proposed wage rate, including bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.
 - c. If the Design-Builder/Contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and the Contracting Officer 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 Contracting Officer or will notify the Authority within the 30-Day period that additional time is necessary.
 - d. In the event the Design-Builder/Contractor, the laborers, or mechanics to be employed in the classification or their representatives, and the Contracting Officer do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), the Contracting Officer will refer the questions, including the views of all interested parties and the recommendation of the Contracting Officer to the Administrator for determination. The Administrator, or an authorized representative, will issue a determination with 30 Days of receipt and so advise the Contracting Officer or will notify the Contracting Officer within the 30-Day period that additional time is necessary.
 - e. The wage rate (including fringe benefits where appropriate) determined pursuant to Paragraphs A.1.b and A.1.c 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.
- B. 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 Design-Builder/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.
- a. If the Design-Builder/Contractor does not make payments to a trustee or other third person, the Design-Builder/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 Design-Builder/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 Design-Builder/Contractor to set aside in a separate account assets for the meeting of obligations under the plan or program.
- C. 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 Design-Builder/Contractor, under this agreement or any other Authority contract with the same recipient, so much of the accrued payments

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 Design-Builder/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 Design-Builder/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.

D. Payrolls and Basic Records

- a. Payrolls and basic records relating thereto shall be maintained by the Design-Builder/Contractor during the course of the Work and preserved for a period of three 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 Design-Builder/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. Design-Builder/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.

- b. The Design-Builder/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 Design-Builder/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 Design-Builder/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 Design-Builder/Contractor or Subcontractor to civil or criminal prosecution under 18 U.S.C. §1001 and 31 U.S.C. §3729.
- 4) The Design-Builder/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 Design-Builder/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 Design-Builder/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.

E. Apprentices and Trainees

- a. 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 Design-Builder/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 Design-Builder/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 Design-Builder/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 Design-

Builder/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.

- b. 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 Design-Builder/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.
- c. 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.
- d. 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 Design-Builder/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 Design-Builder/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. COMPLIANCE WITH COPELAND ACT REQUIREMENTS:

THE DESIGN-BUILDER/CONTRACTOR SHALL COMPLY WITH THE REQUIREMENTS OF 29 CFR PART 3, WHICH ARE INCORPORATED BY REFERENCE IN THIS CONTRACT. IN ADDITION, THE DESIGN-BUILDER/CONTRACTOR AGREES TO COMPLY WITH SECTION 1 OF THE COPELAND "ANTI-KICKBACK ACT," 18 U.S.C. § 874 THAT PROHIBITS ANYONE FROM INDUCING, BY ANY MEANS, ANY PERSON EMPLOYED ON CONSTRUCTION, PROSECUTION, COMPLETION OR REPAIR OF A FEDERALLY ASSISTED BUILDING OR WORK, TO GIVE UP ANY PART OF HIS OR HER COMPENSATION TO WHICH HE OR SHE IS ENTITLED. DESIGN-BUILDER/CONTRACTOR FURTHER AGREES TO COMPLY WITH SECTION 2 OF THE ACT, 40 U.S.C. §3145, AS AMENDED, AND IMPLEMENTING DOL REGULATIONS, "DESIGN-BUILDER/CONTRACTORS AND SUBCONTRACTORS ON PUBLIC BUILDINGS OR PUBLIC WORKS FINANCED IN WHOLE OR IN PART, BY LOANS OR GRANTS FROM THE UNITED STATES." DESIGN-BUILDER/CONTRACTOR

AGREES TO COMPLY WITH 29 C.F.R. PART 3 WHICH IMPOSES RECORD KEEPING REQUIREMENTS FOR ALL SUCH CONTRACTS IN EXCESS OF \$2,000.

F. Subcontracts:

The Design-Builder/Contractor shall insert the clause in section E above (Compliance with Copeland Act requirements) in all subcontracts, and require that subcontractors insert the clause in any and all of their subcontracts, at any tier. In addition, the Design-Builder/Contractor or subcontractor shall insert in any subcontracts the clauses contained in 29 CFR 5.5(a)(1) through (10) and such other clauses as the Federal Transit Administration may by appropriate instructions require, and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime Design-Builder/Contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all the contract clauses in 29 CFR 5.5.

G. 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 Design-Builder/Contractor or a Subcontractor as provided in 29 C.F.R. §5.1

H. 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.

I. 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 Design-Builder/Contractor (or any of its Subcontractors) and the Contracting Agency, the U.S. Department of Labor, or the employees or their representatives.

J. Certification of Eligibility:

- a. By entering into this agreement or a third party contract financed under this agreement the Design-Builder/Contractor certifies that neither it (nor he nor she) nor any person or firm that has an interest in the Design-Builder/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).
- b. 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).
- c. The penalty for making false statement is prescribed in the U.S. Criminal code, 18 U.S.C.1001.

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:

- a. All stipulations required by the Act and regulations issued by the Secretary of Labor (41 CFR Part 50) are incorporated by reference. These stipulations are subject to all applicable rulings and interpretations of the Secretary of Labor that are now, or may be hereafter, be in effect.

- b. 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 Design-Builder/Contractor has knowledge that an actual or potential labor dispute is delaying or threatens to delay the timely performance of this Contract, the Design-Builder/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 Design-Builder/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 Design-Builder/Contractor, as the case may be, of all relevant information with respect to such dispute.

00770 CONVICT LABOR

- A. Except as provided in clause I.19.2, the Design-Builder/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.
 - a. The Design-Builder/Contractor is not prohibited from employing persons:
 - 1) On parole or probation to work at paid employment during the term of their sentence;
 - 2) Who have been pardoned or who have served their terms; or
 - 3) 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:
 - a) The worker is paid or is in an approved work or training program on a voluntary basis.
 - b) Representatives of the local union's central bodies or similar labor union organizations have been consulted;
 - 4) 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;
 - 5) 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
 - 6) 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:
 - a. The Design-Builder/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 Design-Builder/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
 - b. The Design-Builder/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 Design-Builder/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 \$250 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 Proposal opening, except if this is a negotiated Contract, the date that the Design-Builder/Contractor submits its Best and Final Offer. 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 Design-Builder/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 Design-Builder/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. The Authority shall be entitled to a reduction in the Contract price reflecting such amount and a refund of monies paid related to such taxes, plus applicable interest.

00772 ADDITIONAL BOND SECURITY

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 Design-Builder/Contractor shall indemnify the Authority and its Board members, agents and employees against liability, including costs, for infringement of any United States patent (except a patent issued upon an application that is now or may hereafter be withheld from issue pursuant to a Secrecy Order under 35 U.S.C. §181) arising out of the manufacture or delivery of supplies, the performance of services, or the construction, alteration, modification, or repair of real property under this Contract. If the Design-Builder/Contractor is not the original equipment manufacturer (OEM) for a manufactured product, it will ensure that the patent holder provides indemnity to the Authority under this clause. This indemnity shall not apply unless the Design-Builder/Contractor is informed as soon as practicable by the Authority of the suit or action alleging such infringement, and is given such opportunity as is afforded by applicable laws, rules, or regulations to participate in the defense thereof; and further, such indemnity shall not apply to:
- a. An infringement resulting from compliance with specific written instructions of the Contracting Officer directing a change in the supplies to be delivered or in the materials or equipment to be used, or directing a manner or performance of the Contract not normally used by the Design-Builder/Contractor.
 - b. An infringement resulting from addition to, or change in, such supplies or components furnished or construction work performed that was made subsequent to delivery or performance by the Design-Builder/Contractor; or
 - c. A claimed infringement that is unreasonably settled without the consent of the Design-Builder/Contractor, unless required by final decree of a court of competent jurisdiction.

00774 NOTICE AND ASSISTANCE REGARDING PATENT AND COPYRIGHT INFRINGEMENT

- A. The Design-Builder/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 of which the Design-Builder/Contractor has knowledge.
- 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 Design-Builder/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 Design-Builder/Contractor pertaining to such action, suit, or Claim. Such evidence and information shall be furnished at the expense of the Authority except where the Design-Builder/Contractor has agreed to defend, indemnify, or hold harmless the Authority. This Section shall be included in all Subcontracts.
- C. The Design-Builder/Contractor shall include the substance of this clause, including this paragraph, in all subcontracts that are expected to exceed the simplified acquisition threshold.

00775 AUTHORITY RIGHTS IN TECHNICAL DATA – LIMITED

NOT USED

00776 RIGHTS IN TECHNICAL DATA – UNLIMITED

- C. 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.

- D. Where any item is purchased as a separate line item in this Contract, that purchase includes all integral parts of that item, including any computer software, source code, algorithms, processes, formulae, and flow charts. The Authority has full rights to use, duplicate or disclose any or all parts of the item, including computer software, in whole or in part, in any manner and for any purpose whatsoever, and to permit others to do so. Should disclosure of the computer software be required only under this paragraph, then the Contracting Officer may waive the provisions of this paragraph if he or she certifies in writing that the item is commercially available from multiple sources and will be fully compatible with existing Authority property.
- C. The Authority or its designated representative shall have the right to use, duplicate or disclose technical data, including computer software, in whole or in part, in any manner and for any purpose whatsoever, and to have or permit others to do so that is contained in or derived from:
- (1) Any manuals, instructional materials prepared for installation, operation, maintenance or training purposes;
 - 2) Technical data pertaining to end items, components or processes that were prepared for the purpose of identifying sources, sizes, configurations, mating and attachment characteristics, functional characteristics and performance requirements ("form, fit and function" data such as , specification control drawings, catalog sheets, and outline drawings Except for the computer software, it means data identifying sources, functional characteristics, and performance requirements, but specifically excludes the source code, algorithms, processes, formulae, and flow charts of the software.);
 - 3) Other technical data that the Design-Builder/Contractor or subcontractor , normally furnishes without restriction;
 - 4) Other specifically described technical data that the parties have agreed will be furnished without restriction;
 - 5) All computer software regardless of whether it is technical data as defined in this article, including the source code, algorithms, processes, formulae, and flow charts, that the Design-Builder/Contractor developed or materially modified for the Authority or for which the Authority is required by Federal law or regulation to provide a royalty-free, irrevocable and nonexclusive license to the Federal government.
- D. The Authority shall have the right to use, duplicate, or disclose technical data other than as defined in paragraph (a), in whole or in part. 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 of the Authority,
 - (2) Used, in whole or in part, by the Authority for manufacturing, or
 - (3) Used by a party other than the Authority except for: (i) emergency repair or overhaul, (ii) where the item or process concerned is not otherwise reasonably available to the Authority to enable timely performance of this work, or (iii) administration of this Contract or the inspection of any products produced under it, where the third party has a written contract with the Authority to perform these efforts. In all cases described in this subsection, the release or disclosure outside of the Authority shall be subject to a nondisclosure agreement.

- E. Technical data provided in accordance with paragraph (c) shall be identified with a legend that suitably recites this limitation. This article shall not impair the Authority's right to use similar or identical data acquired from other sources.
- F. Where any item is purchased as a separate line item in this Contract, that purchase includes all integral parts of that item, including any computer software, source code, algorithms, processes, formulae, and flow charts. The Authority has full rights to use, duplicate or disclose any or all parts of the item, including computer software, in whole or in part, in any manner and for any purpose whatsoever, and to permit others to do so. Should disclosure of the computer software be required only under this paragraph, then the Contracting Officer may waive the provisions of this paragraph if he or she certifies in writing that the item is commercially available from multiple sources and will be fully compatible with existing Authority property.
- G. Material covered by copyright:
 - 1. The Design-Builder/Contractor agrees to and does hereby grant to the Authority, and to its Board members, 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 and computer software now or hereafter covered by copyright.
 - 2. No such copyrighted matter shall be included in Technical Data or computer software 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 Design-Builder/Contractor shall report to the Authority promptly, and in reasonable written detail, each notice or claim of copyright infringement received by the Design-Builder/Contractor with respect to any Technical Data delivered hereunder.
- H. 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.
- I. Any dispute under this Section shall be subject to Section 00730, DISPUTE RESOLUTION.
- J. Notwithstanding any other payment provision in this Contract, the Contracting Officer may retain from payment up to ten percent (10%) 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 RFP Documents.

00777 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 Design-Builder/Contractor of ten percent (10%) 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 Design-Builder/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 Design-Builder/Contractor.
- B. After payments total ninety percent (90%) 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 ten percent (10%) 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 Design-Builder/Contractor shall not be construed as a waiver of any rights accruing to the Authority under this Contract.

00778 INDEMNIFICATION AND INSURANCE REQUIREMENTS

A. Indemnification:

- a. Design-Builder/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 Design-Builder/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 Design-Builder/Contractor from ultimate liability for any obligation of Design-Builder/Contractor under this Contract.
- b. Design-Builder/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 attorney's 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.
- c. If any action or proceeding relating to the indemnification is brought against the Authority, then upon written notice from the Authority to the Design-Builder/Contractor, the Design-Builder/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 Design-Builder/Contractor's sole cost and expense.
- d. Design-Builder/Contractor understands and agrees that it is Design-Builder/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 Design-Builder/Contractor's insurance to fully fund any indemnification shall not relieve the Design-Builder/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.

00779 LIQUIDATED DAMAGES

- A. Time is of the essence to this Contract. The Design-Builder/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 Design-Builder/Contractor agrees that if it does not complete the Work within the specified Contract Performance Time, then the Design-Builder/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.

00780 CONTRACT WORK HOURS AND SAFETY STANDARDS ACT

A. This Contract, to the extent that it is of a character specified in the Contract Work Hours and Safety Standards Act (40 U.S.C. §§ 327-333), is subject to the following provisions and to all other applicable provisions and exceptions of such Act and the regulations of the Secretary of Labor thereunder:

1. **Pursuant to Section 102 (Overtime):**

- a. Overtime requirements: Neither the Design-Builder/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 Design-Builder/Contractor and any Subcontractor responsible therefor shall be liable to any affected employee for unpaid wages. In addition, such Design-Builder/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.1.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.1.a.
- c. Withholding for unpaid wages and liquidated damages: The Contracting Officer may withhold from the Design-Builder/Contractor, from any moneys payable on account of work performed by the Design-Builder/Contractor or Subcontractor, such sums as the Contracting Officer determines to be necessary to satisfy any liabilities of such Design-Builder/Contractor or Subcontractor for unpaid wages and liquidated damages as provided in the provisions of Paragraph **A.1.b**
- d. Subcontracts: The Design-Builder/Contractor shall insert the clauses set forth in the section in all Subcontracts and shall require their inclusion in all Subcontracts of any tier. **The Design-Builder/Contractor shall be responsible for compliance by any and all subcontractors at every tier.**
- e. Records: The Design-Builder/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.
- f. **Pursuant to Section 107 (OSHA):**
 - a. The Design-Builder/Contractor agrees to comply with section 107 of the Contract Work Hours and Safety Standards Act, 40 U.S.C. section 333, and applicable DOL regulations, " Safety and Health Regulations for Construction " 29 C.F.R. Part 1926. Among other things, the Design-Builder/Contractor agrees that it will not require any laborer or mechanic to work in unsanitary, hazardous, or dangerous surroundings or working conditions.

mechanic to work in unsanitary, hazardous, or dangerous surroundings or working conditions.

- b. Subcontracts: The Design-Builder/Contractor also agrees to include the requirements of this section in each subcontract. The term "subcontract" under this section is considered to refer to a person who agrees to perform any part of the labor or material requirements of a contract for construction, alteration or repair. A person who undertakes to perform a portion of a contract involving the furnishing of supplies or materials will be considered a "subcontractor" under this section if the work in question involves the performance of construction work and is to be performed: (1) directly on or near the construction site, or (2) by the employer for the specific project on a customized basis. Thus, a supplier of materials which will become an integral part of the construction is a "subcontractor" if the supplier fabricates or assembles the goods or materials in question specifically for the construction project and the work involved may be said to be construction activity. If the goods or materials in question are ordinarily sold to other customers from regular inventory, the supplier is not a "subcontractor." The requirements of this section do not apply to contracts or subcontracts for the purchase of supplies or materials or articles normally available on the open market.

00781 EQUITABLE ADJUSTMENT FOR MINOR CONTRACT MODIFICATIONS

- A. Where the Contracting Officer and Design-Builder/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 Contract Performance Time 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:
 - a. Direct costs as agreed to by the Contracting Officer and Design-Builder/Contractor.
 - b. 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.
 - c. 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.
 - d. 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:
 - a. Payroll Tax (FICA, FUTA, and SUI) amounts are added immediately after direct and indirect costs are totaled.
 - b. Subcontractors' indirect costs and profit shall be computed in the same manner as above.
 - c. Indirect costs shall not be duplicated in direct costs.
 - d. When the change in Contract Performance Time 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.

e. Bond will be allowed at actual cost without markup.

00782 DRUG AND ALCOHOL TESTING (FOR SAFETY SENSITIVE FUNCTIONS ONLY) – FTA and the Authority

- 1 Design-Builder/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 and WMATA Drug and Alcohol Program Policy. The Design-Builder/Contractor agrees to establish and implement a drug and alcohol testing program that complies with 49 C.F.R. Parts 40 and 655 and WMATA Drug and Alcohol Program Policy 7.7.3/5, produce any documentation necessary to establish its compliance with these regulations, and policy 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 WMATA policy and review the testing process. The Design-Builder/Contractor further agrees as follows:
- 2 To certify its compliance with 49 C.F.R. Parts 40 and 655 and to submit an annual 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 Design-Builder/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.
3. 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.
4. To provide to the MCM and the Contracting Officer before February 15th of each year the following:
 - a. Employee and supervisor training documentation;
 - b. 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.
5. The Design-Builder/Contractor further agrees to submit quarterly reports summarizing program compliance and test results to the MCM by the 15th of the month following the end of each quarter.

00783 NO FEDERAL GOVERNMENT OBLIGATIONS TO THIRD-PARTIES BY USE OF A DISCLAIMER

- A. The Authority and the Design-Builder/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, Design-Builder/Contractor, or any other party (whether or not a party to that contract) pertaining to any matter resulting from the underlying contract.
- B. The Design-Builder/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.

00784 PROGRAM FRAUD AND FALSE OR FRAUDULENT STATEMENTS AND RELATED ACTS

- A. The Design-Builder/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 Design-Builder/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 Design-Builder/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 Design-Builder/Contractor to the extent the Federal Government deems appropriate.

- B. The Design-Builder/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 Design-Builder/Contractor, to the extent the Federal Government deems appropriate.
- C. The Design-Builder/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.

00785 FEDERAL CHANGES

- A. The Design-Builder/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 Master Agreement (MA) (23) dated October 1, 2016) between the Authority and FTA, as they may be amended or promulgated from time to time during the term of this Contract. The FTA Master Agreement can be located on FTA's web page at <https://www.transit.dot.gov/funding/grantee-resources/sample-fta-agreements/fta-master-agreement-fiscal-year-2017>. Design-Builder/Contractor's failure to comply with any of these provisions shall constitute a material breach of this Contract.
- B. The Design-Builder/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.

00786 INCORPORATION OF FTA TERMS

- A. 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 Design-Builder/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.
- B. The Design-Builder/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.

00787 ENERGY CONSERVATION

- A. The Design-Builder/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.

- B. The Design-Builder/Contractor agrees to include the requirements of this clause in all Subcontracts under this Contract.

00788 GOVERNMENT-WIDE DEBARMENT AND SUSPENSION

- A. The Design-Builder/Contractor is bound by its certification contained in its offer to the Authority that the Design-Builder/Contractor and none of its principals or affiliates are excluded or disqualified from federal contracting and/or 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 Design-Builder/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 Design-Builder/Contractor agrees to comply with the requirements of 2 C.F.R, part 180, subpart C as adopted and supplemented by U.S. DOT regulations at 2 C.F.R, part 1200 "Nonprocurement Suspension and Debarment," including any amendments thereto, Executive Orders Nos. 12549 and 12689 "Debarment and Suspension" 31 U.S.C. § 6101 note, and other applicable federal laws, regulations or guidance regarding participation with debarred or suspended Design-Builder/Contractors throughout the term of this Contract.
- B. The Design-Builder/Contractor agrees to include this clause in all Subcontracts at all tiers under this Contract requiring lower tier Design-Builder/Contractors to comply with federal suspension and debarment requirements, and review the System for Award Management (SAM) at www.sam.gov in order to comply with U.S. DOT regulations at 2 C.F.R, part 1200 prior to awarding any subcontract under this Contract.

00789 SURVIVAL

Any provision expressly set forth as surviving the expiration or termination of this Contract shall be deemed to survive any such expiration or termination.

00790 CHOICE OF LAW, CONSENT TO JURISDICTION AND VENUE

- A. This Contract shall be deemed to be executed in the District of Columbia, regardless of the domicile of the Design-Builder/Contractor and shall be governed by and construed in accordance with the laws of the District of Columbia except to the extent, if any, superseded by Federal law.
- B. The parties agree that any and all claims asserted by or against the Authority arising hereunder or related hereto shall be heard and determined either in the courts of the United States located in the District of Columbia, the State of Maryland or the Commonwealth of Virginia or in the courts of the District of Columbia, State of Maryland or Commonwealth of Virginia that maintain jurisdiction over such claims and where venue properly resides.

00791 WHISTLEBLOWER PROTECTION – FEDERAL

- A. The Design-Builder/Contractor and its subcontractors shall encourage their employees and independent Design-Builder/Contractors to report information without fear of actual or threatened discrimination, retaliation or reprisal that they in good faith reasonably believe is evidence of gross mismanagement; gross misuse or waste of public resources or funds; fraud; violation of law; abuse of authority in connection with the conduct of WMATA operations or contracts; or a substantial and specific danger to health, security or safety. The Design-Builder/Contractor and its subcontractors shall notify their employees that they may make reports under this clause to:
 - a. WMATA's Office of Inspector General (OIG), in person, in writing, through the OIG Hotline (888-234-2374) or email wmata-oig-hotline@verizon.net or by any other reasonable means;

- b. WMATA's Metro Transit Police Department (MTPD), in person, by telephone (202-962-2121) or by any other reasonable means, or to the OIG, if the information constitutes a potential violation of criminal law;
 - c. WMATA's Chief Safety Officer, in person, in writing, through the SAFE Hotline (202-249-7233) or email safety@wmata.com, or by any other reasonable means; or
 - d. Any other official, office or agency within WMATA or outside WMATA that the employee or independent Design-Builder/Contractor reasonably believes has the authority to act on the matter.
- B. The Design-Builder/Contractor, its employees, independent Design-Builder/Contractors and subcontractors shall cooperate with any inquiry or review by an authorized official of WMATA, or by the federal government or any other governmental entity with jurisdiction over WMATA, regarding a matter that would constitute a report under paragraph (a) or a violation of this or any whistleblower provision of this Contract, and with any enforcement or judicial proceeding arising from such inquiry or review.
- C. The Design-Builder/Contractor and its subcontractors shall not interfere with or deny the right of any employee or independent Design-Builder/Contractor of either the Design-Builder/Contractor or any of its subcontractors to make a report under clause I.86.1. The Design-Builder/Contractor and its subcontractors shall not recommend, take or threaten to take any action having a negative or adverse impact on any employee or independent Design-Builder/Contractor of either the Design-Builder/Contractor or any of its subcontractors because he or she:
- a. made or is perceived to have made a report under clause I.86.1;
 - b. sought a remedy under applicable law after making a report under clause I.86.1.
 - c. participated in or cooperated with an inquiry or review by an authorized official of WMATA, or by the federal government or any other governmental entity with jurisdiction over WMATA, regarding a matter that would constitute a report under clause I.86.1 or a violation of this or any whistleblower provision of this Contract, or with an enforcement or judicial proceeding arising from such inquiry or review;
 - d. refused to obey an order that would violate law; or
 - e. refused to work or authorize work when a hazardous safety or security condition presents an imminent danger of death or serious injury, there was no reasonable alternative to refusal, there was not sufficient time to eliminate the danger in absence of refusal and the individual, where possible, notified the Contractor or subcontractor of the condition and of his or her intent not to perform or authorize work.
- D, The Design-Builder/Contractor shall include, or shall cause to be included, the substance of this clause, including this clause I.86.4, in its subcontracts at all tiers.
- E. The Design-Builder/Contractor and its subcontractors shall comply with the National Transit Systems Security Act (NTSSA) 6 U.S.C. §1142, which prohibits discharging, demoting, suspending, reprimanding or in any other way discriminating against an employee as a reprisal for the employee lawfully and in good faith:
- a. reporting a hazardous safety or security condition;
 - b. 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 Design-Builder/Contractor or subcontractor of the condition and of his or her intent to not perform work;

- c. 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 Design-Builder/Contractor or subcontractor of the condition and of his or her intent not to authorize use of hazardous equipment or infrastructure unless corrected;
 - d. 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;
 - e. refusing to violate or assist in violation of federal public transportation safety or security law;
 - f. 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;
 - g. furnishing information to law enforcement agencies relating to an accident or incident resulting in damage to property, injury or death; or
 - h. filing a complaint under the NTSSA (6 U.S.C. §1142), or testifying regarding such complaint.
- F. The Design-Builder/Contractor shall notify the Authority of any instance of reports or refusal under this clause.
- G. The enforcement, filing and investigation of complaints, and remedies under this clause shall be governed by the NTSSA (6 U.S.C. §1142), applicable federal regulations and federal law.
- H. This clause shall be interpreted in accordance with the NTSSA (6 U.S.C. §1142). If any provision is found to be in conflict with the NTSSA, the NTSSA shall govern.
- I. The Design-Builder/Contractor shall include, or shall cause to be included, this clause, including this sub-clause, in its subcontracts at all tiers.

00792 Workplace Violence – Zero Tolerance

Pursuant to Metro Policy/Instruction 7.8.3, all Metro Design-Builder/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 Design-Builder/Contractors for cooperating with investigations.

00793 ADDITIONAL FEDERAL REGULATIONS AND CLAUSES

A. Lobbying

- a. The Design-Builder/Contractor is bound by its certification contained in its Offer 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 Design-Builder/Contractor agrees to comply with this requirement throughout the term of the Contract.

- b. The Design-Builder/Contractor agrees that it will comply with 31 U.S.C. § 1352, as amended, U.S. DOT regulations “New Restrictions on Lobbying” 49 C.F.R, Part 20, to the extent consistent with 31 U.S.C. § 1352, as amended and other applicable federal laws, regulations and guidance prohibiting the use of federal funds for any activity concerning legislation or appropriations designed to influence the U.S. Congress or a state legislature unless an exception exists in current federal law.
- c. The Design-Builder/Contractor agrees to include these requirements in all Subcontracts at all tiers under this Contract

B. Clean Air Act

- a. The Design-Builder/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 Design-Builder/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 FTA and the appropriate EPA Regional Office.
- b. The Design-Builder/Contractor will comply with U.S. EPA Regulations “Control of Air Pollution from Mobile Sources,” 40 C.F.R. Part 85; “Control of Emissions from New and In-Use Highway Vehicles and Engines,” 40 C.F.R. Part 86; “Fuel Economy and Greenhouse Gas Exhaust Emissions of Motor Vehicles,” 40 C.F.R. Part 600, as well as any applicable State Implementation Plans (SIP), and EPA regulations “Conformity to State or Federal Implementation Plans of Transportation Plans, Programs and Projects Developed, Funded or Approved Under Title 23 U.S.C. or Federal Transit Laws” 40 C.F.R. Part 93, along with other applicable federal regulations.
- c. The Design-Builder/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.

C. Clean Water Act

- a. The Design-Builder/Contractor agrees to comply with all applicable standards, orders, or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U. S. C. 1251 et seq. The Design-Builder/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.
- b. The Design-Builder/Contractor will protect underground sources of drinking water in compliance with the Safe Drinking Water Act of 1974, as amended, 42 U.S.C. §§300 (f)-(j).
- c. The Design-Builder/Contractor will comply with the notice of violating facility provisions in section 508 of the Clean Water Act, as amended, 33 U.S.C.§ 1368.
- d. The Design-Builder/Contractor will facilitate compliance with Executive Order 11738, “Providing for Administration of the Clean Air Act and the Federal Water Pollution Control Act with Respect to Federal Contracts, Grants or Loans,” 42 U.S.C. §7606 note.
- e. The Design-Builder/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.

D. Cargo Preference Requirements

The Design-Builder/Contractor agrees to the following:

- 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 D.1.a above to WMATA (through the Design-Builder/Contractor in the case of a Subcontractor's bills-of-lading) and to the Office of Cargo Preference, Maritime Administration (MAR-590), 400 Seventh Street SW, Washington, DC 20590.
- 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 liner.

E. Fly America

- a. The Design-Builder/Contractor agrees to comply with 49 U. S. C. 40118 (the "Fly America" Act) in accordance with the General Services Administration's regulations at 41 CFR Part 301-10, which provide that recipients and sub-recipients of Federal funds and their Design-Builder/Contractors are required to use U. S. Flag carriers for U. S. Government-financed international air travel and transportation of their personal effects or property, to the extent such service is available, unless travel by foreign air carrier is a matter of necessity, as defined by the Fly America Act. The Design-Builder/Contractor shall submit, if a foreign air carrier was used, an appropriate certification or memorandum adequately explaining why service by a U. S. flag air carrier was not available or why it was necessary to use a foreign air carrier and shall, in any event, provide a certificate of compliance with the Fly America requirements.
- b. The Design-Builder/Contractor agrees to include the requirements of this Paragraph in all Subcontracts that may involve international air transportation.

F. Buy America

- a. The Design-Builder/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.
- b. The Design-Builder/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.

G. Contracts Involving Federal Privacy Act Requirements

1. The following requirements apply to the Design-Builder/Contractor and its employees that administer any system of records on behalf of the Federal Government under any contract:
 - a. The Design-Builder/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 Design-Builder/Contractor agrees to obtain the express consent of the Federal Government before the Design-Builder/Contractor or its employees operate a system of records on behalf of the Federal Government. The Design-Builder/Contractor understands that the requirements of the Privacy Act, including the civil and criminal penalties for violation of that Act, apply

- a. The Design-Builder/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 Design-Builder/Contractor agrees to obtain the express consent of the Federal Government before the Design-Builder/Contractor or its employees operate a system of records on behalf of the Federal Government. The Design-Builder/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.
- b. The Design-Builder/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.

H. Recovered Material

1. The Design-Builder/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 Design-Builder/Contractor also agrees to include these requirements in each Subcontract financed in whole or in part with Federal assistance provided by FTA.

I. Seismic Safety (**CONSTRUCTION TO NEW OR EXISTING BUILDINGS**)

The Design-Builder/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 Design-Builder/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.

J. Seat Belt Use Policy

The Design-Builder/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.

K. Americans with Disabilities Act Accessibility – FTA

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.

L. Mandatory Disclosure

1. The Design-Builder/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 Design-Builder/Contractor has credible evidence that a principal, employee, agent, or subcontractor of the Design-Builder/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 Design-Builder/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 Design-Builder/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 Design-Builder/Contractor shall notify the OIG of the ordering agency and the OIG of the agency responsible for the basic contract.

M. National Intelligent Transportation Systems Architecture And Standards – FTA

- 1 The Design-Builder/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 Design-Builder/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 Design-Builder/Contractor agrees to Flow this provision down to all applicable subcontracts.

N. Veterans Preference

As provided by 49 U.S.C. §5325(k), to the extent practicable, The Design-Builder/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.

O. Notification of Federal Participation

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

P. 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 for what?

Q. 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.

Request 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 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.
- (a) 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

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

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.

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, see Section 00800, Appendix A).
- (b) As a prerequisite to eligibility for a WMATA-issued identification and access badge ("One Badge"), access to WMATA's customers, property, or confidential information, and in consideration for this Contract, the Contractor shall have the sole responsibility for, and shall assure, adequate criminal background screenings on a routine basis of all of its personnel who are or will be working on WMATA's premises (whether they receive a One Badge or not) or otherwise have access to WMATA's customers, property, or confidential information.
- (c) Contractor shall implement, not later than notice to proceed, a criminal background check screening of the Contractor's personnel that shall take into consideration (1) the nature of the services or work being performed

under the contract 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 a criminal conviction; and (3) the time that has lapsed since the conviction and/or completion of the sentence.

- (d) The Contractor shall contract with, or otherwise engage, a reputable third-party vendor to conduct the required criminal background screenings, and shall provide the vendor with a copy of its criminal background check screening policies and procedures.
- (e) The Contractor shall not place any person on or engage any person under this Contract, unless that person passes the Contractor's criminal background screening. At the end of each calendar quarter, the Contractor shall certify to the Contracting Officer's Technical Representative on a form provided, its compliance with this criminal background screening requirement and confirm that all persons required to be screened passed the contractor's criminal background screening before working on this Contract. For the sole purpose of monitoring the Contractor's compliance, WMATA reserves the right to request additional documents or perform its own criminal background screening of Contractor's personnel. The Contracting Officer will inform the Contractor, in writing, of any proposed action within a reasonable time before such action is taken.
- (F) 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

SECTION 00800
SUPPLEMENTARY CONDITIONS

This Section includes Modifications to the Section 00700, GENERAL CONDITIONS, for requirements unique to a specific project and is hereby incorporated into the General Conditions by reference. This Section 00800, SUPPLEMENTARY CONDITIONS, which specifies modifications to the General Conditions, shall be read in conjunction with Section 00700, GENERAL CONDITIONS, and which will be cited in Section 00700, GENERAL CONDITIONS, using the same last two digits of the Section number; i.e., a modification to Section 00724, COMMENCING THE WORK, is indicated as Section 00824, COMMENCING THE WORK.

00810 WORK BY DESIGN-BUILDER

Modify Section 00710, WORK BY DESIGN-BUILDER, to delete Paragraph A. and substitute the following Paragraph:

- A. The Design-Builder shall perform, with its own organization, work equivalent to at least **75%** of the value for the construction work.

00824 PERIOD OF PERFORMANCE AND PROJECT SCHEDULE

Modify Section 00724, PERIOD OF PERFORMANCE AND PROJECT SCHEDULE, to delete Paragraph A and substitute the following Paragraph and subparagraphs:

- A. The Design-Builder shall perform, complete, and advance all Work under this Contract in accordance with the schedule set out:
 - 1. Interim & Final Work Completion:
 - a. Milestone 1: T19 Jackson Graham Building C94 Alexandria Yard Revenue Collection Facility & T38 Carmen Turner Facility-Building A - Complete all design, permitting etc., NTP+90 cds
 - b. Milestone 2: T19 Jackson Graham Building – Complete all construction of all roof removal and replacement. All system and appurtenances shall be installed and tested, NTP+270 cds.
 - c. Milestone 3: C94 Alexandria Yard Revenue Collection Facility – Complete construction of all roof removal and replacement. All system and appurtenances shall be installed and tested, NTP+450 cds.
 - d. Milestone 4: Carmen Turner Facility-Building A – Complete construction of all roof removal and replacement. All system and appurtenances shall be installed and tested, NTP+730 cds.
 - 2. See Section 00778, LIQUIDATED DAMAGES, for Liquidated Damages associated with the Milestone(s) listed above.

00830 DISPUTE RESOLUTION – NOT APPLICABLE

Modify Section 00730, DISPUTE RESOLUTION, to add the following Paragraphs and subparagraphs:

- C. Disputes Review Board and Procedures
 - 1. Disputes Review Board (DRB) shall be established within 60 Days after the Contract Award has been issued to the Design-Builder. The DRB shall Consist of one member selected by the Authority, one member selected by the Design-Builder, and a third member, who shall be the

2. chairperson, selected by the first two members. The selection of qualified DRB members shall be made in accordance with the following rules and procedures.
 - a. Rules and Procedures
 - (1) All DRB members shall have substantial experience with the type of construction involved in the Contract and in the interpretation of construction Contract Documents. The goal in selecting the chairperson is to complement the experience of the first two members, thus furnishing technical as well as administrative expertise that will facilitate the DRB's operations.
 - (2) The specific qualifications and requirements for membership on the DRB shall be as follows:
 - (a) The candidate member shall have commensurate formal/technical education and experience in one or more of the fields of construction, engineering, or architecture.
 - (b) Except for payment of services as a DRB member, excluding fee-based consulting services on other projects, or for roles identical or similar to DRB membership, [1] no voting DRB member shall have a) employment with, an ownership interest in, or existing business or financial relationship with, any party to the Contract including designers and other consultants; or b) a financial interest in the Contract.
 - (c) During the term of membership on the DRB, no discussion of or agreement for employment after the Contract is completed shall occur or be made between any DRB member and any party to the Contract.
 - (3) Before their appointments are made, the first two DRB candidate members shall submit complete disclosure statements for review and Acceptance by the Contracting Officer and the Design-Builder. Each statement shall include [1] resume of experience and education; [2] a detailed description of all past, present, and planned future relationship(s) to the Authority's Rail Capital Construction Program or with any party involved in the Contract, including any fee-based consulting services on any other projects; and [3] certification that the prospective member meets the qualifications set forth above. The chairperson shall supply such a disclosure statement to the first two DRB members and to the Contracting Officer and the Design-Builder before his or her appointment as chairperson is approved and finalized.
 - b. Selection of Members
 - (1) The Contracting Officer and the Design-Builder shall provide the name and qualifications of their selected member to each other for their concurrence. The Contracting Officer and the Design-Builder shall provide their approval or rejection of the proposed individuals within 10 Days after receipt of each other's list of nominees. These two individuals shall be the first two members of the DRB.
 - (2) The third member of the DRB shall be an impartial and qualified chairperson who shall be selected and mutually agreed upon by the first two members within 15 Days after the first two members' appointments are finalized. If the two designated DRB members cannot agree on a chairperson within the 15-Day period, the chairperson shall be selected within 10 Days thereafter by mutual agreement of the Contracting Officer and the Design-Builder.
 - (3) The Contracting Officer and the Design-Builder shall negotiate with each of the three members of the DRB on the terms and conditions of salary and reimbursable costs for

travel, conference facilities, clerical services, mailings, and copying. All costs are to be paid from the Contract allowance set forth in Section 00434, PRICE PROPOSAL SCHEDULE. If the agreed cost exceeds the allowance specified in Section 00434, PRICE PROPOSAL SCHEDULE, the Authority will pay for 100% of the cost over that amount.

- (a) Fees for each member of the DRB shall be commercially reasonable and shall be no greater than the fees charged to the DRB member's most favored customer for similar work. Except under extraordinary circumstances, the hourly fee (excluding travel, per diem, and reimbursable items) shall not be greater than \$300 for each DRB member. For hours in excess of eight hours per Day, the fee shall be a maximum of 50 percent of the agreed hourly fee. Billing procedures and the fees for travel, per diem, and reimbursable items shall be prudent and consistent with practices given most favored customers.
- (4) Each voting DRB member shall be appointed for the life of the Contract. Forty-five Days prior to the yearly anniversary of the appointment of the chairperson, the Contracting Officer, and the Design-Builder shall review the performance of the DRB, individually and as a group. Either the Contracting Officer or the Design-Builder may elect to replace any voting member of the DRB, except that in the case of the chairperson, both the Contracting Officer and the Design-Builder must agree on replacement. Action to appoint a replacement must start immediately and follow the same procedure as for initial appointment, except that the appointment must be made prior to the yearly anniversary date of the appointment of the chairperson.
- (5) If an election by either party to replace a member is not made in a timely manner, the DRB shall continue for another 12-month period before any replacement is made. If a member of the DRB cannot continue or voluntarily seeks to leave the DRB, the new member shall be appointed in the same manner in which the original appointment had been made.
- (6) Any DRB member to be replaced shall, in conjunction with the remaining DRB members, complete consideration of any dispute pending before the DRB at the time the decision to replace is made. The DRB shall make appropriate rules to handle such disputes during the transition period. In the case of an incapacitated member, or of a member who voluntarily leaves the DRB, all disputes will be put in abeyance until the replacement DRB member has been appointed.

c. Operation of Board

- (1) The DRB shall formulate its own rules of operation, which shall be provided in writing to the Contracting Officer Representative and the Design-Builder. The entire process may be kept flexible and any portion of the process may be changed to adapt to individual circumstances presented by a particular dispute. The DRB may initiate on its own or in consultation with the Contracting Officer Representative and the Design-Builder new rules or modifications to existing rules, whenever the DRB deems it appropriate.
- (2) The DRB members shall keep abreast of construction developments and the progress of the work. The Contracting Officer Representative and the Design-Builder shall copy the DRB on periodic progress reports that have been jointly signed by the Contracting Officer Representative and the Design-Builder or special written progress reports no less often than once a month.
- (3) The DRB shall visit the job-site at least once each quarter and at such other times as significant construction events dictate. The frequency and scheduling of site visits shall be as agreed to among the Contracting Officer Representative, the Design-

Builder, and the DRB. At regularly scheduled site visits the DRB shall review all active segments of the Work in the company of the Contracting Officer Representative and the Design-Builder's representative. The Site visit shall include a meeting attended by representatives of both the Authority and the Design-Builder.

d. Hearing Procedures

- (1) DRB hearings shall be conducted at the job-site, the Authority offices, or in the Washington D. C. Metropolitan Area.
- (2) The DRB may request the Contracting Officer Representative and the Design-Builder to produce documents and exchange documents prior to any hearing. The DRB may also request the Contracting Officer Representative and the Design-Builder to produce documents and witnesses at a hearing. Either party's failure to comply with the DRB's request may be taken into consideration by the DRB in reaching a decision.
- (3) The DRB has the authority to conduct hearings and reach decisions in the manner the DRB deems most appropriate. The DRB has the authority to impose appropriate rules and procedures for the conduct of its hearings. However, such rules and procedures should be informal and, except for the conduct of an orderly hearing, should not exclude any member from the Authority's or Design-Builder's teams.
- (4) The DRB chairperson shall be responsible for directing the course of the hearings. The DRB shall follow its own rules of presentation and shall not be bound by the judicial rules of evidence. Documents and testimony concerning the dispute shall be presented in the order, manner, and degree of detail the DRB deems most efficient and probative. Each party shall be allowed to make a brief initial presentation and to rebut any factual assertion by another party until the DRB determines that all aspects of the dispute have been covered adequately. The DRB may limit the presentation of any documents or testimony the DRB deems not relevant or redundant. In rare circumstances, the DRB chairperson may require that the testimony of certain or all individuals be given under oath. The DRB chairperson shall administer the oath.

e. Findings and Recommendations

- (1) The DRB shall meet in private at the conclusion of the dispute hearing. All deliberations by the DRB shall be kept confidential except for the findings and recommendations. The DRB shall make a concerted effort to reach a unanimous decision. The DRB shall base its findings and recommendations on the Contract provisions and documents, law, statutes, and regulations deemed by the DRB to be applicable, considering all facts and circumstances of the dispute. The DRB's findings and recommendations shall be set forth in the following format:

DISPUTES REVIEW BOARD FINDINGS AND RECOMMENDATIONS

I. INTRODUCTION

This Article shall contain the following information:

- Name, Number, and Notice-to-Proceed Date of Contract
- Dispute Title and Specific Number
- Dispute Hearing Conclusion Date and Location
- Attachment Number(s) or Exhibits, if any
- General Scope of the Contract

- General Contract Background information, as appropriate to facilitate the parties' understanding

II. STATEMENT OF DISPUTE

This Article shall include a description of the dispute(s) presented by claimant and counter-claimant. It should set forth each element of the relief requested (e.g., adjustment to Contract time and price) and the basis of each claim and difference advanced by the parties. In general, this Article should be a brief summation of the dispute and the basis for bringing forward the dispute and the basis on which the initial claim was denied.

III. FINDINGS AND ANALYSIS

This Article shall include the DRB's findings on (a) each element of the entitlement constituting an adjustment in Contract Price, (b) each element of time constituting an adjustment in Contract Performance Time, and (c) each element of any other relief requested by the parties. This Article shall provide the analysis of and justification for the following Article IV, RECOMMENDATIONS, and shall include references to all contractual, statutory, or other applicable authority supporting the DRB's findings. This Article shall also address the DRB's conclusion as to the relative merits of each party's position. Nothing in the foregoing shall be construed as the DRB being expected to produce a legal brief or detailed estimate of cost and time. However, this Article shall be detailed enough to provide both parties with sufficient information to act on the DRB's recommendation(s) contained in the following Article IV.

IV. RECOMMENDATION(S)

This Article shall contain the DRB's specific recommendation(s) for resolution of the dispute. The recommendation(s) shall be consistent with the findings and analysis in Article III, FINDINGS AND ANALYSIS.

V. DISSENTING OPINION

This Article shall contain dissent to the findings and recommendations, in whole or in part. The dissenter shall be identified. Dissents shall explain the dissenting member's reasons for disagreeing with the findings and recommendations, in whole or in part, made by the majority of the DRB.

- (2) Within 60 Days after the close of the hearing, the DRB shall issue draft findings and recommendations to the Authority and the Design-Builder. Within 14 Days after receipt of the draft findings and recommendations, each party shall independently notify the DRB in writing of calculations or other errors or omissions in the draft. Within 14 Days after receipt of the parties' responses to the draft, the DRB shall forward its final findings and recommendations to the Authority and the Design-Builder simultaneously.

f. Administrative Closing

- (1) Either party may reject the recommendation(s) of the DRB issued pursuant to Article 00732.7 herein all or in part in the resolution of a dispute or disputes. If the Design-Builder rejects the DRB recommendation, the Design-Builder shall request a final decision of the Contracting Officer pursuant to Section 00730, DISPUTE RESOLUTION. The request for a final decision shall be accompanied by a full explanation as to basis for the rejection of the DRB recommendation(s). In the event

of a rejection by the Authority, the Contracting Officer will support the basis of the rejection by findings of fact, which shall provide a full explanation for the basis of rejection, subject only to appeal as provided by Section 00730, DISPUTE RESOLUTION.

00833 AUTHORITY-FURNISHED PROPERTY

Modify Section 00733, AUTHORITY-FURNISHED PROPERTY, to delete Paragraphs A through D and substitute the following Paragraph:

- A. The Authority will not furnish property, real or otherwise, through the terms of this Contract. The Design-Builder is required to purchase or lease any property needed for, but not limited to, lay down, storage, or employee parking in its obligations to comply with the Project requirements.

00841 CONSIDERATION AND BASIS OF PAYMENT

Modify Section 00741, CONSIDERATION AND BASIS OF PAYMENT, in its entirety, and substitute the following:

- A. In consideration of its undertaking under this Contract, the Design-Builder 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 00510, DESIGN-BUILD CONTRACT FORM, and which shall constitute complete compensation for performance of all work required by the Contract.
- B. Standby cost for delayed or cancelled Site access: In the event the Design-Builder is delayed in the performance of the Work due to Authority delayed or cancelled Site access, the following basis of payment shall apply:
 - 1. The "Hours of Work" is the period during which the Design-Builder has use of the work area. The "Hours of Work" will exclude the periods required by the Authority to safely secure the work area before the start of the "Hours of Work" and to restore the work area to an operational state after completion of the "Hours of Work".
 - 2. Delay will be measured relative to "Hours of Work" only. The "Hours of Work" shall be determined based upon weekly coordination between the Contracting Officer Representative (COR) and the Design-Builder.
 - 3. Delays caused by actions of the Authority may occur at the start of the "Hours of Work", during the "Hours of Work", or at the end of the "Hours of Work."
 - a. A delay at the start of the "Hours of Work" occurs when the Authority does not grant access to the work area by the scheduled start time. A delay at the start of the "Hours of Work" will be measured from the scheduled start of the "Hours of Work" until the time the Design-Builder is granted access to the work area.
 - b. A delay during the "Hours of Work" occurs when the Authority requests the Design-Builder to vacate the work area and the Design-Builder is later allowed to return to the work area. A delay during the "Hours of Work" will begin when the Design-Builder is directed to stop work to vacate the work area and will end when the Design-Builder returns to the work area and resumes work.
 - c. A delay at the end of the "Hours of Work" occurs when the Authority requests the Design-Builder to vacate the work area early. A delay at the end of the "Hours of Work" will be measured from the time the Design-Builder is directed to vacate the work area until the scheduled end of the "Hours of Work".

4. The Design-Builder will be compensated for the direct labor costs incurred for the aggregate of delays that exceed 30 minutes relative to the "Hours of Work". For payment purposes, delays will be rounded to the nearest 30 minutes provided the Design-Builder remains mobilized until granted access or until the Design-Builder elects to cancel the work, or the Contracting Officer Representative cancels access for the period. However if the Design-Builder elects to cancel work due to a lack of time remaining in the "Hours of Work" period to complete the planned work element, as verified by the Period of Delay form, the Design Builder will be compensated for the aggregate of delays that exceed 30 minutes rounded to the nearest 30 minutes from the time access was cancelled to the scheduled end of the "Hours of Work" period.
5. When access to the work area is cancelled by the Contracting Officer Representative with less notice than noted below, the Authority will pay standby cost of not more than the scheduled "Hours of Work" period or 4 hours, whichever is less. However, if Design-Builder is able to reassign the work crew to other work, regardless of the time of the notice given by the Contracting Officer Representative, no payment will be made.
 - a. Weeknights: Five hours before the planned start time of the scheduled "Hours of Work."
 - b. Weekends: Twenty-four hours before the planned start time of the scheduled "Hours of Work."
6. No payment will be made in those cases where:
 - a. A delay at the start of the "Hours of Work" is less than 1 hour and the Authority grants access but the Design-Builder elects to cancel work, except that payment for delay cost will be made in accordance with Paragraph B.4 above if the scheduled "Hours of Work" period is 3 hours or less.
 - b. A delay at the start of the "Hours of Work" is less than 1 hour and the Authority grants access and the Design-Builder proceeds working and then elects to cease working and leaves the worksite prior to the scheduled end of the "Hours of Work".
7. Prior to the completion of each shift, the Design-Builder and the Contracting Officer Representative or designee shall sign a Period of Delay form, which shall document the work start and completion times, the duration of the delay, the reason for the delay, the reason for the Design-Builder leaving the Site prior to the scheduled end of the "Hours of Work" period, and the names of the crew members present, including foremen, but excluding salaried supervision. The Design-Builder shall not be entitled to compensation for equipment, overhead, profit or extended overhead costs under this Section; however, this Section does not prohibit the Design-Builder from seeking an equitable adjustment for equipment costs under other sections of the Contract and access delays may provide a basis to grant a non-compensable extension to the Contract Performance Time. Certified payrolls shall establish the hourly rates of the crewmembers. All requests for payment for delay costs shall be submitted to the Contracting Officer Representative with the next progress payment or within 30 Days, whichever is longer. The Design-Builder waives any right to delay costs where the delays are not documented prior to the completion of the shift and the request for payment is not submitted to the Contracting Officer Representative with the next progress payment or within 30 Days, whichever is longer. Compensation for Access delays are not reimbursable costs under the FTA grant that funds this Contract. Thus, they are not chargeable to the contract.
8. If the Design-Builder is not ready to start work at the start of the "Hours of Work" or does not return the work area to the Authority on time at the end of the "Hours of Work," the Design-Builder shall compensate the Authority for the Authority staff and other Authority direct costs for supporting the non-revenue or Revenue Service Adjustment event.

<u>Notification of Cancellation</u>	<u>Occurrence</u>	<u>Requirement</u>	<u>Terms of Payment</u>
Week Night	COR cancels full shift	The COR notifies Design-Builder 5 hours or more before the planned start	No delay payment due
Week Night	COR cancels full shift	The COR notifies Design-Builder less than 5 hours before the planned start	Pay 4 hours ¹
Weekend Single Track/Shutdown	COR cancels full shift or the full weekend of work	The COR notifies Design-Builder 24 hours or more before the planned start	No delay payment due
Weekend Single Track/Shutdown	COR cancels full shift or the full weekend of work	The COR notifies Design-Builder less than 24 hours before the planned start	Pay 4 hours ¹

¹No payment will be made if the Design-Builder is able to reassign the work crew to other work.

<u>Hours of Work</u>	<u>Actual Hours Worked</u>	<u>Design-Builder</u>	<u>Terms of Payment</u>
Weeknight Early Out Hours of Work: 2200 to 0400 (Weeknight Nonrevenue Similar)	Delayed Start 2215 to 0400 Delay less than 30 minutes	Design-Builder is on Site ready to work Works until the end of the Hours of Work	No delay payment due. (Same for a mid shift or end delay less than 30 minutes)
Weeknight Early Out Hours of Work: 2200 to 0400 (Weeknight Nonrevenue Similar)	Delayed Start 2235 to 0400 Delay 35 minutes	Design-Builder is on Site ready to work Works until the end of the Hours of Work	Pay 30 minutes delay (Same for a mid shift or end delay)
Weeknight Early Out Hours of Work: 2200 to 0400 (Weeknight Nonrevenue Similar)	Delayed Start 2235 to 0430 Delay 35 minutes	Design-Builder is on Site ready to work Able to work beyond the end of the Hours of Work	Pay 30 minutes delay (Same for a mid shift delay)
Hours of Work	Actual Hours Worked	Design-Builder	Terms of Payment
Weeknight Early Out Hours of Work: 2200 to 0400 (Weeknight Nonrevenue Similar)	Start Delayed 35 minutes to 2235	Design-Builder is on Site ready to work Design-Builder elects not to go to work	Under 1 hour delay; no Payment due
Weeknight Non-Revenue Hours of Work: 0100 to 0400 (Weeknight Nonrevenue Similar)	Start Delayed 35 minutes to 0135	Design-Builder is on Site ready to work Design-Builder elects not to go to work since remaining time does not allow completion of work element	Pay 2 hours and 30 minutes delay

Weeknight Early Out Hours of Work: 2200 to 0400 (Weeknight Nonrevenue Similar)	Start Delayed 65 minutes to 2305	Design-Builder is on Site ready to work Design-Builder elects not to go to work	Over 1 hour delay; pay 5 hours and 30 minutes delay
Weeknight Early Out Hours of Work: 2200 to 0400 (Weeknight Nonrevenue Similar)	Start delay / End delay 2225 to 0345 Start delay 25 minutes End delay 15 minutes Total delay 40 minutes	Design-Builder is on Site ready to work Works during time permitted	Pay 30 minutes delay
Weeknight Early Out Hours of Work: 2200 to 0400 (Weeknight Nonrevenue Similar)	Delay during "Hours of Work" 2330 to 0035 Start delay 0 minutes End delay 0 minutes Total delay 65 minutes	Design-Builder is on Site ready to work Works during time permitted	Over 1 hour delay; pay 60 minutes delay
Weekend Hours of Work: Fri 2200 to Mon 0400	Delay during "Hours of Work" Sat 0200 to Mon 0300 Start delay 4.25 hours End delay 1.25 hours Total delay 5.5 hours	Design-Builder is on Site ready to work Works during time permitted	Pay 5 hours and 30 minutes delay
Weeknight Early Out Hours of Work: 2200 to 0400	Start delayed to 0200 hours then COR cancels access	Design-Builder is on site ready to work	Pay 5 hours and 30 minutes delay
Weeknight Nonrevenue Hours of Work: 0100 to 0400	Start delayed to 0245, then COR cancels access	Design-Builder is on Site ready to work	Pay 2 hours and 30 minutes delay
Weekend Hours of Work: Friday 2200 to Monday 0400	Delay Friday 2200 to Saturday 0630. First shift cancelled at 0230. Work begins at 0630.	Design-Builder 1st shift is on Site ready to work until shift cancelled at 0230	Pay 8 hours delay

00844 METHOD OF PAYMENT

Modify Section 00744, METHOD OF PAYMENT, to add Paragraphs M and N:

- M. As a condition of Final Payment, in addition to the retainage specified in this Section, \$15,000 will be withheld until approved As-built Project Drawings are delivered to the Contracting Officer Representative and is determined to be complete and accurate.
- N. As a condition of Final Payment, in addition to the retainage specified in this Section, \$15,000 will be withheld until Operation and Maintenance Manual, Warranty is complete and accepted.

00865 DISADVANTAGED BUSINESS ENTERPRISE

Modify Section 00765, DISADVANTAGED BUSINESS ENTERPRISE, to delete Paragraph B and substitute the following:

- B. The goal of DBE participation established for this Contract is **14** percent of the Contract Price.

00867 LABOR PROVISIONS

Modify Section 00767, LABOR PROVISIONS, to add Appendix D, Wage Determination Rates.

00877 INDEMNIFICATION AND INSURANCE REQUIREMENTS

Modify Section 00777, INDEMNIFICATION AND INSURANCE REQUIREMENTS, to add:

**EXHIBIT A
RE:**

I. MINIMUM REQUIRED INSURANCE: MINIMUM LIMITS OF INSURANCE

INSURANCE TYPE	LIMITS	BASIS
Workers' Compensation	Statutory	
Employers' Liability	\$500,000	Each Accident
	\$500,000	Disease Policy Limit
	\$500,000	Disease Each Employee
Commercial General Liability		
	\$2,000,000	Each Occurrence Limit
	\$4,000,000	General Aggregate Limit
	\$2,000,000	Products-Completed Operations Limit
Business Auto Liability		
	\$2,000,000	Combined Single Limit
Railroad Protective Liability Insurance (RRP)		
	\$2,000,000	Each Occurrence Limit
	\$6,000,000	Aggregate Limit

II. MINIMUM REQUIRED INSURANCE: MINIMUM INSURANCE COVERAGES AND COVERAGE PROVISIONS

- 1) Contractor is required to maintain the prescribed insurance outlined in this Exhibit A during the entire period of performance under this contract. Notice to Proceed (NTP) will not be issued until all required insurance has been accepted by WMATA.
- 2) The prescribed insurance coverage and limits of insurance are minimum required coverages and limits. Contractor is encouraged, at its sole cost and expense, to purchase any additional insurance coverages and or limits of insurance that Contractor deems prudent and necessary to manage risk in the completion of this contract.
- 3) Upon written request from WMATA, contractor shall provide copies of any requested insurance policies, including applicable endorsements, within five (5) business days of such request.
- 4) Receipt, review or communications regarding certificates of insurance (COI), insurance policies, endorsements, or other materials utilized to document compliance with these Minimum Insurance Requirements does not constitute acceptance by WMATA.
- 5) Insurance companies must be acceptable to WMATA and must have an A. M. Best rating of at least A- VII.
- 6) Unless otherwise noted, "Claims Made" insurance policies are not acceptable.
- 7) Any insurance policy utilizing a Self-Insured Retention (SIR) requires written approval from WMATA.
- 8) Contractor must incorporate these Minimum Insurance Requirements into contract requirements of all subcontractors of every tier; however, Contractor, at its sole peril, may amend these Minimum Insurance Requirements for its subcontractors, but doing so does not relieve Contractor from its respective liability to WMATA.
- 9) Compliance with these Minimum Insurance Requirements does not relieve Contractor from Contractor's respective liability to WMATA, even if that liability exceeds the Minimum Insurance Requirements.

III. COVERAGE-SPECIFIC REQUIREMENTS

Commercial General Liability

- 1) Commercial General Liability (CGL) shall be written on ISO Occurrence Form CG0001 (12/04) or its equivalent. Equivalency determination shall be made in WMATA's sole and unreviewable discretion.
- 2) Required minimum limits of coverage may be achieved through a combination of the aforementioned CGL coverage form and an Umbrella/Excess Liability coverage form(s), provided that the Umbrella/Excess Liability coverage form(s) provides the same or broader coverage than the prescribed CGL coverage form.
- 3) Policy shall be endorsed with Additional Insured Endorsement(s) in compliance with the "Additional Insured" Section below.

- 4) Policy shall be endorsed with a Waiver of Subrogation Endorsement(s) in compliance with the "Waiver of Subrogation" section below.
- 5) The definition of "Insured Contract" shall be modified to provide coverage for contractual liability for any contracts involving construction or demolition operations that are within 50 feet of a railroad, and sidetrack agreements. Evidence of this modification shall be provided to WMATA along with all other required documents.
- 6) Defense Costs (Allocated Loss Adjustment Expense) must be included and outside of the policy limits for all primary liability and Umbrella/Excess Liability policies.

Business Auto Liability

- 1) Business Auto Liability insurance shall be written on ISO Business Auto Coverage Form CA 00 01 03 06, or its equivalent. Equivalency determination shall be made in WMATA's sole and unreviewable discretion.
- 2) Policy shall be endorsed with Additional Insured Endorsement(s) in compliance with the "Additional Insured" Section below.
- 3) Policy shall be endorsed with a Waiver of Subrogation Endorsement(s) in compliance with the "Waiver of Subrogation" section below.
- 4) Business Auto Liability minimum Combined Single Limit requirements may be obtained through the combination of a primary business auto liability policy and an Umbrella/Excess Liability policy provided that the Umbrella/Excess Liability policy complies with items 2 and 3 above.
- 5) MCS-90 Endorsement for work involving the transportation or disposal of any hazardous material or waste off of the jobsite. If the MCS-90 Endorsement is required, minimum auto liability limits of \$5,000,000 per occurrence are also required as is form CA 99 48, broadened coverage for pollution liability.
- 6) Non-Owned Disposal Site (NODS) Endorsement providing coverage for the Contractor's legal liability arising out of pollution conditions at the designated non-owned disposal site.

Railroad Protective Liability

Railroad Protective Liability Insurance is required for any work within 50 feet of WMATA railroad tracks or work within WMATA rail stations.

- 1) The Railroad Protective Liability (RRP) policy must be on a policy form and with an insurance company that is acceptable to WMATA.
- 2) WMATA shall be the Named Insured.
- 3) The original RRP policy shall be sent to WMATA at following address:

Washington Metropolitan Area Transit Authority
Office of Insurance, Room 8F
600 Fifth Street, NW
Washington, DC 20001

WMATA Blanket RRP Program Option

WMATA may offer to waive the requirement for the Contractor to procure RRP if 1) the work qualifies for coverage under WMATA's blanket RRP program, and 2) the Contractor prepays the RRP waiver fee which shall be determined by the rate schedule promulgated by the insurer in effect as of the effective date of this Contract. Contractor shall be advised of, and pay the applicable waiver fee.

IV. OTHER

Additional Insured

- 1) Contractor and subcontractors of every tier are required to add WMATA and WMATA Board of Directors as additional insured on all required insurance including excess liability policies, with the exception of Workers' Compensation and Professional Liability.
- 2) Coverage provided to Additional Insured shall be primary and non-contributory to any other insurance available to the Additional Insured, including coverage afforded to the WMATA as an additional insured by subcontractors, and from other third parties.
- 3) Coverage provided to any Additional Insured shall be for claims arising out of both ongoing operations and products and completed operations hazard.
- 4) Coverage available to any Additional Insured under the products and completed operations hazard can only be limited to the applicable statute of repose in the jurisdiction(s) where the contract scope of work takes place.
- 5) Commercial General Liability and Umbrella/Excess Liability forms must provide defense coverage for additional insureds. The Additional Insured Endorsement shall provide coverage for Ongoing as well as Products and Completed Operations with no limitation on when claims can be made.

Waiver of Subrogation

Contractor and subcontractors of every tier are required to have all insurance policies except Professional Liability endorsed to waive the respective insurance company's rights of recovery against WMATA, and the WMATA Board of Directors.

- 1) Waiver shall be provided on an endorsement that is acceptable to WMATA.

Certificate of Insurance (COI)

Contractor shall provide WMATA an ACORD Certificate of Insurance (COI) and copies of all required endorsements as evidence that the insurance requirements of this Section have been satisfied. Certificates of Insurance shall be sent to WMATA.

The Certificate Holder box should read:

Washington Metropolitan Area Transit Authority
Office of Insurance, Room 8F
600 Fifth Street, NW
Washington, DC 20001

Additionally:

- 1) Proposed material modifications to required insurance, including notice of cancellation, must be received by WMATA in writing at least 30 days prior to the effective date of such change or cancellation.
- 2) WMATA's receipt of copies of any COI, policy endorsements or policies does not relieve Contractor of the obligation to remain in compliance with the requirements of this Section at all times. Contractor's failure to comply with these insurance requirements shall constitute a material breach of this Contract.
- 3) Receipt of the COI does not constitute acceptance of the insurance outlined above.

00878 LIQUIDATED DAMAGES

Modify Section 00778, LIQUIDATED DAMAGES, to delete Paragraph A and substitute the following Paragraph and subparagraphs:

- A. The Design-Builder understands that if it fails to complete portions of or all of the Work as described in Supplementary Conditions Section 00824, PERIOD OF PERFORMANCE AND PROJECT SCHEDULE, the Authority will suffer damages, which have been estimated and are as specified below:
 1. TIME IS OF THE ESSEN
 2. LIQUIDATED DAMAGES: The Contractor is hereby advised that liquidated damages in the amount of **ONE THOUSAND DOLLARS (\$1,000) PER CALENDAR DAY** will be assessed for unauthorized extensions beyond the contract time of completion.
 3. See Section 00724, PERIOD OF PERFORMANCE AND PROJECT SCHEDULE, for Project Milestone(s).

00889 PARTNERING – NOT USED

Modify Section 00700, GENERAL CONDITIONS, to add the following Section:

00789 PARTNERING – NOT APPLICABLE

- A. Authority Partnering Policy: The Authority intends to encourage development of a cohesive partnership with the Design-Builder, the Designer, principal Subcontractors, and Suppliers for effective and efficient completion of this Contract. This partnership shall strive to draw on the strengths of each organization in an effort to achieve a quality project done right the first time, and completed on-schedule, within the budget. This partnership shall be bilateral in make-up and participation of the parties is required. The partnering workshop(s) shall be conducted by a professional facilitator at an off-site location convenient to the Project within 45 Days of Contract award. Follow-up workshops shall be conducted on a quarterly basis during the course of the Contract as agreed to between the Design-Builder and the Authority.
 1. The establishment of a partnership charter on this Project will not change the legal relationship of the parties to the Contract or relieve either party from any terms of the Contract.
 2. All costs associated with initiating and maintaining this partnership, outside of participant's salaries and travel and travel-related costs, will be agreed to by both parties and will be shared. The Authority will reimburse the Design-Builder 50 percent of the incurred cost up to the allowance specified on the Notes to Proposers in Section 00434, PRICE PROPOSAL SCHEDULE. If the agreed cost exceeds the allowance specified on the Notes to Proposers in

Section 00434, PRICE PROPOSAL SCHEDULE, the Authority will reimburse the Design-Builder 100 percent of the cost over that amount.

3. Partnership Goals:

- a. For the Design-Builder and the Authority to work together proactively through a cohesive partnership with the objective to build a quality product on time, at a satisfactory cost to the Authority, with a satisfactory profit to the Design-Builder (fostering a win-win relationship);
- b. To establish and maintain an atmosphere of trust with timely, positive, and ongoing communications;
- c. To reach a mutual understanding on how the construction project will be managed;
- d. To resolve disputes at the lowest working level possible; and,
- e. To avoid confrontation and disputes among the parties.

B. Measurement and Payment:

1. Allowance for Partnering Costs:

- a. An allowance is identified in Section 00434, PRICE PROPOSAL SCHEDULE, from Notes to Proposers of the Request for Proposals, to provide funds for the Design Builder's share of costs associated with partnering sessions.
- b. The Design-Builder will be reimbursed for the Design Builder's share of hiring a Professional Facilitator (and for conducting the workshops) on an invoice basis from the allowance in accordance with the Contract payment provisions.

00890 LIVING WAGE

Modify Section 00700, GENERAL CONDITIONS, to add the following Section:

00790 LIVING WAGE

- A. This Contract is subject to the Authority's Living Wage Policy and implementing regulations. The Living Wage provision is required in all contracts for services (including construction) awarded in an amount that exceeds \$150,000 in a 12-month period.
1. The Authority Living Wage Rate is \$13.85 per hour, and may be reduced by the Design-Builder's per-employee cost for health insurance.
 2. The Design-Builder shall:
 - a. Pay, at a minimum, the Authority Living Wage Rate, effective during the time the Work is performed, to all employees who perform Work under this Contract, except as otherwise provided in paragraph (4) below;
 - b. Include the Living Wage clause in all Subcontracts that exceed \$150,000 in a 12-month period awarded under this Contract;
 - c. Maintain payroll records, in accordance with the retention and examination of records requirements in the General Conditions, and include or cause to be included, the substance of this Section, including this Paragraph c, in its Subcontracts covered by the Living Wage requirement at all tiers; and

- d. Submit records with each monthly invoice supporting payment of the Living Wage Rate.
3. The Design-Builder shall not split or subdivide a Contract, pay an employee through a third party, or treat an employee as a Subcontractor or independent contractor to avoid compliance with the Living Wage provisions.
4. Exemptions to the Living Wage provisions include:
 - a. Contracts and agreements with higher negotiated wage rates;
 - b. Contracts that are subject to higher wage rates required by federal law or collective bargaining agreements (e.g., Davis Bacon);
 - c. Contracts or agreements for regulated utilities;
 - d. Emergency services to prevent or respond to a disaster or imminent threat to public health and safety; and
 - e. Design-Builders who employ fewer than ten employees.
5. The Authority may adjust the Living Wage rate effective in January of each year. The adjustment will reflect the average Living Wage Rate among Metro's Compact Jurisdictions with Living Wage provisions. If after Contract award the Living Wage Rate increases, the Design-Builder is entitled to an equitable adjustment to the rate in the amount of the increase for employees who are affected by the escalated wage.
6. Failure to comply with the Authority's Living Wage provisions shall result in the Authority's right to exercise available Contract remedies, including Contract termination or debarment from future contracts.

00891 NOTIFICATION OF FEDERAL PARTICIPATION

Modify Section 00700, GENERAL CONDITIONS, to add the following Section:

00791 NOTIFICATION OF FEDERAL PARTICIPATION

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

00892 DAVIS-BACON AND COPELAND ANTI-KICKBACK ACTS

Modify Section 00700, GENERAL CONDITIONS, to add the following Section:

00892 DAVIS-BACON AND COPELAND ANTI-KICKBACK ACTS

A. This Contract is subject to the Davis-Bacon and Related Acts. All rulings and interpretations of the Davis-Bacon and Related Acts contained in 29 CFR parts 1, 3, and 5 are herein incorporated by reference in this Contract. The Davis-Bacon Act requires Design-Builders and subcontractors under construction contracts and subcontracts greater than \$2,000 to submit weekly certified payrolls reports to the Contracting Officer Representative.

00893 WHISTLEBLOWER PROTECTIONS

Modify Section 00700, GENERAL CONDITIONS, to add the following Section:

00793 WHISTLEBLOWER PROTECTIONS

- A. The Design-Builder and its Subcontractors shall encourage their employees and independent contractors to report information—without fear of actual or threatened discrimination, retaliation or reprisal—that they in good faith reasonably believe is evidence of gross mismanagement; gross misuse or waste of public resources or funds; fraud; violation of law; abuse of authority in connection with the conduct of Metro operations or contracts; or a substantial and specific danger to health, security or safety. The Design-Builder and its Subcontractors shall notify their employees that they may make reports under this paragraph to:
1. WMATA's Office of Inspector General (OIG), in person, in writing, through the OIG Hotline (202-962-2400) or email hotline.oig@wmata.com or by any other reasonable means;
 2. WMATA's Metro Transit Policy Department (MTPD), in person, by telephone (202-962-2121) or by any other reasonable means, or to the OIG, if the information constitutes a potential violation of criminal law;
 3. WMATA's Chief Safety Officer, in person, in writing, through the SAFE Hotline (202-249-7233) or email safety@wmata.com, or by any other reasonable means; or
 4. Any other official, office, or agency within WMATA or outside WMATA that the employee or independent contractor reasonably believes has the authority to act on the matter.
- B. The Design-Builder, its employees, independent contractors, and Subcontractors shall cooperate with any inquiry or review by an authorized official of WMATA, or by the federal government or any other governmental entity with jurisdiction over WMATA, regarding a matter that would constitute a report under paragraph (A) or a violation of this or any whistleblower provision of this Contract, and with any enforcement or judicial proceeding arising from such inquiry or review.
- C. The Design-Builder and its Subcontractors shall not interfere with or deny the right of any employee or independent contractor of either the Design-Builder or any of its Subcontractors to make a report under paragraph (A). The Design-Builder and its Subcontractors shall not recommend, take, or threaten to take any action having a negative or adverse impact on any employee or independent contractor of either the Design-Builder or any of its Subcontractors because he or she:
1. made or is perceived to have made a report under paragraph (A);
 2. sought a remedy under applicable law after making a report under paragraph (A);
 3. participated in or cooperated with an inquiry or review by an authorized official of Metro, or by the federal government or any other governmental entity with jurisdiction over Metro, regarding a matter that would constitute a report under paragraph (A) or a violation of this or any whistleblower provision of this Contract, or with an enforcement or judicial proceeding arising from such inquiry or review;
 4. refused to obey an order that would violate law; or
 5. refused to work or authorize work when a hazardous safety or security condition presents an imminent danger of death or serious injury, there was no reasonable alternative to refusal, there was not sufficient time to eliminate the danger in absence of refusal and the individual, where possible, notified the Design-Builder or Subcontractor of the condition and of the intent not to perform or authorize work.
- D. The Design-Builder and its Subcontractors shall comply with the National Transit Systems Security Act (NTSSA), which prohibits discharging, demoting, suspending, reprimanding, or in any

other way discriminating against an employee as a reprisal for the employee 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 Design-Builder 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 Design-Builder 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 public transportation 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.
- E. The Design-Builder shall notify the Authority of any instance, related to this Contract, of a report under paragraph (A)(1) or refusal under paragraphs (A)(2), (3) or (5).
- F. The enforcement, filing and investigation of complaints, and remedies under this Section shall be governed by the NTSSA, applicable federal regulations and federal law.
- G. This Section shall be interpreted in accordance with the NTSSA. If any provision is found to be in conflict with the NTSSA, the NTSSA shall govern.
- H. The Design-Builder shall include, or shall cause to be included, the substance of this Section, including this paragraph (H), in its Subcontracts at all tiers.

00894 COMMUNITY OUTREACH

Modify Section 00700, GENERAL CONDITIONS, to add the following Section:

00794 COMMUNITY OUTREACH

- A. The Authority will establish a program of public contact for conducting effective relationships with communities and businesses in proximity to the construction areas. Do not initiate contact with the public without Contracting Officer Representative approval.

- B. The Authority will contact those residents and business owners who might be affected by the construction and identify and give contact information for the Authority's representative on the worksite with responsibility for community outreach.
- C. Design-Builder shall designate an on-Site, community outreach liaison with 24-hour, on-call availability for the duration of the Contract. Community outreach liaison duties include:
 - 1. Staying informed of problems caused by the construction.
 - 2. Assisting the Authority in notifying adjacent owners of upcoming work.
 - 3. Preparing and posting advance notice signs as necessary to inform public and surrounding businesses of upcoming construction activities.
 - 4. Assisting the Authority in responding to complaints.
 - 5. Attending public outreach meetings, as necessary. Meetings can include regular construction information meetings, quarterly open houses, media inquiries, tours, ground breaking, and other milestone events.
 - 6. Accommodating Site tours. Tours shall be arranged through the Contracting Officer Representative.

00895 AVAILABILITY OF FUNDS FOR THE FISCAL YEAR

Funds are not presently available for performance under this Contract beyond the fiscal year, which ends **June 30, 2018**. The Authority's obligation for performance of this Contract beyond that date is contingent upon the availability of funds from which payment for Contract purposes can be made. No legal liability on the part of the Authority for any payment may arise for performance under this Contract until funds are made available to the Contracting Officer for performance and until the Contractor receives notice of availability, to be confirmed in writing, by the Contracting Officer. Any option exercised by the Authority, will be performed in whole or in part in a subsequent fiscal year, is subject to availability of funds in the subsequent fiscal year and will be governed by the terms of this Section.

END OF SECTION

APPENDIX A



POLICY/INSTRUCTION: 7.2.3/2	<i>Criminal Background Checks</i>
SUPERSEDES: 7.2.3/1	APPLICABLE TO: ALL EMPLOYEES EXCEPT SWORN PERSONNEL

Metro reserves the right to eliminate, change, or modify this policy at any time. Additionally, the language used in this policy should not be construed as creating a contract of employment between Metro and any of its employees or otherwise altering an employee’s at-will employment relationship with Metro.

1.00 PURPOSE

This policy/instruction (P/I) establishes the process and procedures by which candidates and employees are screened for criminal history.

- 1.01 Washington Metropolitan Area Transit Authority (Metro) conducts Background Checks in order to promote a safe and secure environment for all Metro employees, Metro customers, and the general public.
- 1.02 Further, Metro conducts Background Checks in a consistent manner; expects candidates and employees to provide truthful information about their criminal records; and uses such information to exclude individuals from employment only to the extent that such exclusion is job-related and consistent with business necessity.
- 1.03 Consistent with Metro’s commitment to Equal Employment Opportunity (EEO) and Title VII of the Civil Rights Act, as amended, it is Metro’s policy to treat all candidates for employment and employees in a fair and equitable manner.
- 1.04 Any third party authorized to conduct Background Checks on behalf of Metro shall do so in accordance with applicable federal law, and shall review candidates and employees according to job-related information, documenting the job requirements and work setting characteristics associated with the job category for which they are being considered.

2.00 SCOPE

- 2.01 This P/I applies to all candidates and employees, except for sworn positions and sworn employees of the Metro Transit Police Department (MTPD) as specified below.
- 2.02 Candidates for sworn positions and sworn employees of the MTPD are subject to MTPD pre-employment background screening requirements specific to law enforcement standards.
- 2.03 In accordance with Section 5.01 of this P/I, all external candidates covered by this P/I must undergo a Background Check before receiving a final offer of employment.
- 2.04 Current and returning employees may be subject to a Background Check in accordance with Section 5.02 of this P/I.

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2.05 This P/I and its Appendices are applicable exclusively to criminal Background Checks and are not designed to address other employment related checks/screenings required under the Recruitment and Hiring policy.

3.00 DEFINITIONS

3.01 Background Check - the process of obtaining, verifying, and evaluating an individual's Criminal History Information to determine eligibility for employment, promotion, or transfer to another position based on the duties, work requirements, and work settings of the position.

3.02 Screening Group - the Background Check screen(s) applicable to a particular position with Metro based upon the duties, work requirements, and work settings that constitute the defining job-related characteristics of the position.

3.03 Criminal Conviction - a criminal prosecution that results in a judgment of guilt, regardless of whether the judgment is the result of:

- (a) entry of a plea of guilty, nolo contendere, no contest or the equivalent; or
- (b) a verdict or finding of guilty in a court of law or military tribunal.

For purposes of this policy, probation before judgment (PBJ) is not a conviction.

3.04 Criminal History Information - information contained in federal, state, and local records pertaining to an arrest, indictment, criminal information, misdemeanor complaint, or conviction of a crime.

3.05 Investigative Background Check - a Background Check conducted in accordance with Section 5.02(f) of this P/I.

3.06 Contingent Offer of Employment – an offer of employment extended after interviews and all other screenings have been successfully completed, except the Background Check and, if applicable, medical exam.

3.07 10-Year Disqualifying or 10-Year Disqualification – disqualifying offenses where an individual was convicted during the 10 years preceding the Background Check, for which the individual may not request an individualized assessment.

3.08 Presumptively Disqualifying or Presumptive Disqualification - offenses where an individual may request an individualized assessment in accordance with Appendix C to this P/I.

4.00 RESPONSIBILITY

4.01 Chief Human Resources Officer (CHRO), or designee, has overall responsibility for the administration, interpretation, application, process and maintenance of this P/I, including providing all needed training. Additionally, the CHRO is responsible for maintaining all

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Background Check records in a manner that ensures confidentiality and integrity of information. The CHRO is the sole officer authorized to initiate an Investigative Background Report.

- 4.02 Department Heads/Directors are responsible for advising hiring officials, managers, and supervisors of the Background Check requirements and processes, and for cooperating with Human Resources in the application of this P/I.
- 4.03 Managers/Supervisors are responsible for understanding and communicating the requirements of this P/I to their employees.
- 4.04 Employees and Candidates are responsible for being truthful, and cooperating fully and in good faith with the Background Check requirements and process.

5.00 POLICIES AND PROCEDURES

5.01 Background Checks for External Candidates

- (a) It is WMATA's policy not to consider or request Criminal History Information until after a Contingent Offer of Employment has been made. Except as provided in this P/I, no Metro employee may inquire about an external candidate's Criminal Information prior to the candidate receiving a Contingent Offer of Employment.
- (b) HR will notify external candidates in writing that a Background Check will be conducted and obtain the candidate's written consent to perform it. HR must provide the written notification and obtain written consent on an approved authorization form in advance of the Background Check.
- (c) HR will consider an external candidate's failure to authorize the required Background Check as a voluntary withdrawal from employment consideration.
- (d) If an external candidate voluntarily provides information about their Criminal History Information before a Contingent Offer of Employment has been made, the candidate should be advised that their Criminal History Information may not automatically disqualify them from consideration for employment with Metro. Any external candidate questions about Metro's background screenings should be referred to the Manager, Employee Relations.
- (e) In addition to an authorization form, HR will provide a Criminal Disclosure Form to any external candidate who has received a Contingent Offer of Employment. The Criminal Disclosure Form directs the candidate to provide HR with information about that candidate's criminal history, including pending charges.
- (f) The external candidate's Criminal Disclosure Form will be evaluated by HR to determine eligibility for employment in accordance with Appendices A & B to this policy.

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- (g) Any significant discrepancy or misrepresentation found as a result of differences between the Background Check and the information received that cannot be successfully resolved will serve as a basis to disqualify the candidate from employment eligibility.

5.02 Background Checks for Current Employees

- (a) WMATA will conduct Background Checks on current employees consistent with the requirements under the Fair Credit Reporting Act (FCRA). Where required by the FCRA, HR will obtain the employee’s written consent on an approved authorization form before conducting a Background Check. For all new hires after the effective date of this P/I, this written consent will be obtained at the time of hire. New hires will be required to complete a one-time authorization allowing WMATA to conduct future Background Checks as outlined below.
- (b) **Change in Position** - Background Checks may be conducted for employees who are being transferred, promoted or demoted into a position with heightened Background Check requirements based upon job-related work requirements and work settings. Screening will be based on the criteria and timelines in Appendix B.
- (c) **Return to Duty Checks** - Employees who have been away from work for 90 calendar days or more will be subject to a return-to-duty Background Check for the period of time the employee is absent from the job. Employees subject to the 90-day return-to-duty Background Check will be allowed to return to work pending the results of the check. A returning employee’s Criminal History will not be considered unless:
 - (1) The Background Check reveals that the employee has been arrested, charged, indicted or convicted during the period of absence prior to returning to work;
 - (2) The Background Check reveals Criminal History Information that was not revealed by a previous Background Check or disclosed by the employee; or
 - (3) The CHRO determines that there are exceptional circumstances justifying consideration of the employee’s Criminal History Information and issues a written determination detailing those circumstances.
- (d) **Random Checks** – Beginning on or about July 1, 2018, all employees will be subject to random Background Checks regardless of position or work status. An employee’s Criminal History Information will not be considered unless:
 - (1) The Background Check reveals that the employee has been arrested, charged, indicted or convicted, during the 365 day period prior to the date that the Background Check is conducted;
 - (2) The Background Check reveals Criminal History Information that was not revealed by a previous Background Check or disclosed by the employee; or

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- (3) The CHRO determines that there are exceptional circumstances justifying consideration of the employee's Criminal History Information and issues a written determination detailing those circumstances.
- (e) **Reinstated Employee Checks** - Background Checks will be conducted for employees who are reinstated following a period of absence. A reinstated employee's Criminal History Information will not be considered unless:
 - (1) The Background Check reveals that the employee has been arrested, charged, indicted or convicted, during the period of absence prior to reinstatement;
 - (2) The Background Check reveals Criminal History Information that was not revealed by a previous Background Check or disclosed by the employee; or
 - (3) The CHRO determines that there are exceptional circumstances justifying consideration of the employee's Criminal History Information and issues a written determination detailing those circumstances.
- (f) **Investigative Background Checks** may be conducted in connection with:
 - (1) an investigation into suspected misconduct relating to employment;
 - (2) compliance with Federal laws and regulations;
 - (3) compliance with pre-existing written Metro policies or procedures.
- (g) Consistent with the Uniformed Services Employment and Reemployment Rights Act (USERRA), HR will not delay the prompt reemployment of employees returning from military service while awaiting the results of a Background Check.

5.03 Information Excluded from Background Checks

- (a) In conducting a Background Check, HR will not request or consider Criminal History Information relating to arrests, indictments, or complaints that have been resolved without a conviction.
- (b) HR will not consider Criminal History Information relating to:
 - (1) a conviction that has been judicially dismissed, expunged, or ordered sealed; or
 - (2) juvenile case records, as that term is defined in D.C. Code § 16-2331.

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5.04 Consideration of Arrests, Warrants, and Pending Charges

- (a) If a Background Check reveals that criminal charges are pending against an external candidate, HR will apply the standards in Appendix A to determine whether a final conviction on these charges would be 10-Year or Presumptively Disqualifying.
 - (1) If a conviction would not be 10-Year or Presumptively Disqualifying, Metro will not consider the pending charges further in evaluating the applicant's suitability for employment. The applicant will continue through the hiring process.
 - (2) If a conviction would be 10-Year or Presumptively Disqualifying, Metro will send the applicant a preliminary notice of disqualification and place the application on hold for a period of 90 calendar days, but will not suspend the hiring process. If the applicant provides Metro with notice that the charges have been resolved within the 90 calendar day period, Metro will further consider the applicant for employment in accordance with this P/I, if the position is still open and/or available. Applicants with pending charges not resolved in 90 calendar days will be removed from the hiring process and must re-apply for any future employment opportunity.
- (b) Employees who are arrested, charged with, or convicted of a crime while employed by Metro are responsible for notifying their immediate supervisors or managers in accordance with Metro P/I 7.8.6, *Disclosure and Disposition of Arrests and Convictions*. Employees who fail to do so will be subject to disciplinary action, up to and including termination.
- (c) If a Background Check reveals that a warrant has been issued for the arrest of an external candidate or employee, Metro will notify the individual of this information, provide the individual with a copy of the Background Check report, and inform the individual that the warrant must be executed, revoked, or otherwise resolved within 10 business days. This period may be extended in writing at the discretion of the Chief Human Resources Officer or designee. Failure to satisfy this requirement within the time period proscribed will result in revocation of the candidate's Contingent Offer of Employment or termination of the employee's employment, and will disqualify the individual from future employment with Metro until such time as the warrant is resolved.

5.05 Confidentiality

- (a) Metro takes the protection of applicant and employee information seriously and will take reasonable measures to protect unauthorized access to applicant or employee information collected pursuant to this policy. To the extent permitted by law, Metro will restrict access to such information to Metro employees who need to know as a function of their positions within Metro.
- (b) All information obtained as a result of a Background Check will be used solely for employment purposes.

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5.06 Adjudication of Adverse Information

- (a) If a Background Check reveals adverse Criminal History Information, this information will be evaluated in accordance with Appendices A and B to this P/I. If it is determined that this information would make the applicant or employee disqualified for employment, the applicant or employee will be sent a pre-adverse information notification.
- (b) Before making any final determination based on adverse information discovered through a Background Check, the individual will:
 - (1) have an opportunity to review and dispute the accuracy of the Criminal History Information after receiving the pre-adverse information notification; and
 - (2) for Presumptive Disqualifications only, have an opportunity to request an individualized assessment in accordance with Appendix C to this P/I. Individualized assessments do not apply to 10-Year Disqualification criminal offenses.
- (c) Individualized assessments conducted pursuant to Section 5.06(b) of this P/I are adjudicated on a case-by-case basis in accordance with Appendix C. Accordingly, as a general rule, an adverse adjudication pursuant to this P/I will not necessarily preclude the applicant or employee from future employment with Metro.

6.00 ENFORCEMENT

Failure to comply with the requirements of this P/I may result in discipline, up to and including involuntary separation.

7.00 EXCEPTIONS

- 7.01 Sworn employees of the Metro Transit Police Department (MTPD).
- 7.02 Contractors and/or consultants performing work on behalf of Metro.

8.00 RELATED POLICIES, REGULATIONS & RESOLUTIONS

- 8.01 P/I 7.1.1 – Equal Employment Opportunity Including Affirmative Action and Alternative Dispute Resolution
- 8.02 P/I 7.2.2 – Recruitment and Hiring
- 8.03 P/I 7.8.6/1 – Disclosure and Disposition of Arrests and Convictions
- 8.04 D.C. Code § 16-2331 Juvenile Case Records; Confidentiality; Inspection and Disclosure
- 8.05 USERRA – Uniformed Services Employment and Reemployment Rights Act

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9.00 LIST OF APPENDICES, ATTACHMENTS OR FORMS

- 9.01 Appendix A – Screening Procedures
- 9.02 Appendix B – Screening Grid
- 9.03 Appendix C – Procedures for Individualized Assessments of Presumptive Disqualification

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APPENDIX A: Screening Procedures

1. This Appendix sets forth the procedures for evaluating an individual's Criminal History Information. The evaluation shall be conducted by an individual or entity designated by the Chief Human Resources Officer (CHRO) and trained in the administration of Metro's Criminal Background Check Policy Instruction. For purposes of this Appendix, the party conducting this evaluation will be referred to as the "Evaluator."
2. This Appendix is intended to be comprehensive. However, circumstances may arise where this Appendix does not provide sufficiently clear guidance or the application of this Appendix would lead to unfair or irrational results. In these circumstances, the Evaluator should contact the CHRO or his or her designee for additional guidance. Metro expressly reserves the right to determine the appropriate Offense Category when evaluating an individual's Criminal History Information
3. An individual's Criminal History Information will be referred to the Evaluator for review if a Background Check reveals that an applicant or employee:
 - a. has been convicted of a crime; or
 - b. faces pending charges for a crime.
4. As a first step, the Evaluator will review the individual's Criminal History Information to determine whether he or she is disqualified from employment due to a 10-Year Disqualification offense. The following felonies are 10-Year Disqualification offenses if the individual was convicted during the 10 years preceding the employment application date:
 - a. Murder
 - b. Assault with intent to murder
 - c. Terrorism
 - d. Rape or aggravated sexual offenses
 - e. Unlawful possession, use, sale, distribution, or manufacture of an explosive
 - f. Armed robbery
 - g. Aggravated Assault
 - h. Arson
5. As a second step, for individuals who are not disqualified by a 10-Year Disqualification offense, the Evaluator will determine if he or she is a "Presumptively Disqualified Repeat Offender." For purposes of this Appendix, a "Presumptively Disqualified Repeat Offender" is an individual who:
 - (1) In two or more separate proceedings:

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- (a) has been criminally convicted, or released from incarceration in the past 10 years; or
 - (b) has been criminally convicted or released from incarceration in the past 10 years, and faces pending criminal charges; or
 - (c) faces pending criminal charges; AND
- (2) Has 4 or more points from the above-referenced convictions or pending charges, calculated by assigning 2 points to each separate proceeding involving a felony, and 1 point to each separate proceeding involving a misdemeanor. If a single proceeding involves multiple crimes, the crime with the higher point value should be applied (e.g., one proceeding resulting in a felony and misdemeanor conviction would be 2 points).

6. As a third step, for individuals who are not Presumptively Disqualified Repeat Offenders, the Evaluator will review the individual's Criminal History Information using the Screening Grid as follows:

- a. The Evaluator will identify the Screening Group(s) that apply to the position that the individual is seeking to fill.
- b. Using Section 7 of this Appendix, the Evaluator will review the convictions and pending charges in the individual's criminal history report and place each conviction or charge in the appropriate Offense Category. Where more than one Offense Category may apply, the Evaluator shall apply the Offense Category with the longer lookback period.
- c. Using the Screening Grid, the Evaluator will determine whether the individual has been convicted or charged with a single offense (felony or misdemeanor) in an Offense Category that has an unlimited lookback period. If so, the individual is Presumptively Disqualified from employment, but may ask for an Individualized Assessment.
- d. If the individual has not been convicted or charged with a crime that is Presumptively Disqualifying due to an unlimited lookback period, the Evaluator will next determine the lookback period that applies to each of the individual's charges or convictions. 2 points will be assigned to each felony and 1 point to each misdemeanor that
 - (1) resulted in a conviction entered within the applicable lookback period;
 - (2) resulted in a conviction entered outside the applicable lookback period, but the individual was released from confinement during the lookback period; or
 - (3) has not yet resulted in a conviction, and the charge is still pending.
- e. An individual will be Presumptively Disqualified from employment if he or she has two or more points, e.g., 2 points for one felony or 2 points for two misdemeanors during the applicable lookback period.

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7. The Offense Categories are defined as follows:
- a. “Bias-related Offenses” include all criminal acts that result in a conviction due to the accused’s prejudice towards the victim’s actual or perceived membership in a protected class. Examples of Bias-related Offenses include, but are not limited to, offenses punishable pursuant to 18 U.S.C. § 249 or D.C. Code § 22–3703.
 - b. “Drug Distribution Offenses” include all offenses that involve (i) the manufacture, sale or distribution of a controlled substance or (ii) possession with intent to sell, or distribute a controlled substance, with the exception of Section 9 Offenses.
 - c. “Drug Possession Offenses” include all offenses, other than Drug Distribution Offenses, that involve the unlawful purchase, use, or possession of a controlled substance. Section 9 Offenses are excluded from drug possession offenses.
 - d. “Offenses of Dishonesty” include all offenses involving fraud or dishonesty. Offenses of Dishonesty include, but are not limited to, fraud (including voter fraud and securities fraud), embezzlement, perjury, identity theft, impersonation of a police officer, forgery, false advertising, and counterfeiting.
 - e. “Weapons Offenses” include all nonviolent offenses involving the unlawful possession, manufacturing, sale, brandishing, use, or discharge of a firearm, explosive, or deadly weapon, including felon in possession of a firearm, brandishing a firearm, and unlawful carrying of a concealed weapon.
 - f. “Offenses of Sexual Violence” include (i) all sexual offenses involving force or the threat thereof and (ii) all sexual offenses involving sexual contact where the victim is unable to consent due to incapacity or otherwise, but not statutory rape. Examples of Offenses of Sexual Violence include, but are not limited to, offenses such as rape, sexual assault, sexual abuse, child sexual abuse, and child molestation.
 - g. “Property Offenses” include all offenses involving (i) the destruction or defacement of property or (ii) unauthorized entry onto property. Examples of Property Offenses include, but are not limited to, arson, destruction of property, vandalism, and trespass.
 - h. “Driving Offenses” include reckless driving; careless driving; driving without a license; and driving a motor vehicle without owner’s consent. The Evaluator will consider these offenses only for positions in Screening Group C that require operation of a Metro vehicle.
 - i. “Serious Driving Offenses” include all offenses involving (i) the operation of a vehicle while under the influence of intoxicating substances, (ii) fleeing the scene of a vehicular accident, or (iii) driving offenses involving death or serious injury. Examples of Serious Driving Offenses include, but are not limited to, vehicular homicide, vehicular manslaughter, driving while intoxicated, hit-and-run, and fleeing the scene of an accident.

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- j. “Societal Offenses” include the following crimes: resisting arrest, violation of a protective order, human trafficking, stalking, racketeering, gang-related offenses, escape, money laundering, bribery, obstruction of justice, involuntary manslaughter, witness tampering, and criminal neglect.
 - k. “Serious Violent Offenses” include all offenses involving physical violence against a person or the threat thereof that (i) are punishable as felonies or (ii) involve aggravating circumstances such as intent to kill, use of a weapon, or targeting a vulnerable individual. Examples of Serious Violent Offenses include, but are not limited to, murder, voluntary manslaughter, mayhem, assault with intent to kill, aggravated assault, assaulting a police officer, assault with a deadly weapon, armed robbery, child abuse, kidnapping, and carjacking.
 - l. “Sexual Offenses” include all sexual offenses that (i) do not meet the definition of an Offense of Sexual Violence and (ii) are not listed in Section 9 of this Appendix. Examples of Sexual Offenses include, but are not limited to, indecent exposure, enticing a minor, possession or distribution of child pornography, mailing/displaying/sending obscene materials, solicitation of prostitution, prostitution, pimping, and statutory rape.
 - m. “Terrorism Offenses” include all criminal offenses involving or relating to “international terrorism” or “domestic terrorism,” as those terms are defined in 18 U.S.C. § 2331. Examples of Terrorism Offenses include, but are not limited to, providing material support to terrorists or to designated foreign terrorist organizations.
 - n. “Theft Offenses” include all offenses involving (i) the wrongful taking of another’s property through means other than fraud or dishonesty. Examples of Theft Offenses include, but are not limited to, extortion, blackmail, larceny, burglary, petty theft, shoplifting, trafficking or receiving stolen property, and possession of burglary tools.
 - o. “Violent Offenses” include all offenses involving physical violence against a person or the threat thereof. Examples of Violent Offenses include, but are not limited to, offenses such as assault, domestic violence, resisting arrest (physical force), robbery, and battery.
8. For purposes of this Appendix, a conviction for an attempt to commit a crime is equivalent to a conviction for the crime itself. Similarly, a conviction for a conspiracy to commit a crime is equivalent to a conviction for the crime itself.
9. **Section 9 Offenses and Repeat Offenders.** A candidate for employment will not be Presumptively Disqualified based on a conviction or combination of convictions for any of the following offenses, which will not be considered when applying the Screening Grid (collectively referred to as the “Section 9 Offenses”):
- a. Societal offenses: harboring a fugitive; smuggling contraband into prison; vagrancy; loitering; contempt of court; panhandling; ordinance violations; cruelty or neglect to animals; unauthorized entry or re-entry into the United States; abusive language; disorderly conduct; disturbing the peace; drunk and disorderly; unlawful assembly.

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- b. Alcohol and marijuana offenses: minor in possession of alcohol; misdemeanor possession of marijuana; misdemeanor possession of marijuana paraphernalia.
- c. Private sexual offenses: sodomy and bigamy.

However, because repeated convictions for these crimes may be evidence of an inability or unwillingness to abide by the law, Section 9 Offenses other than sodomy and bigamy will be considered in determining whether the candidate is a Repeat Offender.

10. **Screening Group Definitions.** These descriptions for each screening group are based on the duties, work requirements, and work settings that define the job-related characteristics of the positions in that group.

- a. **SCREENING GROUP A - No Heightened Risk Facts.** These positions are not safety-sensitive, do not require significant interaction with the public, and the ability to handle conflict is less important. The workers in these positions may still pose a risk to coworkers or have access to Metro resources, but there are no job or work context factors that present heightened risk.
- b. **SCREENING GROUP B - Significant Interaction with the Public.** The positions within this screening group involve substantial interaction with members of the public. As such, these workers are more likely to be responsible for the health, safety, and well-being of members of the public. Also, these workers may be exposed to, and have to handle, unpleasant, discourteous, and potentially aggressive interactions with the public.
- c. **SCREENING GROUP C - Use/Operation of Valuable Equipment or Access/Exposure to Hazardous Materials.** The nature of these positions and the circumstances under which the work is performed may involve immediate and/or direct threats to the health or safety of others. These workers may have access/exposure to, or must operate or use, valuable equipment or hazardous materials, including the operation of a motor vehicle. These positions pose heightened risk because a momentary lapse in judgment could result in either injury or death to another person or significant financial loss to Metro.
- d. **SCREENING GROUP D - Access to Significant Resources or Personally Identifiable Information (PII).** The positions in this screening group have access to significant or valuable company resources, or personally identifiable information that, if misused or stolen, could result in significant losses or liability for Metro and/or its employees, customers, contractors or other third parties.
- e. **SCREENING GROUP E - Unsupervised Responsibility for a Vulnerable Population.** The positions within this screening group involve workers who provide direct care and unsupervised assistance, outside of the public eye, to members of vulnerable populations, including children, the elderly, and individuals with a mental or physical disability.

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Category of Offenses	Lookback Period				
	<u>Screening Group A</u> (No heightened risk factors)	<u>Screening Group B</u> (Significant interaction with the public)	<u>Screening Group C</u> (Operation of equipment or exposure to hazards)	<u>Screening Group D</u> (Access to significant resources or PII)	<u>Screening Group E</u> (Unsupervised responsibility for vulnerable population)
Bias-related offenses	7 Years	10 Years	7 Years	7 Years	10 Years
Drug Distribution Offenses	5 Years	7 Years	7 Years	10 Years	10 Years
Drug Possession Offenses	5 Years	5 Years	7 Years	7 Years	7 Years
Offenses of Dishonesty	5 Years	5 Years	5 Years	10 Years	10 Years
Weapons Offenses	7 Years	10 Years	10 Years	7 Years	UL
Offenses of Sexual Violence	10 Years	10 Years	10 Years	10 Years	UL
Property Offenses	5 Years	5 Years	10 Years	10 Years	10 Years
Serious Driving Offenses	5 Years	5 Years	10 Years	5 Years	5 Years
Societal Offenses	5 Years	7 Years	7 Years	7 Years	7 Years
Serious Violent Offenses	10 Years	10 Years	10 Years	10 Years	UL
Sexual Offenses	7 Years	10 Years	7 Years	7 Years	UL
Terrorism Offenses	10 Years	10 Years	10 Years	10 Years	10 Years
Theft Offenses	5 Years	7 Years	5 Years	10 Years	10 Years
Violent Offenses	5 Years	7 Years	7 Years	5 Years	UL
Driving Offenses	N/A	N/A	10 Years	N/A	N/A

**OTHER THAN UL, 2 POINTS IN LOOKBACK PERIOD = PRESUMPTIVELY DISQUALIFYING
FELONY = 2 POINTS MISDEMEANOR= 1 POINT**


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POLICY/INSTRUCTION: 7.2.3/2 – Criminal Background Checks

APPENDIX C: Procedures for Individualized Assessments of Presumptive Disqualification

1. When information from a Background Check would render an employee or candidate presumptively disqualified for employment, a written notice of Presumptive Disqualification will be sent to the employee or candidate. A packet with instructions for requesting an individualized assessment of the decision will accompany the written notice of Presumptive Disqualification in the adverse notification letter.
2. The purpose of this review process is to allow candidates for employment and current employees to submit additional information that will help Metro determine whether the disqualification from employment is job-related and consistent with business necessity.
3. The Individualized Assessment Panel is responsible for resolving review requests. The Individualized Assessment Panel may consist of: Manager of Employee Relations, Director of Labor Relations and EEO liaison. A representative from the Office of General Counsel will serve as legal advisor to the panel, as needed.
4. For a written request to be timely, it must be postmarked, e-mailed or hand-delivered within seven business days after the date on the notice of Presumptive Disqualification in the adverse notification letter. Failure to timely submit a written request for review constitutes waiver of the right to an Individualized Assessment.
5. The individual may attach documents and other information he or she wishes the Individualized Assessment Panel to consider. The request for review should be mailed or delivered to: WMATA CBC Administrator, Department of Human Resources, 600 Fifth Street, NW, Washington, DC 20001. If delivered via email, the request and documentation should be sent to CBCAppeals@WMATA.com.
6. Upon timely receipt of a request, copies of the following documents will be transmitted to the Individualized Assessment Panel:
 - a. The individual's job application;
 - b. The individual's Criminal Disclosure Form;
 - c. The Background Check report containing the individual's Criminal History Information; and
 - d. Any written documentation or other information submitted by the individual.
7. The Panel will review the information provided, giving consideration to the following:
 - a. The facts and circumstances surrounding the offense or conduct
 - b. The number of offenses for which the individual was convicted
 - c. Older age at the time of conviction or release from prison
 - d. Evidence that the individual performed the same type of work after his/her conviction with no known incidents of criminal conduct
 - e. The length and consistency of employment history before and after the offense or conduct

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POLICY/INSTRUCTION: 7.2.3/2 – Criminal Background Checks

APPENDIX C: Procedures for Individualized Assessments of Presumptive Disqualification

- f. Evidence of the person’s rehabilitation efforts, e.g., education/training
 - g. Employment or character references and any other information regarding fitness for the particular position
 - h. Whether the individual is bonded under a federal, state, or local bonding program.
 - i. Extent of opportunity to engage in further criminal activity
 - j. Age of the person at the time of the commission of the offense
 - k. The time elapsed since last criminal activity
 - l. The legitimate interest of Metro in protecting property and the safety and welfare of specific individuals or the general public
8. If the position in question is an open position (one under continuous recruitment), the request for review will be completed within 30 calendar days from the date the Panel receives the request for review. If the request for review is resolved in favor of the employee or candidate, the individual will be placed in the next hiring class.
9. If the position in question is not an open position (a position with a defined open and close date), the request for review will be resolved within three business days of receipt of a request for review. The position will be held open until the review is complete. If Metro does not receive a request for review within seven business days of the date on the notice of Presumptive Disqualification, the employee or candidate will be deemed to have waived their right to a review, and Metro may offer the position to a different employee or candidate.
10. The Individual Assessment Panel will review the material and determine whether disqualification of the individual is job related and consistent with business necessity. The CBC Administrator will notify the applicant or employee in writing of the Panel’s decision within 2-working days of receipt of the decision. The decision of the Panel is final.

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OneBadge Request Form

Contractor Information:

First Name:	<input type="text"/>	Middle Name:	<input type="text"/>
Last Name:	<input type="text"/>	Name Suffix:	<input type="text"/>
Date of Birth:	<input type="text"/>	National ID:	<input type="text"/>
Address Line 1:	<input type="text"/>		
Address Line 2:	<input type="text"/>		
City:	<input type="text"/>	State:	<input type="text"/>
		Zip:	<input type="text"/>
Phone: <i>(Home or Cell)</i>	<input type="text"/>		

Job Information:

Job Effective Date: <i>(Start Date)</i>	<input type="text"/>	Expected Job End Date: <i>(Contract End Date)</i>	<input type="text"/>
Department ID: <i>(5-digit Code)</i>	<input type="text"/>	Location Code:	<input type="text"/>
Reports To Position Number: <i>(COTR)</i>	<input type="text"/>	Reports To Empl ID:	<input type="text"/>

Use this information to enter into PeopleSoft HCM:

Main Menu > Manager Self Service > Job and Personal Information > Add Template-Based Hire

or email to: HRSharedServices@wmata.com

APPENDIX B

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 **14%** 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 responsive 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.

SUBMIT WITH BID
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 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 Items Sought	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)



23.25 (Rev 10/99)

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 _____

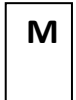
(Name of Firm)

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: _____

23.29 (10/99)



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: _____



.06c (Rev 10/99)

Information for Determining Joint Venture Eligibility

Page 3

.....
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)



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: _____

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

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 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: _____

Contract No.: FQ18063
Date: January 2018

Washington Metropolitan Area Transit Authority
RFP-FQ18063/KKB

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 Prime Contractor: _____

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 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 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

NOT USED

T_{HIS}

P_{AGE}

I_{NTENTIONALLY}

L_{EFT}

B_{LANK}

APPENDIX D

WAGE RATES

All on site work to be performed at the BUILDING
Rates

NOTICE: In accordance with 29 CFR, Part 1, the contractor will be required to pay wages which are not less than those established by the final Wage Determination Decision contained in the solicitation.

General Decision Number: DC170002 11/17/2017 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
12	09/29/2017
13	11/17/2017

* ASBE0024-007 10/01/2017

	Rates	Fringes
ASBESTOS WORKER/HEAT & FROST INSULATOR	\$ 35.13	16.22

Includes the application of all insulating materials, protective coverings, coatings and finishes to all types of mechanical systems

* ASBE0024-008 10/01/2017

	Rates	Fringes
ASBESTOS WORKER: HAZARDOUS MATERIAL HANDLER	\$ 22.81	7.34

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 10/01/2017

	Rates	Fringes
FIRESTOPPER	\$ 28.01	7.78

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 05/01/2017

	Rates	Fringes
MILLWRIGHT	\$ 32.49	11.23

ELEC0026-01606/05/2017

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

ELEC0026-01709/05/2016

	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
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.

IRON0005-011 06/01/2017

	Rates	Fringes
IRONWORKER	\$ 31.15	20.63

LABO0011-00906/01/2017

	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
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 05/19/2009

	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.
=====

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
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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:

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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.

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END OF GENERAL DECISION

General Decision Number: MD170058 11/17/2017 MD58

Superseded General Decision Number: MD20160058

State: Maryland

Construction Type: Building

County: Prince George's County in Maryland.

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	07/14/2017
7	07/21/2017
8	07/28/2017
9	08/18/2017
10	09/08/2017
11	09/29/2017
12	11/17/2017

* ASBE0024-007 10/01/2017

	Rates	Fringes
ASBESTOS WORKER/HEAT & FROST INSULATOR	\$ 35.13	16.22

Includes the application of all insulating materials, protective coverings, coatings and finishes to all types of mechanical systems

* ASBE0024-010 10/01/2017

	Rates	Fringes
ASBESTOS WORKER: HAZARDOUS MATERIAL HANDLER (Removal of hazardous material from ceilings, floors, mechanical systems, and walls)	\$ 22.81	7.34

BRMD0001-006	04/30/2017	
		Rates Fringes
TILE SETTER		\$ 27.44 11.44

BRMD0001-011	04/30/2017	
		Rates Fringes
BRICKLAYER (Excluding Pointing, Caulking and Cleaning)		\$ 30.91 10.24

BRMD0001-012	04/30/2017	
		Rates Fringes
MASON - STONE		\$ 36.91 16.55

BRMD0001-013	04/30/2017	
		Rates Fringes
TERRAZZO WORKER/SETTER		\$ 28.19 11.44

CARP0177-011	05/01/2017	
		Rates Fringes
CARPENTER (Including Acoustical Ceiling Installation, Drywall Hanging, Metal Stud Installation and Form Work)		\$ 28.36 11.53

CARP0219-001	05/01/2017	
		Rates Fringes
MILLWRIGHT		\$ 32.49 11.23

ELEC0026-021	09/05/2016	
		Rates Fringes
ELECTRICIAN (Communication and Sound Equipment)		\$ 27.55 10.20

ELEC0026-022	06/05/2017	
		Rates Fringes
ELECTRICIAN (Including low voltage wiring for and installation of alarms, HVAC controls)		\$ 44.65 16.74+a

PAID HOLIDAYS: New Year's Day, Inauguration Day, Martin Luther King Jr.'s Birthday, Memorial Day, Independence Day, Labor Day, Veterans' Day, Thanksgiving Day, the day after Thanksgiving Day and Christmas Day.

ELEV0010-001 01/01/2017

	Rates	Fringes
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.

ENGI0077-017 05/01/2013

	Rates	Fringes
POWER EQUIPMENT OPERATOR:		
Backhoe	\$ 32.40	8.45+a
Bulldozer	\$ 31.65	8.45+a

- a. PAID HOLIDAYS: New Year's Day, Inaugural Day, Decoration Day, Independence Day, Labor Day, Martin Luther King's Birthday, Veterans' Day, Thanksgiving Day, Friday after Thanksgiving and Christmas Day.

IRON0005-011 06/01/2017

	Rates	Fringes
IRONWORKER	\$ 31.15	20.63

LABO0657-021 06/01/2015

	Rates	Fringes
LABORER (Common or General)	\$ 14.93	7.31
LABORER: Mason Tender - Cement/Concrete	\$ 22.63	7.31
LABORER: Pipelayer	\$ 22.63	7.31

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

PAIN0051-019 06/01/2017

	Rates	Fringes
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PAINTER			
	Brush, Roller, Spray and Drywall Finisher/Taper	\$ 25.06	9.66
	Industrial	\$ 30.90	10.49

PLAS0891-005	07/01/2016		
		Rates	Fringes
PLASTERER		\$ 28.83	6.05

PLAS0891-006	02/01/2017		
		Rates	Fringes
CEMENT MASON/CONCRETE FINISHER		\$ 27.	0.08

PLAS0891-008	08/01/2016		
		Rates	Fringes
PLASTERER (Fireproofing Including Sprayer, Mixer, and Handler)			
	Handler	\$ 16.50	4.89
	Mixer/Pump	\$ 18.50	4.89
	Sprayer	\$ 23.00	4.89

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.			

PLUM0602-011	08/01/2017		
		Rates	Fringes
PIPEFITTER (Including HVAC Pipe and System 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

SFMD0669-001	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

SUMD2010-092 08/04/2010

	Rates	Fringes
LABORER		
Grade Checker	\$ 16.00	2.90
Landscape	\$ 9.23	0.00
Mason Tender – Brick	\$ 13.28	2.95
Mason Tender – Stone	\$ 14.03	0.00
Mason Tender for Pointing, Caulking and Cleaning	\$ 14.15	0.00
Mortar Mixer	\$ 16.61	9.08

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

\$ 19.14

POWER EQUIPMENT OPERATOR:

Asphalt Roller	\$ 21.35	5.38
Bobcat/Skid Loader	\$ 18.05	8.78
Boom	\$ 21.44	8.29
Crane	\$ 20.95	6.18
Excavator	\$ 20.00	0.00
Forklift	\$ 16.00	5.12
Gradall	\$ 20.50	8.42
Grader/Blade	\$ 14.50	5.18
Loader	\$ 24.00	5.40
Paver	\$ 17.47	6.36
Roller excluding Asphalt	\$ 17.60	3.88

TILE FINISHER \$ 17.87 7.32

TRUCK DRIVER

Dump Truck	\$ 15.90	1.12
Tractor Haul Truck	\$ 17.87	9.98

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.

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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:

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- * a survey underlying a wage determination
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END OF GENERAL DECISION

General Decision Number: VA170013 11/17/2017 VA13

Superseded General Decision Number: VA20160013

State: Virginia

Construction Type: Building

County: Arlington County in Virginia. Includes the independent city of Alexandria*

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	04/07/2017
3	05/26/2017
4	07/28/2017
5	08/18/2017
6	10/06/2017
7	11/03/2017
8	11/17/2017

* ASBE0024-006 10/01/2017

	Rates	Fringes
ASBESTOS WORKER/HEAT & FROST INSULATOR – MECHANICAL (Duct, Pipe & Mechanical System Insulation)	\$ 35.13	16.22

* ASBE0024-009 10/01/2017

	Rates	Fringes
FIRESTOPPER	\$ 28.01	7.78

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.

BOIL0045-003 01/01/2017

		Rates	Fringes
BOILERMAKER		\$ 32.72	25.26
BRDC0001-005	04/30/2017		
TILE FINISHER		\$ 22.51	10.50
BRVA0001-008	04/30/2017		
BRICKLAYER		\$ 30.91	10.24
BRVA0001-009	04/30/2017		
MASON – STONE		\$ 36.91	16.55
ELEC0026-003	06/05/2017		
ELECTRICIAN (Includes Low Voltage Wiring and Installation of Alarms and Sound and Communication Systems)		\$ 44.65	16.74
IRON0005-010	06/01/2017		
IRONWORKER		\$ 31.15	20.63
PAIN0051-034	06/01/2017		
GLAZIER		\$ 25.74	11.55
PAIN0051-035	06/01/2017		
PAINTER Brush, Roller and Spray		\$ 25.06	9.66
PAIN0051-036	06/01/2017		
DRYWALL FINISHER/TAPER		\$ 25.06	9.66

PLUM0005-014 08/01/2017

	Rates	Fringes
PLUMBER	\$ 41.67	17.60+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.

PLUM0602-016 08/01/2017

	Rates	Fringes
PIPEFITTER (Includes HVAC Pipe, Unit and Temperature Controls Installations)	\$ 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.

SFVA0669-006 01/01/2017

	Rates	Fringes
SPRINKLER FITTER (Fire Sprinklers)	\$ 33.40	19.52

SHEE0100-004 07/01/2016

	Rates	Fringes
SHEET METAL WORKER (Includes HVAC Duct Installation)	\$ 40.27	17.24+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

SUVA2013-025 01/11/2016

	Rates	Fringes
BRICK POINTER/CAULKER/CLEANER	\$ 19.68	0.00
CARPENTER, Includes Acoustical Ceiling Installation, Drywall Hanging, and Form Work	\$ 23.36	5.20
CEMENT MASON/CONCRETE FINISHER	\$ 21.94	3.36
FLOOR LAYER: SOFT FLOORS	\$ 18.75	0.00
IRONWORKER, REINFORCING	\$ 27.46	8.71
LABORER: Common or General, including brick mason tending and cement mason tending	\$ 15.55	2.44
LABORER: Pipelayer.	\$ 16.81	4.26

OPERATOR: Backhoe/Excavator/Trackhoe	\$ 23.50	4.50
OPERATOR: Bobcat/Skid Steer/Skid Loader	\$ 18.95	4.03
OPERATOR: Bulldozer	\$ 21.99	4.98
OPERATOR: Crane	\$ 30.45	4.14
OPERATOR: Forklift	\$ 21.56	7.57
OPERATOR: Loader	\$ 22.26	3.57
OPERATOR: Roller	\$ 16.25	4.88
ROOFER	\$ 15.83	3.06
TILE FINISHER	\$ 23.40	0.00
TILE SETTER	\$ 27.80	10.25
TRUCK DRIVER: Dump Truck	\$ 19.22	2.58
WATERPROOFER	\$ 21.75	1.57

WELDERS - Receive rate prescribed for craft performing operation to which welding is incidental.
=====

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Washington, DC 20210

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

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END OF GENERAL DECISION

DIVISION 01

TECHNICAL REQUIREMENTS

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END OF SECTION

SECTION 01110
SUMMARY OF WORK

PART 1 – GENERAL

1.01 SUMMARY

- A. The Work includes designing and constructing the Project as indicated in the Contract Documents.
- B. The completed Project will result in the complete design and construction of roof replacement system at the following WMATA facilities:
 - 1. T19 Jackson Graham Building: Includes approximately 37,000 Sq. Ft. Roof Area.
 - 2. C94 Revenue Collection Facility: includes approximately 30,100 Sq. Ft. Roof Area.
 - 3. T38 Carmen Turner Facility Building "A": includes approximately 142, 200 Sq. Ft. Roof Area.
- C. The Project shall function as an integral part of and be fully compatible with the existing WMATA design criteria, applicable building codes including FM Global approval. WMATA has chosen to replace existing roofing system with 90 mil Ethylene –propylene-diene-monomer (EPDM) single ply membrane with 20 years warranty over a polyisocyanurate insulation with an average R25.
- D. It is the responsibility of the Design-Builder to gather all data necessary for the performance of the Work under this Contract that are needed in addition to Authority-furnished Contract Documents, Roof Condition Assessment Reports conducted in 2014 (for reference only), as built drawings for noted facilities (for reference only) and WMATA Standard technical specification (for reference only) to be used to develop a complete and final design. Particulars of this project include but are not limited to the following for each roof:-
 - a. The existing roofing system shall be removed down to the roof deck.
 - b. Work to include all necessary mechanical and electrical disconnection, removal, protection and replacement of existing equipment and system to provide complete roofing system.
 - c. Inspect roof deck, and if necessary, repair roof deck.
 - d. A new EPDM membrane roof on tapered insulation shall be provided to replace the existing roof membrane system in its entirety.
 - e. All flashing shall be removed and replaced at walls and penetrations.
 - f. Roof and overflows drains will be replaced. Provide overflow drains compliant with codes wherever overflow drains do not exist.
 - g. Skylight system of CTF Bldg "A" will be replaced.
 - h. Overflow drain will be re-piped to be independent from the existing storm drain system.
 - i. New metal copings will be provided at all parapet walls.
 - j. Lightning protection shall be removed and reinstalled. Confirm lightning protection exist at all locations with continuity test performance.
 - k. Walkway pads shall be provided around roof top equipment that require maintenance and in main travel path.
 - l. All roof curbs shall be raised to a minimum of 8" above the completed roof system.

- m. Provide PVC condensate drain and extend to nearest roof drain.

Perform testing and final inspection of the roof according to Contract Specifications.

- n. The single ply membrane system manufacturer shall provide the final warranty inspection as well as interim inspections at 30% and 60% completion.

1.02 DAYS/HOURS OF WORK

- A. The standard work week for the Contract will be 5 consecutive 8-hour days Monday-Friday, with the work scheduled between 6:00 AM to 3:00 PM or as defined in Section 01141, ACCESS TO SITE.
- B. 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;

- 1. T19 Jackson Graham Building – District of Columbia
- 2. C94 Revenue Collection Facility - Alexandria (VA)
- 3. T38 Carmen Turner Facility Building A - Hyattsville (MD)

1.04 SITE LOGISTICS

- A. Access to the construction Site shall be from the following streets:

- 1. T19 Jackson Graham Building – 5th Street
- 2. C94 Revenue Collection Facility – Eisenhower Avenue
- 3. T38 Carmen Turner Facility Building “A”– Pennsy Dr.

- B. Construction equipment and materials will not be staged within Authority Right-of Way.

- 1. Construction operations will be required to be staged as noted on contract documents and coordinated with the specific facility personnel where the work is being accomplished..

- C. Parking

- 1. WMATA will not provide parking.
- 2. Design-Builder shall make their own arrangement for parking.

- D. 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 Authority when working on site to reduce construction impacts during 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. 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.
- F. Permits: Obtain permits from Utilities and Jurisdictional Authorities as needed.
- G. Design and Design Services during Construction: Perform as described in Section 01112, DESIGN AND PROGRAM REQUIREMENTS.
- H. Safety: Establish and manage Project safety in accordance with Section 01114, SAFETY/ ENVIRONMENTAL REQUIREMENTS and Section 01115, SAFETY AND SECURITY CERTIFICATION.
- I. Quality: Establish and manage a Quality System in accordance with Section 01470, QUALITY MANAGEMENT SYSTEM.
- J. Inspection and Testing
1. Inspect the Work to ensure that construction is being performed in accordance with Issued for Construction Drawings, Issued for Construction Specifications, and applicable submittals. Maintain Inspectors Daily Reports and submit to the Contracting Officer Representative weekly.
- K. 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.
- L. Salvaging of Materials and Equipment
1. Maintain property control records for materials or equipment to be salvaged. The Design-Builder 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 Design-Builder's care.
 2. Salvaged material not specified for reuse shall become the property of the Design-Builder and shall be removed from the Site.

PART 2 – PRODUCTS (not used)

PART 3 – EXECUTION (not used)

END OF SECTION

SECTION 01112
DESIGN AND PROGRAM REQUIREMENTS

PART 1 – GENERAL

1.01 SUMMARY

- A. This Section specifies requirements for carrying out detail design and design support during construction, as indicated, and provides requirements for design management to be followed by the Design-Builder. The Section also establishes Program Requirements for the Project.

1.02 REFERENCES

- A. Program Requirements – Design and Construction of Roof Replacement System @ JGB, CTF Bldg “A” & RCF.
- B. WMATA Manual of Design Criteria

1.03 SUBMITTALS

- A. Make the submittals of this Section for Approval by the Authority in accordance with Section 01330, SUBMITTAL PROCEDURES, unless noted otherwise.
 - 1. Design Control Plan within 15 Days of Notice to Proceed (NTP).
 - 2. Milestone documents as specified within this Section.
 - 3. Check sets of Design Drawings and Design Specifications at each design milestone.
 - 4. Test, acceptance, and verification criteria and procedures for the product being specified as described in Section 01470, QUALITY MANAGEMENT SYSTEM.
 - 5. Meeting minutes of all design coordination meetings attended by third-party entities as described in Section 01312, Project Meetings
 - 6. At the end of the Contract, submit in accordance with Section 01775, CLOSEOUT, a complete configuration management database.

1.04 GENERAL DESIGN REQUIREMENTS

- A. Review Project requirements and discuss any issues needing clarification with Contracting Officer Representative along with WMATA design review team, end users and other stake holders at the Pre-Design-Build Meeting prior to beginning any design work. The meeting shall be attended by the Design-Builder’s Project Manager, Design Engineering Manager, Architect and Engineers of Record, involved in designing the Project elements.
- B. Do not change the approved design firms(s), sub-consultants, and personnel once approved or shift design and engineering work from one sub-consultant to another without the prior written approval of the Contracting Officer Representative.
- C. All design and field engineering Work required to be performed by the Design-Builder shall be performed under the direct supervision of the Design Engineering Manager by a licensed professional and shall satisfy the laws of the jurisdiction in which the Project is located.
- D. Perform a code review for the Project and identify any potential conflicts amongst the design requirement, assumptions, field conditions, WMATA Manual of Design Criteria and jurisdictional codes that may affect scope, cost schedule, or quality of work. Notify the Contracting Officer Representative of potential conflicts as soon as practicable but no later than within 30 Days of NTP.

The notification shall include a clear statement of the conflict, the source of the requirement and criteria, and a recommended solution to the potential conflict.

- E. Perform additional detailed surveys and investigations to verify the Site conditions as needed for development of the final design.
- F. Perform additional detailed environmental investigations and coordinate with the Jurisdictional Authorities as needed for development of the final design and for obtaining all necessary permits.
- G. Develop and provide Design Drawings and Design Specifications. WMATA Standard Drawings and WMATA Standard Specifications shall be used as reference into the Design Drawings and Design Specifications. Develop Project-specific specifications for all work as Standard Specifications for this project. Submittals specified in the Project-specific specifications developed by the Design-Builder shall be submitted to WMATA for approval.
- H. Design work pertaining to rehabilitation of existing facilities shall be based on the assumption that the facility will remain operational during on-Site inspections, design development, and construction. Coordinate facility access through the Contracting Officer Representative.
- I. Design Reviews: Authority will review and Approve milestone design submittals based on the requirements of the WMATA Manual of Design Criteria, WMATA Standard Specifications, and program requirements established in this Section. Set up meetings with Authority including outside agencies, if needed, to present the design packages for all milestone submittals. The Design Engineering Manager is responsible for obtaining comments from Jurisdictional Authorities and Utilities. Proceeding with furthering design prior to the resolution of all review comments from all entities to the Authorities satisfaction is at the Design-Builder's own risk.
- J. Permits: Prepare designs necessary to submit plans and obtain all permits needed to implement the Project. Do not modify Contract Document requirements based on comments from Jurisdictional Authorities or Utilities without approval from the Authority.

1.05 DESIGN CONTROL PLAN

- A. Develop and maintain a Design Control Plan (DCP) that establishes basic guidelines for the preparation and development of design documents culminating in Issued for Construction Drawings and Issued for Construction Specifications. The DCP shall address the following requirements as a minimum:
 - 1. Control of design inputs and changes shall be managed by the Design-Builder in a manner that assures Contract and Design-Builder requirements are correctly translated into the drawings and specifications used for procurement, manufacturing, construction, and testing.
 - 2. Establish processes and procedures for preparing and checking of design calculations, drawings, and specifications for each milestone design submittal.
 - 3. Detailed checking of documents shall be carried out by an individual who has qualifications and experience equal to or greater than the preparer. Maintain record of check sets through the life of the Project and submit these with each milestone design submittal. Authority will audit these check sets periodically. Identify superseded documents with a stamp to avoid wrongful use of documents.
 - 4. Configuration management.
- B. Prepare plans for each design activity and define responsibility for its implementation.
- C. Design verification shall include checking and back-checking calculations, drawings, specifications, and other design elements without reliance on review and comments from the Authority and shall

be conducted before providing each milestone design submittal to the Authority and before the start of construction or fabrication.

- D. Provide certification with each milestone design submittal stating that the documents being submitted are reviewed, checked and back-checked.
- E. Design and submit test, acceptance, and verification criteria and procedures for the product being specified. Test and acceptance criteria and procedures may be used by the Authority and its on-call architectural and engineering consultants to verify designs and products. The design verification process shall test the design to assure that it meets Contract Document requirements.
- F. Implement configuration management and document change control for the duration of this Project for calculations, drawings, specifications, documents, systems, operating and maintenance documentation, and the physical materials. Maintain document change control and update all documents as the design and installation progresses. Configuration management system shall provide an accurate historical record that can trace decisions made through the life of the Contract. At the end of the Contract, submit to the Authority in accordance with Section 01775, CLOSEOUT, a complete configuration management database.
- G. The Authority has the right to accept or deny a requested design change and no design change shall be implemented without Authority Approval. The Authority will only consider requested design changes, which are submitted to the Contracting Officer Representative with the following supporting documentation:
 - 1. A valid reason for the change.
 - 2. Evidence that the change is feasible
 - 3. An explanation of why the change is desirable
 - 4. Estimates of effects on performance, costs and schedule
- H. Include a means for contemporaneously relating the modification status of equipment and construction to the corresponding drawing or specification.
- I. Maintain process control, including:
 - 1. Completion of quality procedures, work instructions, and initial coordination meetings prior to the start of a design activity.
 - 2. Documented procedures for checking of calculations and survey computations.
 - 3. A formal system of continuous feedback of problems and their resolution shall be developed between the Designer and construction staff.

1.06 MILESTONE DESIGN SUBMITTALS

- A. Preliminary Design – Design Drawings, Design Specifications, calculations, and all associated design documents shall be completed to include the minimum requirements listed below:
 - 1. Drawings:
 - a. Plan of existing conditions – Complete
 - b. Architectural roof plans and elevations – In Progress
 - c. Mechanical equipment list – In Progress
 - d. Applicable codes and standards – Complete

2. Specifications: Index of all specification Sections - Complete
 3. Preliminary design calculations for each discipline commensurate with design development.
 4. Design Report including documentation of:
 - a. Constructability and Construction Staging Plan - Draft
 - b. Utility and Structures Relocation/Protection/Support - Draft
 - c. Traffic Impact Assessment including constraints, maintenance plans, parking inventories, truck haul routes, and new/modified road systems - Draft
 - d. Handling and Disposal of Debris Material - Draft
 - e. Identification of required permits and jurisdictional authority approvals - Complete
 5. Material sample boards
 6. Quality Assurance Documentation
 7. Risk Assessment Documentation
 8. Design Schedule - Complete.
 9. Response to Authority and Jurisdictional Authority Review Comments
- B. Final Design – Design Drawings, Design Specifications, calculations, and all associated design documents shall be complete, checked, and ready for signing and sealing after Approval by the Authority.
- C. Issued For Construction – Design Drawings, Design Specifications, and calculations signed and sealed by Architect and Engineer of Record.

PART 2 – PRODUCTS (not used)

PART 3 – EXECUTION

3.01 DESIGN MANAGEMENT

- A. Appoint a Design Engineering Manager to lead and coordinate the Design-Builder's design effort.

3.02 IMPLEMENTATION

- A. Prepare the design by developing detailed Issued for Construction Drawings, Issued for Construction Specifications, design calculations, analyses and reports, with all engineering required in accordance with accepted industry practices and submit milestone design submittals to the Contracting Officer Representative for Authority Approval.
- B. Coordinate and resolve conflicts for locations and sizes of openings, conduits, equipment placement, power and HVAC requirements, and clearances and weights of all elements among all the disciplines as applicable.
- C. Immediately notify the Contracting Officer Representative in writing upon identification of design issues or problems, which may affect cost, schedule, the work of Utilities, or other contracts.
- D. Issued for Construction Drawings and Issued for Construction Specifications, design calculations, analyses, and reports and certifications shall be signed and sealed by registered Professionals

licensed to practice engineering, architecture, and landscape architecture in all jurisdictions where the Project will be constructed, as applicable.

- E. Coordinate design with governmental, public and private agencies and others. Such coordination shall include attending meetings as may be necessary. Notify Contracting Officer Representative of coordination meetings a minimum of 2 Days prior to meetings. Prepare and submit to the Contracting Officer Representative meeting minutes of all such meetings attended. Promptly notify the Contracting Officer Representative in writing of any betterments or other work beyond the scope of the Contract Documents that are requested by jurisdictional authorities, Utilities and property owners.

END OF SECTION

SECTION 01114
SAFETY/ENVIRONMENTAL REQUIREMENTS

PART 1 – GENERAL

1.01 SUMMARY

- A. This Section includes construction safety and security and environmental safety requirements for the Project including WMATA's Safety Awareness Program.

1.02 REFERENCES

- A. WMATA Construction Safety and Environmental Manual (CSEM)
- B. ANSI/ISEA 107 - American National Standard for High-Visibility Safety Apparel
- C. Occupational Safety and Health Association (OSHA)
 - 1. 29 CFR §1910
 - 2. 29 CFR §1926
 - 3. 49 CFR §172
 - 4. 49 CFR §390-397
- D. U.S. Army Corps of Engineers - Safety Manual EM-385-1-1
- E. National Commission for the Certification of Crane Operators
- F. Resource Conservation and Recovery Act (RCRA) of 1976 and amendments
- G. WMATA, Office of Rail Transportation Maintenance Operations Control, Administrative Procedure OAP 200-33, Site Specific Work Plan (SSWP)

1.03 QUALITY ASSURANCE

- A. Safety Superintendent: As specified in Section 01111, DESIGN-BUILDERS KEY STAFF
- B. First Aid Attendant
 - 1. Shall have current First Aid and CPR certification. A resume, certifications, and evidence of training shall be submitted documenting education and experience.
 - 2. Shall be trained in Blood-borne Pathogens in accordance with CFR §1910.1030.

1.04 SUBMITTALS

- A. Submit to the Contracting Officer Representative for approval in accordance with Section 01330, SUBMITTAL PROCEDURES, 60 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. Design-Builder'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 Fall Protection Plan
 - g. Bloodborne Pathogens Exposure Control Plan
 - h. Hearing Conservation Program if employees are exposed to continuous noise in excess of the OSHA Action Level
 - i. 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.
 - j. Hot Work Program
 - k. Lockout Tagout Program
 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 (SDSs) for these products, and a brief explanation of how they will be used and if wastes will be generated. Submit SDS Review Request Forms prior to the use these materials or chemicals.
 7. CCO certificates before crane operators work on the Site
- B. Submit to the Contracting Officer Representative for information in accordance with Section 01330, SUBMITTAL PROCEDURES, 60 Days prior to commencing construction, unless noted otherwise:
1. Certificates of Insurance for pollution liability coverage, if applicable, in accordance with Section 00878, INDEMNIFICATION AND INSURANCE REQUIREMENTS, for Design-Builder or Subcontractors performing work involving hazardous materials, hazardous substances, hazardous wastes, or contaminated soil or water
 2. Results of noise monitoring, air monitoring, and soil, water or waste sampling submitted weekly during work activities.
 3. Documentation of medical surveillance submitted monthly.

4. Identity of equipment that may generate toxic atmospheres such as gasoline or diesel-powered generators, welding, and cutting equipment
5. Documentation of licenses and certificates required for lead or asbestos abatement, UST removal, or installation, OSHA's Hazardous Waste Operations and Emergency Response Standard (HAZWOPER), or other work requiring licensing or certification such as welding.
6. Documentation of licenses, certificates, and U.S. EPA identification numbers required for transportation of hazardous materials, hazardous substances, or hazardous wastes.
7. Documentation of licenses, permits, and certificates required for disposal of hazardous wastes including the name and address of the waste disposal facility where hazardous waste materials are to be disposed.
8. Certification of Crane Operators Certificate before the crane operator works on the Site.
9. Identification of air monitoring devices that will be used to monitor air quality at the Work Site. Provide copies of most recent manufacturer calibration and all Design-Builder field calibration checks.

1.05 SAFETY REQUIREMENTS

- A. The Design-Builder shall be responsible for all Subcontractors, Suppliers, and other persons working under its direction to comply with all requirements as noted herein, and shall disseminate these requirements to those personnel.
- B. Cooperate with representatives of the Authority and federal, state, and local regulatory agencies during Site inspections or investigations. Inspection and investigation activities do not involve directing of Design-Builder's work, but may involve interviews with Design-Builder personnel. The Contracting Officer Representative will notify the Design-Builder if any operation that is not in compliance with federal, state, or local health and safety or environmental regulations or Authority policy and procedures, and that may require the Design-Builder to stop work on a specific task or operation.
- C. Immediately report all accidents and incidents (including near misses) that occur during the performance of the Work to the Contracting Officer Representative.
- D. The storage of hazardous and flammable materials (including such items as rags, mops, paper towels, or other combustible materials contaminated with hazardous or flammable products) on Authority property, is restricted. Design-Builders seeking to store hazardous or flammable materials on Authority property must obtain approval from the Authority by submitting material safety data sheet (MSDS) for each specific chemical and the quantity of each chemical to be stored on the Site. It may not always be possible to grant permission to store hazardous or flammable materials on Authority property. If permission is granted, store the materials in compliance with the jurisdictional codes and regulations. Acquire permits for use of hazardous materials as required by the jurisdictional Fire Marshal.
- E. The use of explosives for the performance of Contract work will not be permitted without written Approval from the Contracting Officer Representative. Obtain all permits and approvals from the Jurisdictional Agencies.
- F. Employ and assign to the construction work a Safety Superintendent as specified in Section 01111, DESIGN-BUILDER KEY STAFF, and also act 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.

- G. 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 Design-Builder 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.
- H. 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.
- I. Provide a Job Hazard Analysis prior to the start of each phase of work.
- J. Work clothing consists of long pants, shirts with long or short sleeves, sturdy work boots, and appropriate personal protective equipment. Jewelry that hangs, loose clothing, or clothing with non-detachable hoods, drawstrings, or anything that can become entangled in machinery, shall not be worn on the work Site if machinery is in use on the work Site. Personal protective equipment such as hard hats and footwear shall meet the requirements of 29 CFR §1910.135 and §1910.136. Athletic-type footwear shall not be worn on the Site.
- K. Smoking is prohibited in the Metrorail system, Metrobus system, other Authority facilities, and in Authority vehicles. The Contracting Officer Representative will select a designated smoking area outside the system or facilities and Design-Builder will be informed of its location. Design-Builder personnel found smoking in un-designated areas will be subject to removal from Authority property. The Design-Builder's Safety Superintendent shall be responsible for ensuring compliance.
- L. The OSHA Standard for Sanitation, 29 CFR §1910.141, shall be followed. Prior to starting work, furnish for the Design-Builder's staff, necessary toilet convenience secluded from public view. They should be kept in a clean and sanitary condition and shall comply with the requirements and regulations of the area in which the work is being performed. Potable drinking water shall be provided with individual cups and sanitary conditions for the water dispenser shall be maintained. A common drinking cup and other common utensils are prohibited.
- M. For all work at heights above 6 feet, submit a detailed, site-specific Fall Protection Plan. Comply with the most stringent OSHA requirements for Walking-Working Surfaces (29 CFR Part 1910 Subpart D), Scaffolds (29 CFR Part 1926, Subpart L), and Fall Protection 29 CFR Part 1926, Subpart M.
- N. 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).
- O. 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 Design-Builder'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 Design-Builder 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 Design-Builder 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.
- P. 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 Design-Builder must have the materials sampled and analyzed to determine if they contain asbestos. If the Design-Builder will be handling or removing asbestos-containing materials, the Design-Builder shall have all licenses and accreditations required by the jurisdiction in which the work is performed. The Design-Builder is required to provide medical monitoring to meet the requirements of 29 CFR §1910.1001 and §1926.1101. The Design-Builder 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.
- Q. Design-Builder'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.
- R. 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.
- S. 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.
- T. For all work generating waste water, submit a Waste Water Discharge Plan that describes how the Design-Builder will treat and release wastewater generated by activities at the work Site, for all work that generates wastewater. Apply for Temporary Discharge Permit from local sewer authority, as required by specific site activities. Comply with Consolidated Plan prepared by Authority for Bus Divisions and Rail Yards.
- U. For Abrasive Blasting activities, all MSDSs for abrasives shall be submitted for Approval prior to abrasive blasting activities. Only abrasives containing less than 1 percent crystalline silica shall be used for abrasive blasting.
- V. For Hot Work activities, provide documentation on certification for personnel who perform welding on Authority property. Ventilation in accordance with OSHA regulations shall be provided for hot work such as welding, cutting, or brazing.
- W. At the Site of the work, a First Aid Kit shall be provided and fully equipped to meet the needs of the anticipated work force. Employees expected to render First Aid or CPR shall have the proper

current certifications and be trained in Bloodborne Pathogens in accordance with 29 CFR §1910.1030.

- X. Work shall not be performed in any area in use by the public, unless specifically required by the Contract or directed in writing by the Contracting Officer Representative. Give at least 48 hours notice to the Contracting Officer Representative before beginning such work.
- Y. In cases where the movement of Design-Builder's motorized equipment is necessary, flag persons shall be provided to warn and direct personnel and patrons away from the area of travel. Flag persons shall be certified as trained in proper flagging techniques and Design-Builder employees involved in traffic control and devices shall be certified as trained in traffic management as required by the State or local jurisdiction. Certification shall be documented.
- Z. When it is necessary to maintain use of work areas involving stations, sidewalks, elevators, platforms, bus shelters, vehicular roadways, building entrances, and corridors, protect the area with guardrails, substantial barricades, temporary fences, overhead protection, and temporary partitions as deemed necessary by the Contracting Officer Representative. Under no circumstances will yellow or orange tape strung between barricades, or the like, be acceptable as a substantial barricade. Open manholes, access openings, or other breaks in the normal walking surface shall be isolated from personnel and the public using barricades.
- AA. Sidewalks, entrances, platforms, mezzanines, or any other location where personnel or the public traverses, shall always be kept clear of obstruction, tools, ladders, work debris, and excavation materials. When necessary, temporary sidewalks or pathways shall be provided for pedestrian traffic. Temporary sidewalks or pathways shall be free of tripping hazards and protected by proper guardrails and barricades. Temporary means of egress and access shall be marked for easy recognition. If work is required above sidewalks, overhead protection shall be provided. Protected walkways shall be approved by the Authority.
- BB. Appropriate warning signs and instructional safety signs shall be conspicuously posted in all areas involving construction activities. Work involving electrical systems or equipment in or near the area to which personnel or the public have access shall be isolated using barricades and partitions. Exposed, live circuits shall not be left accessible to personnel or the public or left dangling overhead. Before completion of the Work:
 - 1. Ensure that all wiring is insulated and properly positioned.
 - 2. Verify grounding, bonding, or both, of all metallic conduit, wiring or electrical equipment that is in the areas of contractual effort, and to which the public can make contact.
 - 3. Notify the Contracting Officer Representative immediately in those instances where verification cannot be made.
 - 4. Design-Builder'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 Design-Builder'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.
- CC. Use of Cranes and Derricks:
 - 1. General Safety Requirements. Comply with the following:
 - a. 29 CFR §1910.180 through §1910.189.
 - b. 29 CFR §1926.550 through §1926.556

- c. U.S. Army Corps of Engineers, Safety Manual EM-385-1-1.
 2. No part of any crane or derrick boom shall swing over Authority patrons, tracks, or stations without an Authority Approved shield or procedure.
 3. Placement of crane or derrick shall be coordinated with the Contracting Officer Representative.
 4. Hardhat requirements are enforced.
 5. "Swing Stop" requirements may be instituted based on the hazards involved.
 6. Use of cranes and derricks over common corridor railroads and highways is under the rules of the affected common corridor railroad or highway owner.
 7. All cranes used for erecting components of precast concrete on the Project shall be equipped with Load Moment Indicating (LMI) devices or Rated Capacity Indicators (RCI), an anti-two-block device. All crane operators shall be certified to operate the type of crane used by the National Commission for the Certification of Crane Operators (CCO) and their CCO certificates shall be submitted to the Contracting Officer Representative. To increase the factor of safety when picking structural elements of the building, all cranes shall have load capacity charts reduced (de-rated) by a factor of 30 percent. Submit a lift plan showing all pertinent information demonstrating that the total load does not exceed 70 percent of the maximum before crane delivery to the Project Site.
- DD. 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 Design-Builder 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

Issuance Form

(This page is in lieu of a divider Tab)

System Safety and Environmental Management Material Safety Data Sheet Review Request

Return this form to Chemical Safety Liaison Officer at Carmen Turner Facility.
Email to kbest@wmata.com or Fax to 240-487-3673
Attach clear copy of current MSDS



Please Provide the Following Information

Today's Date:	Requesting Dept.:	Contact Location:
Contact Name:		Phone:
Location(s) where product will be stored:		
Material Status: <i>(check all that apply)</i>	In Use ___ New Material ___ For Testing	
Is this item for contractor use??	___ Yes ___ No Contractor Name: Contract No.:	
Will this be a Stock or non-stock item?		
Trade Name as shown on MSDS:		
WMATA Stock No.:		
SARP MSDS No.:		
Give name and MSDS number of existing product that this will replace:		
Why is replacement necessary?		
Where will product be used?		
Description of use:		
How will product be applied?		
Size of Container:		
Quantity used per week:		
Physical State of Product:	Aerosol Spray ___ Gas ___ Liquid ___ Paste/Cream ___ Pellets Powder ___ Solid ___ Other ___ <i>(Please specify)</i>	
Manufacturer's Name, Phone No. & web address:		
Vendor's Name & Phone No.:		
Best Time to Contact You (Requestor):		
Comments:		

SECTION 01141
ACCESS TO SITE

PART 1 – GENERAL

1.01 SUMMARY

- A. This Section specifies requirements for gaining access to Site and describes work hours the Design-Builder will be allowed in WMATA Track way and Operating Facilities.

1.02 IDENTIFICATION CARDS

- A. All Design-Builder personnel needing access to track way or WMATA operating facilities must have WMATA Safety Certification badges. Additionally, Design-Builder shall provide its personnel, visiting or working at the Site, with Design-Builder Photo ID Badges. Both badges shall be displayed in a prominent manner on each person while engaged in the Work. Access to the Site will be granted only to properly accredited representatives of the Design-Builder and its Subcontractors when they have completed the required WMATA safety certification and training and received Photo ID Badges.

1.03 HOURS OF WORK

- A. Coordinate and schedule all work with the Contracting Officer Representative to ensure that the Design-Builder's activities do not interfere with the operation of or access to the Authority's facilities.
- B. Typical working hours for work not requiring access to track or other Authority facilities that require escorts for access are 0700 to 1600.
- C. Project Schedule, as required in Section 01322, CONTRACT PROGRESS REPORTING, shall include a detailed construction-phasing plan based on the Hours of Work commitments by the Authority. If the phasing plan requires RSA hours, these shall be identified by the Design-Builder in the Project Schedule by calendar quarter within which they will occur.

PART 2 – PRODUCTS (not used)

PART 3 – EXECUTION (not used)

END OF SECTION

SECTION 01250
CONTRACT MODIFICATION PROCEDURES

PART 1 – GENERAL

1.01 SUMMARY

- A. This Section specifies procedures for making Contract Modifications.

1.02 GENERAL

- A. Out-of-Scope Items. Specific approval must be received from the Contracting Officer Representative prior to doing work, which may be considered to be outside the Scope of Work and for which additional reimbursement may be requested in accordance with the General Conditions.
- B. Requests for additional work may be initiated by the Authority. Claims for an increase in Contract Price shall be thoroughly documented as specified in the General Conditions and directed to the Contracting Officer Representative who, upon Approval, will issue a Modification stating the amount of the increase in fee.
- C. Should the Design-Builder be excused from the provision of certain services identified in this Scope of Work, the Design-Builder will be requested to give a credit to the Authority. The offer for the credit shall be documented and directed to the Contracting Officer Representative who, upon Approval at the appropriate level, will issue a modification.

1.03 TIME AND MATERIALS WORK FOR THE CONSTRUCTION EFFORT

- A. In the event equitable adjustment cannot be agreed to in a timely manner, the Authority reserves the right to order work on a time and materials basis as specified in the General Conditions. When work is ordered under this Section, notwithstanding the provisions of other Sections, compensation for the work shall be determined as hereinafter provided and shall constitute the total compensation to be paid for the changes to the Work. The methods, labor, materials, and equipment used in the performance of such work shall be subject to the Approval of the Authority.
- B. Work performed by or for the Design-Builder: labor, materials, services, and equipment shall be furnished by the Design-Builder or by a Subcontractor or by others on behalf of the Design-Builder. The Design-Builder will be paid therefor as hereinafter provided, except where agreement has been reached to pay in accordance with Article 1.03C. below.
1. Labor: The cost of labor used in performing the work, whether the employer is the Design-Builder, Subcontractor, or other forces, will be the sum of the following:
- a. The gross actual wages paid including income tax withholding but not including any employer payments to or on behalf of workmen for health and welfare, pension, vacation, insurance, and similar purposes.
- b. To the actual gross wages, as defined in Article 1.03B.1.a above, will be applied a percentage based upon current applicable labor rates concerning payments made to or on behalf of workmen other than actual wages, which percentage shall constitute full compensation for all payments other than actual gross wages as defined in Article 1.03B.1.a above and subsistence and travel allowance as specified in Article 1.03B.1.c below. The Design-Builder shall compute a separate percentage for each craft or a composite percentage for all crafts, if so approved by the Authority. All computed percentages shall be submitted to the Contracting Officer Representative for Approval within 30 Days after start of construction work

- or as directed by the Contracting Officer Representative prior to time and materials work being performed.
- 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 Design-Builder, 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 Design-Builder 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 Design-Builder shall not be compensated for indirect costs and profit on Authority-furnished materials.
 3. Equipment: The Design-Builder will be paid for the use of equipment in accordance with the Contract. The Design-Builder 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 Design-Builder/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 Design-Builder 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 Design-Builder's organization, the Design-Builder 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.
5. To the totals, completed as indicated in Articles 1.03B.1 through 1.03B.4, shall be added field office overhead as follows:
 - a. If the costs determined above do not exceed \$100,000 and the adjustment in time for Contract performance is 10 Days or less, the markup shall be computed in accordance with Article 1.04 below.
 - b. In all other cases, the most recent audited daily field office overhead rate will be used.
 6. Home Office General and Administrative (G&A) costs will be determined using the most recent audited rate at the time the work was accomplished. A fixed rate of 3 percent will be used in the absence of an audited rate.
 7. Profit will be negotiated as provided in Article 1.07 below.
 8. A percentage for Design-Builder's bond, not to exceed 1 percent, may be added.
- C. Special items of work: If the Contracting Officer Representative and the Design-Builder, by agreement, determine that either: an item of time and materials work does not represent a significant portion of the total Contract Price, or such item of work cannot be performed by the forces of the Design-Builder or the forces of any of its Subcontractors, or it is not in accordance with the established practice of the industry involved to keep the records, which the procedure outlined in Article 1.03B above would require, charges for such special time and materials work item may be made on the basis of invoices for such work without complete itemization of labor, materials, and equipment rental costs. To such invoiced price, less a credit to the Authority for any cash or trade discount offered or available, whether or not such discount may have been taken, will be added a negotiated amount not to exceed 5 percent of the discounted price, in lieu of the negotiated lump sum not to exceed the percentages provided for in Article 1.03B above.
- D. Records: The Design-Builder shall maintain its separate records in such a manner as to provide a clear distinction between the direct costs of work paid for on a time and materials basis and the cost of other operations.
1. The Design-Builder shall prepare, and furnish to the Contracting Officer Representative one electronic copy of report sheets of each day's work paid for on a time and materials basis the day after such work was performed. The daily report sheet shall itemize the materials used, and shall cover the direct cost of labor and the charges for equipment rental, whether furnished by the Design-Builder, Subcontractor, or other forces, except for charges described in Article 1.03C above. The daily report sheet shall provide names or identifications and classifications of workmen, the hours worked, and the size, type, and identification number of equipment, and hours operated.
 2. Material charges shall be substantiated by valid copies of vendor's invoices. Such invoices shall be submitted with the daily report sheets, or if not available, they shall be submitted with subsequent daily report sheets. Should said vendor's invoices not be submitted within 60 Days after the date of delivery of the material or 15 Days after acceptance of the Work, whichever comes first, the Authority reserves the right to establish the cost of such materials at the lowest current wholesale prices at which such materials are available in the quantities concerned delivered to the location of the Work less any discounts provided in Article 1.03B.2.a above.
 3. Said daily report sheets shall be signed by the Design-Builder or its authorized agent.

4. The Contracting Officer Representative will compare the Authority's records with the Design-Builder's daily report sheets, make any necessary adjustment, and compile the costs of work paid for on a time and materials basis on daily time and materials work report forms furnished by the Authority. When these daily reports are agreed upon and signed by both parties, they shall become the basis of payment for the work performed, but shall not preclude subsequent adjustment based on a later audit. The use of any specific Authority form, such as 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 Design-Builder 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 Design-Builder 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 Design-Builder (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 Design-Builder shall 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 Design-Builder, hourly rates shall be computed in the same fashion as described in Article 1.07D.

1.05 COST OR PRICING DATA

- A. The Design-Builder 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 Design-Builder's knowledge and belief, the cost or pricing data submitted 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. The cost or pricing data shall be submitted at the time the Design-Builder submits its proposal for the pricing of any Modification to this Contract, whether or not cost or pricing data was required in connection with the initial pricing of the Contract, when the Modification involves aggregate increases or decreases in costs plus applicable profits expected to exceed \$100,000, or less at the discretion of the Authority Representative.
- B. The submittal of certified cost or pricing data will not be required if 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. The Design-Builder agrees that the terms "adequate price competition" and "established catalog or market prices of commercial items sold in substantial quantities to the general public" will be determined by the Authority in accordance with the guidelines as set forth in Subpart 15.8 of the Federal Acquisition Regulations (48 CFR 15.8).
- C. Cost or pricing data consists of all facts existing up to the time of agreement on price, which prudent buyers and sellers would reasonably expect to have a significant effect on the price negotiations for the Modification. The definition of cost or pricing data embraces more than historical accounting data; it also includes, where applicable, such factors as Subcontractor, Supplier, and vendor quotations, nonrecurring costs, changes in construction methods, unit cost trends such as those associated with labor efficiency and any management decisions which could reasonably be expected to have a significant bearing on costs under the proposed Modification and the Contract Work. Cost or pricing data consists of all facts, which can reasonably be expected to contribute to sound estimates of future costs as well as to the validity of costs already incurred. Cost or pricing data, being factual, is that type of information, which can be verified. Because the certificate pertains to cost or pricing data, it does not make representations as to the accuracy of the Design-Builder's judgment on the estimated portion of future costs or projections. The certificate does, however, apply to the data upon which the Design-Builder's judgment is based.

1.06 CONTRACT MODIFICATIONS, REQUIREMENTS FOR PROPOSALS, PRICE BREAKDOWN, NEGOTIATION OF PROFIT

- A. The Design-Builder, in connection with any proposal it makes for a Contract Modification as specified in Section 00750, ACCOUNTING AND RECORD KEEPING, shall furnish a price breakdown, itemized as required by the Contracting Officer Representative. Unless otherwise directed, the breakdown shall be in sufficient detail to permit an analysis of all material, labor, equipment, Subcontract, and overhead costs, as well as profit, and shall cover all work involved in the Modification, whether such work was deleted, added, or changed. Any amount claimed for Subcontracts shall be supported by a similar price breakdown. In addition, if the proposal includes a time extension, a justification therefore shall also be furnished. The original and one electronic copy of the proposal, together with the price breakdown and time extension justification, shall be furnished by the date specified by the Contracting Officer Representative.

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

1. Breakdown:

<u>Factor</u>	<u>Rate</u>	<u>Weight</u>	<u>Value</u>
Degree of risk	20		
Relative difficulty of work	15		
Size of job	15		
Period of performance	15		
Design-Builder'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.

- a. 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.
- b. 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.
- c. 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.
- d. 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.

- e. Design-Builder'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.
 - f. Assistance by Authority: Should be weighted from 0.12 to 0.03 on the basis of average to above average. Things to consider: Use of Authority-owned property, equipment and facilities, and expediting assistance.
 - g. Subcontracting: Should be weighted inversely proportional to the amount of Subcontracting. Where 80 percent or more of the Work is to be Subcontracted, the weighting should to be 0.03, and such weighting proportionately increased to 0.12 where all the work is performed by the Design-Builder's own forces.
3. When considered necessary because of very unusual circumstances or local conditions, the range of weight may be increased to an upper limit of 0.15 if supported by adequate justification and Approved by the Authority.
 4. When negotiations between the Contracting Officer or the Contracting Officer Representative and the Design-Builder are joined to determine an equitable adjustment for a Modification of this Contract, the Design-Builder shall encourage involved Subcontractor(s) to be present and to present their cost data and to participate in the resolution of a fair and equitable adjustment. In any event, if after reasonable effort, a negotiated settlement cannot be reached between the Contracting Officer or the Contracting Officer Representative and the Design-Builder and the Subcontractor(s) involved, then at the request of the Subcontractor(s) concerned, the Contracting Officer or the Contracting Officer Representative may process Part 1 of a two-part Modification to cover the direct costs only, as agreed upon or, if not agreed upon, as determined unilaterally by the Contracting Officer or the Contracting Officer Representative. Subcontractor(s) requests for a Part 1 Modification shall be submitted to the Design-Builder, and the Design-Builder shall forward such requests promptly to the Contracting Officer Representative. Any payments received by the Design-Builder under this procedure shall be passed along within 10 Days thereafter to the Subcontractor concerned.
- C. Change orders: When the Contracting Officer directs a change in accordance with the provisions of this Contract, the Design-Builder shall identify in its proposal for equitable adjustment the network activities that precede and follow the change order work activities. If the change order work activities are performed concurrently with existing network activities, those concurrent network activities shall be identified. If the change order work activities restrain network activities, those restraints shall be identified.

1.07 PAYMENT FOR USE OF EQUIPMENT

- A. The following methods of determination of equipment costs shall apply to all adjustments to Contract Prices arising under the provisions of the Contract except for Section 00727, TERMINATION FOR CONVENIENCE OF THE AUTHORITY, provisions thereunder.
- B. Allowable ownership and operating expense for construction plant and equipment in sound workable condition, owned by the Design-Builder, Joint Venture, Partnership, organizations under common control, and any equipment under lease purchase or sale-lease back agreements, will be paid for at hourly rates applicable to the Period of Performance, published in the Rental Rate Blue Book for Construction Equipment (Blue Book) by PRIMEDIA Information, Inc., by applying the following formula: the Regular Hourly Rate shall be 75 percent of the sum of the monthly rate (area adjustment map not used) divided by 176 and the estimated operating cost per hour. Regular Hourly Rate shall be full compensation for equipment ownership and operating expenses and shall include the cost of fuel, oil, lubricants, supplies, spare parts, repairs and maintenance, major overhauls,

mechanics and servicing labor, depreciation, storage, insurance, interest, taxes, record keeping, and all incidentals. The cost of equipment operators is not included. For forward pricing, the Blue Book rates in effect at the time of negotiations shall apply. For retrospective pricing, the Blue Book rates in effect at the time the work was performed shall apply. Manufacturers ratings and manufacturer-approved modifications shall be used to classify equipment for the determination of the Regular Hourly Rate. The hourly rates are calculated as shown in the following example:

	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 Design-Builder 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 Design-Builder 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 Design-Builder

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 Contracting Officer Representative’s approval and at agreed, reduced rates. Usage time or standby time will not be allowed while equipment is inoperative due to breakdown, and such equipment shall be removed from the jobsite at the direction of the Contracting Officer Representative.
- C. Items of equipment with an acquisition cost of \$2,000 or less shall be considered as small tools.
- D. Equipment costs that are paid under the equipment use rate shall not be duplicated in the Design-Builder’s other direct or indirect costs.

PART 2 – PRODUCTS (not used)

PART 3 – EXECUTION (not used)

END OF SECTION



METRO PROJECT

DAILY REPORT—LABOR, MATERIAL & EQUIPMENT

Date _____ 20____ Day _____

Contractor _____

IMPORTANT: This form must be submitted not later than the day following date work was performed.

Order for Service No. _____

Contract No. _____

Contract Modification No. _____

Report No. _____

Page _____ of _____

The following work was performed this date requiring use of the Labor Force, Materials, Equipment, Special Forces and Services listed hereon:

DESCRIPTION OF WORK PERFORMED:

Certified Correct By _____

Date _____

Contractor & Representative

LABOR				EQUIPMENT			
Name	Craft	Class	Hours	Make	Model	Description	Hours
			OT				
			ST				
			OT				
			ST				
			OT				
			ST				
			OT				
			ST				
			OT				
			ST				
			OT				
			ST				
			OT				
			ST				
			OT				
			ST				
			OT				
			ST				

MATERIALS, SPECIAL FORCES AND SERVICES

Quantity	Unit	Description

For Engineer's Use

Hours Worked Verified By _____

Field Staff member

APPROVED AS TO SUBSTANCE

By _____ Date _____

Resident Engineer

SECTION 01312
PROJECT MEETINGS

PART 1 – GENERAL

1.01 SUMMARY

- A. This Section specifies administrative and procedural requirements for Project meetings.
- B. During the term of this Contract, attend meetings and conferences with officials of the Authority, governmental agencies, and others interested in the Work as may be directed by the Contracting Officer Representative. Meeting minutes, prepared by the Design-Builder or the Contracting Officer Representative as specified herein, shall state the place and time of the meeting, the names and identification of those present, a brief description of the matters discussed, and the agreements reached.
- C. Meetings shall be held in the Project office or at other locations in the Washington Metropolitan Area, as needed. Design-Builder and other concerned parties attending these meetings shall each be represented by persons thoroughly familiar with and authorized to conclude matters relating to the Work described in the Contract Documents.

1.02 PRE-DESIGN CONFERENCE

- A. The Authority will schedule a pre-design conference and organizational meeting in the Washington Metropolitan Area with the Design-Builder 10 Days after the issuance of the Notice of Award. The purpose of the meeting will be to review the parties' responsibilities and personnel assignments and to submit the required submittals to the Authority. The Contracting Officer Representative will publish an agenda at least 1 week prior to the meeting.
- B. The pre-design conference shall be chaired by the Authority and attended by representatives of the Authority and the Design-Builder's Key Personnel.
- C. Agenda discussion items for the meeting may include, but are not limited to, the following:
 - 1. DBE participation and certifications
 - 2. Site security
 - 3. Required Pre-Design Conference Meeting submittals
 - 4. Project Schedule and Work sequencing
 - 5. Procedures for processing design decisions and approvals
 - 6. Procedures for processing progress payment requests
 - 7. Authority Design Criteria and other Contract Documents including requirements for ADA Facilities Accessibility Checklist submittals and certification of ADAAG regulations compliance submittals during design process by the Design-Builder
 - 8. Submittal of Design Drawings, Design Specifications, Shop Drawings, Working Drawings, Product Data, Samples, Certifications, Reports and other documentation
 - 9. Preparation and submittal of As-Built Drawings, As-Built Specifications, and Operations and Maintenance Manuals
 - 10. Use of the premises

11. Office, work, and storage areas
12. Equipment deliveries and priorities
13. Safety procedures and administration of the overall safety program
14. Quality Assurance and Quality Control Requirements
15. First aid
16. Housekeeping
17. Working hours
18. Codes and permits
19. Approvals required before construction proceeds
20. Mobilization plan
21. Equipment and manpower availability

- D. The Contracting Officer Representative shall record meeting minutes and distribute copies to everyone in attendance and to others affected by decisions or actions resulting from the meeting.

1.03 DESIGN REVIEW COMMENT MEETINGS

- A. The Authority will schedule a design review meeting in the Washington Metropolitan Area with the Design-Builder after receipt of each design milestone submittal as specified in Section 01330, SUBMITTAL PROCEDURES, to resolve Design-Builder's written comment responses that are not in agreement with the Authority's position.
- B. The design review meeting will be chaired by the Design-Builder and its Key Staff, the Contracting Officer Representative, and other representatives of the Authority.
- C. The Design-Builder shall record meeting results, update design review comment forms, and distribute copies to everyone in attendance and to others affected by decisions or actions resulting from each meeting. The Design-Builder shall initiate whatever actions are necessary to incorporate the agreed to required changes and additions into the Design Drawings and Design Specifications.

1.04 PRE-CONSTRUCTION MEETINGS

- A. Conduct pre-construction meetings at the Site prior to the start of construction activities that require special coordination for those activities that are deemed to require a separate meeting because of the technical nature of the installation.
- B. The Design-Builder's Key Staff, Subcontractors, representatives of manufacturers and fabricators involved in or affected by the installation, coordination, or integration with their materials and installations that have preceded or will follow and the Authority, the Contracting Officer Representative, and other representatives of the Authority shall attend the meeting.
- C. Notify the Authority in advance of the date, time, location, and topics for review and discussion at each pre-construction meeting. Ensure that other attendees are properly notified. Topics that may require pre-construction meetings include, but are not limited to the following:
 1. De-energizing existing system or equipment.
 2. Items that require connection to existing Authority equipment or systems as applicable

3. Other pre-installation meetings as may be called by the Design-Builder or the Contracting Officer Representative
- D. Agenda discussion items for the meeting may include, but are not limited to, the following:
1. Design issues
 2. Governing regulations
 3. Safety
 4. QA/QC
 5. ADAAG compliance
 6. LEED Compliance
 7. Temporary facilities
 8. Space and access limitations
 9. Shop Drawings, Working Drawings, Product Data, Quality Control Samples, Certifications, and Documentation
 10. Purchases and deliveries
 11. Manufacturers' recommendations
 12. Inspection and testing requirements
 13. Required performance results
 14. Recording requirements
 15. Possible conflicts and compatibility problems
 16. 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.

1.05 PROGRESS MEETINGS

- A. Conduct progress meetings biweekly 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 Design-Builder 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 Design-Builder'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 Design-Builder. Agenda items may include:
1. Review of minutes of the previous progress meeting
 2. Design-Builder's design and construction schedules and construction sequence
 3. System interface requirements
 4. Safety, including discussions of hazards and risks
 5. QA/QC, including discussion of Non-Compliance Notices
 6. ADAAG compliance
 7. LEED Compliance
 8. Temporary facilities and services
 9. Site utilization, Site access needs and Hours of Work issues
 10. Updated submittals list and submittal priorities
 11. Requests for Information
 12. Documentation of information for payment requests
 13. Pending Change Orders and Modifications
 14. Resource allocation
 15. Off-Site fabrication problems
 16. Purchases and deliveries
 17. Housekeeping
- D. The Design Builder will record meeting minutes and distribute copies to everyone in attendance and to others affected by decisions or actions resulting from each meeting. Meeting minutes will document issues of significance including submittals, schedules, quality assurance/quality control, safety, problems encountered, and the assignment of responsibilities for future action.

1.06 PROGRESS AND QUALITY STATUS REPORT REVIEWS

- A. A preliminary progress and quality status report meeting will be held on a monthly basis prior to the submittal of the Design-Builder's final Monthly Progress Report and associated documents. The purposes of the meeting are to review and determine the status of each activity in relation to the Design-Builder's draft Monthly Progress Report and any deficiencies based on the Quality System as specified in Section 01470, QUALITY MANAGEMENT SYSTEM, in order to develop an informal agreement on the monthly progress payment request.
- B. The meetings shall be attended by the Design-Builder's Key Personnel, the Contracting Officer Representative, and other representatives of the Authority.
- C. The Monthly Progress Report and associated documents, as specified in Section 01322, CONTRACT PROGRESS REPORTING, shall be updated on a monthly basis. Job progress shall specifically include actual start and completion dates for all activities completed during the

reporting period, actual start dates and percent complete for activities started but not completed during the reporting period, estimated start dates for activities scheduled to start during the next period, approved changes in durations of activities, and separate tabulation of monthly earnings including a cumulative tabulation of monthly earnings to date. In computing the monthly earnings, no value will be allowed for partially completed activities.

- D. Update the Monthly Progress Report and associated documents to incorporate all changes agreed to during the preliminary progress and quality status report meeting. A formal progress and quality status report meeting will be held prior to the submittal of the Design-Builder's progress payment request. The purpose of the meeting is to review and develop a formal joint agreement on the Monthly Progress Report, job progress, pay items, and quality certification. This meeting shall be held 5 working days after the preliminary progress and quality status report meeting.
- E. Submit the approved Monthly Progress Report and the progress payment request in accordance with Section 00744, METHOD OF PAYMENT.

1.07 CHANGE MEETINGS

- A. Separate meetings will be held in the Washington Metropolitan Area by either the Authority or the Design-Builder, on an ad hoc basis, to discuss and resolve change order issues as they arise during the course of design and construction.
- B. This meeting shall be attended by the Design-Builder's Key Staff, Contracting Officer Representative, and those Subcontractors, Suppliers, or other entities critical to the resolution of any open issues. The parties shall each be represented by persons thoroughly familiar with and authorized to conclude matters relating to the Work described in the initial Contract Documents and in the Issued for Construction Specifications and Issued for Construction Drawings.
- C. The Contracting Officer Representative will record meeting minutes and distribute copies to everyone in attendance and to others affected by decisions or actions resulting from each meeting.

PART 2 – PRODUCTS (not used)

PART 3 – EXECUTION (not used)

END OF SECTION

SECTION 01321
CONSTRUCTION PHOTOGRAPHS

PART 1 – GENERAL

1.01 SUMMARY

- A. This Section includes procedural requirements for photographic documentation, including digital images.

1.02 SUBMITTALS

- A. Make submittals in accordance with Section 01330, SUBMITTAL PROCEDURES, and as described in Section 01322, CONTRACT PROGRESS REPORTING.
- B. Key Plan: Submit key plan 30 Days prior to start of construction. If vantage points are altered, submit key plan updates with corresponding photographic documentation submittal.
- C. Digital Still Photographs: Submit with record of photographs indicating name of photographer, identification of vantage point, date of photograph and electronic file name. Submit the following types of still photographs:
 - 1. Pre-Construction Photographs: Submit 30 Days prior to start of construction.
 - 2. Monthly Construction Photographs: Submit every 30 Days.
 - 3. Subject-specific construction photographs such as, but not limited to still photos showing potential change, non-conformance, quality, and property damage.
 - 4. Completion of Construction Photographs: Submit within 30 Days of Notice of Substantial Completion.
- D. Usage Rights Documentation: Obtain and transfer copyright usage rights from photographers to the Authority for unlimited reproduction of photographic documentation within 30 Days of Notice to Proceed.

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..
- 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.: _____

Design-Builder _____

Photograph No. _____ Date: _____

Description: _____

PART 3 – EXECUTION

3.01 GENERAL

- A. All photographic documentation shall be captured digitally. Submit digital images exactly as originally recorded in the digital camera, without alteration, manipulation, editing, or modifications using image-editing software.

3.02 STILL PHOTOGRAPH REQUIREMENTS

- A. Preconstruction Photographs:
 1. Provide pre-construction still photographs at each site.
 2. Take sufficient overlapping still photographs to show existing conditions of adjacent properties before starting the Work.
 3. No construction shall begin prior to Contracting Officer Representative review and approval of the pre-construction photographs of the construction area.
 4. Take still photos at locations to be disturbed or likely to be affected by construction and at locations designated by the Contracting Officer Representative.
- B. Monthly Construction Photographs: Take still photos of construction during the progress of the Work.
 1. Take a minimum of twenty still construction photos at each site every 30 Days starting after the pre-construction digital survey and continuing until Substantial Completion is achieved.
- C. Subject-specific Construction Photographs:
 1. If there are any evident changes in conditions, non-conformance in the Work, or signs of potential damage to property or constructed project, take sufficient photographs to document the conditions and no less than ten still photographs.
 2. The photographer shall provide scale to the area/condition, such as a tape measure to substantiate cracking.
 3. Provide construction photos as required to demonstrate compliance with established LEED design goals.

D. Final Completion Construction Photographs:

1. Take a minimum of twenty still photos at each site at Substantial Completion.

END OF SECTION

SECTION 01322
CONTRACT PROGRESS REPORTING

PART 1 – GENERAL

1.01 SUMMARY

- A. This Section specifies the requirements for reporting progress and the development and maintenance of cost-loaded schedules and work plans for both the design and construction of the Project.
- B. The Design-Builder shall carefully monitor the progress of the Work during design and construction and provide the Authority with Monthly Progress Reports detailing the progress of that work.
- C. The approved schedules shall be used by the Design-Builder to ensure adequate planning, scheduling, managing, and executing of the Work, and to enable the Authority to evaluate work progress and progress payments. These approved schedules shall not be revised without the prior approval or direction of the Contracting Officer Representative.
- D. Unless noted otherwise, required schedules include the following: Initial 180 days Schedule, Project Schedule (Baseline), monthly updates of the Project Schedule; 90-Day Schedule; Three (3)-Week Work Plan, and Fragnet-Delay schedules (as when necessary). If Testing and Commissioning schedules are required elsewhere in the Contract Documents, these requirements shall also apply.

Note: The Initial 180-Days Schedule is not required under this Contract.

- E. To prepare the Project schedules, the Design-Builder shall engage the services of a scheduler who is skilled in the time and cost application of scheduling using PDM network techniques for construction projects of similar magnitude.

1.02 REFERENCES

- A. Associated General Contractors Manual - Construction Planning and Scheduling.
- B. Association for the Advancement of Cost Engineering, International (AACEI)

1.03 QUALITY ASSURANCE

A. Project Scheduler

- 1. The Contractor shall engage the services of a scheduler who is skilled in the time and cost application of scheduling using PDM network techniques for construction projects. The scheduler shall be trained in the use of the specified scheduling software. The scheduler shall have a demonstrated record of four (4) years experience in preparing and maintaining schedules as well as analyzing delays and preparing time impact analyses. A scheduler certified as a Planning and Scheduling Professional (PSP / AACEI) is preferred, but not required, as long as the necessary scheduling expertise is provided.
- 2. The Contractor's scheduler may be an independent (individual) consultant or an employee of a subconsultant firm. Regardless, the scheduler shall be available to the Contractor and Contracting Officer Representative to address schedule questions and shall attend all progress and schedule review meetings convened by the Contracting Officer Representative.
- 3. Submit a resume of experience of the proposed project scheduler for WMATA acceptance prior to the start of the work. In the event that the scheduler is not found to be competent or to have

sufficient relevant experience as determined by the Authority, the Authority will request that the Project scheduler be replaced pursuant to Section 00709, PROJECT MANAGEMENT AND SUPERINTENDENCE AND KEY STAFF. In that event, the Design- Builder shall submit a new candidate for consideration within 10 Days for consideration and approval by the Authority.

1.04 SUBMITTALS REQUIRMENTS - GENERAL

Timely submittals for Contract Progress Reporting are essential to monitor Progress on the job and required for acceptance of Payment Applications. All Submittals shall be transmitted through the WMATA PROCORE Project file-sharing website. The contents for submittals under this Specification are as indicated below, and shall be submitted in accordance with Section 01330, SUBMITTAL PROCEDURES.

:

- A. Source Software Schedule File: The Initial schedule, Project Schedule, Monthly Updates to the Project schedule, the as-built schedule, and Frgnet schedules, shall be submitted electronically in Primavera P6 Professional (.XER file). *NOTE: For this project, Microsoft Project (MSP) scheduling software may be used and submitted in lieu of Primavera P6, as long as the file format provided is convertible to P6 XER schedule file format via the P6 import utility (MSPP or XML file) and WMATA determines that schedule integrity is maintained.
- B. Schedule Layouts in PDF format: Submit with the source software file, as derived from the source software schedule file, PDF format files (11x17 in scale single sheet width), with Gantt chart, as listed below:
1. WBS-organized All Activities Layout w/ Gantt Chart
 2. WBS-organized Summary Layout w/ Gantt Chart
 3. Longest Path or Critical Path Activities Layout w/ Gantt Chart
 4. Cost Loading Layout (Illustrating \$\$ Budgeted - Earned - As Billed)
 5. 90-Days Look-ahead Layout w/ Gantt Chart
 6. Testing and Commissioning schedule (when required in the project Schedule) w Gantt Chart
 7. 3-Week Work Plan schedule Layouts shall be provided on a weekly/rolling basis separate from the monthly updates in such manner as directed by the WMATA CM. (w Bar Chart)
- C. Schedule Layouts (Hardcopy Media): When requested, the Contractor shall provide a sufficient number of paper media copies as necessary for schedule meetings and presentations in such sizes to be readable. Schedule layouts shall be provided on minimum 11x17 inches paper or larger format for posting on wall or board for presentations.
1. Each schedule submittal shall also have a Project Schedule Report (Narrative) or Monthly Progress Status Report (Narrative) submitted in electronic format in Adobe (.PDF) and formatted to 8-1/2 by 11 inches. CPM terminology, definitions, and conventions as required herein shall be consistent with the technical portions of the Associated General Contractors Manual titled Construction Planning and Scheduling.
 2. All schedules and reports shall be prepared and submitted in electronic format and labeled with the Contract Number, Project name, Design-Builder's name, data date, run date, and with any access codes or file designators listed.
- D. Project Report Narrative: A project narrative shall accompany the Project Schedule and all monthly updates of the Project Schedule. Submit a PDF format file (8.5 x11 in.); provide a sufficient number of hard copy media for distribution when necessary for schedule progress meetings and presentations.

E. Submittals and Reviews Processing:

1. The contractor shall submit and the Contracting Officer Representative will review and return the Contractor's schedule submittals with comments on a timely basis according to **TABLE 01322-1** at the end of this Section.
2. The Design-Builder shall make all corrections to the schedule requested by the Contracting Officer Representative and resubmit the schedule for approval. If the Design-Builder does not agree with the Contracting Officer Representative's comments, the Design-Builder shall provide written notice of disagreement within 5 Days from the receipt of the Contracting Officer Representative's comments for the Project Schedule. Contracting Officer Representative's comments to the Initial 180 days Schedule, Project Schedule, 90-Day Schedule, and Three-Week Work Plans with which the Design-Builder disagrees shall be resolved in a meeting held for that purpose.
3. Resubmittals shall conform to the same requirements as original submittals.

Table 01322-1: Submission Dates and Review Schedule		
<u>Description</u>	<u>Submission Due</u>	<u>WMATA Review Time (Typ. Per submission)</u>
Initial Schedule	NOT REQUIRED	--
Project (Baseline) Schedule	NLT 30 Cal Days after Notice-to-Proceed or after Early-Action Directive, as directed	21 CAL Days
Monthly Update Schedule (Progress Only and Proposed changes Draft)	NLT 5 Workdays after closing date of update period or NLT 5 Workdays prior to Application for Payment, whichever is sooner	5 Workdays
Monthly Update Schedule (Final)	NLT 5 Workdays after receiving the Authority's comments of Monthly Update Schedule (Draft)	3 Workdays (if conformed)
Schedule Report / Progress Reports	In accordance with submitted Schedule	Per Update schedule
90-Day Look-ahead Rolling Schedule	Submit with Monthly Progress Report	Per Update Schedule
Three-Week Work Plan	Weekly Meetings (Rolling)	Per Weekly Meeting Discussion
Fragnet Schedule (Time Extension Request)	Provide written Notice of Delay within 10 Days of the start of potential delay event; follow-up with Fragnet Schedule within 10-Days of end of delay event.	14 CAL Days
Testing & Commissioning Schedule	Per Equipment Specification Requirement	21 CAL Days or per Spec Requirement

PART 2 – PRODUCTS (not used)

PART 3 – EXECUTION

3.01 GENERAL

- A. Schedules shall represent a practical plan to complete the Work within the Period of Performance, and shall convey the Design-Builder's intent in the manner of prosecution and progress of the Work.
- B. The scheduling and executing of the Project Work in accordance with the schedule are the responsibility of the Design-Builder.
- C. The submittal of schedules shall be understood to be the Design-Builder's representation that the schedule meets the requirements of the Contract Documents and that the Work will be executed in the sequence and duration Indicated in the schedule.
- D. All schedule submittals are subject to review and acceptance by the Contracting Officer Representative. The Authority retains the right to withhold progress payments until the Design-Builder submits a schedule, payment schedule, and updates acceptable to the Contracting Officer Representative.
- E. The approved Project Schedule will be used as the basis for progress payments to the Design-Builder. Payments will be made by the Contracting Officer Representative only for activities that are 100 percent complete and for accepted MOS.

3.02 PROGRESS REPORT REQUIREMENTS

- A. The Monthly Progress Reports shall include a narrative report, schedule layouts, a Design Report, Quality Compliance Certification, and construction photographs as follows:
 - 1. Narrative Report:
 - 1. A narrative description of work accomplished, including design progress each month, procurement actions, and construction activities.
 - 2. Summary status of the project by
 - (1) Percent of Contract time to date (show Actual Days & Total Days)
 - (2) Percent of Total Billings to date (show \$ Actual & \$\$ Contract)
 - (3) Variance of Forecast to Contract Completion; (show Forecast Completion date, Contractual Completion Date; CDs slip or gain in the month)
 - 3. Descriptive summary of the Project Longest Path with schedule layout embedded or attached
 - 4. Work that is being performed out of sequence with accepted schedules,
 - 5. Activities planned for the upcoming reporting period
 - 6. Delays, problem areas and actions intended by the Design-Builder to mitigate the problem
 - 7. Proposed Schedule logic changes shall be listed and described in the narrative.
 - 8. Status of change orders, notices of potential Claims, status of submittals, and status of Design-Builder procurement items.
 - 9. A summary of meetings or conferences held or attended during the report period.

10. Description of Labor and Equipment resources to perform the work, by work site and work type
 11. Planned work shifts-hours and requests for RSAs
 2. Schedule Layouts as specified herein.
 3. Design Status Report: A complete list of scheduled submittal dates for each design review submittal and design completion as Attachment.
 4. Quality Compliance Certification as specified in Section 01470, QUALITY MANAGEMENT SYSTEM.
 5. Construction Photographs as specific elsewhere in these Contract documents
- B. A listing of actions or decisions required of the Authority with an indication of the date by which such action or decision is required to avoid any adverse impact on the schedule.
1. Utility/Jurisdictional Authority coordination and approvals report. Include telephone conversations and dates of contact made with each Utility/Jurisdictional Authority.
 2. Construction photographs, as described in Section 01321, CONSTRUCTION PHOTOGRAPHS.
- 3.03 INITIAL 180 DAYS SCHEDULE (NOT REQUIRED UNDER THIS CONTRACT)
- A. A cost loaded schedule covering the first 180 days of the Contract shall be submitted within 30 Calendar days following the date of the Notice of Award. The Initial 180 days Schedule is the Design-Builder's plan for planning, managing, executing, and for recording completed work during the first 180 Days of the Project. All approved activities in the Initial 180 days Schedule shall be incorporated into the Project Schedule.
 - B. The schedule shall be time-scaled and may be submitted in either bar chart or Critical Path Method (CPM) format. The Initial 180 days Schedule shall be subject to the same requirements as the Project Schedule with the exception of information that is not reasonably available in the first 180 days.
 - C. There shall be a traceable contiguous float path through the 180 Schedule period.
 - D. The initial submittal shall be accompanied by a written narrative that describes the schedule and the approach to the Work that the Design-Builder intends to employ during the initial 180 days period of the Contract.
 - E. The Initial 180 days Schedule will be used to process progress payments for the 180 days period following NTP until the Project Schedule is approved.
- 3.04 PROJECT SCHEDULE REQUIREMENTS
- A. A cost loaded, calendar time-scaled CPM network diagram schedule covering the complete Period of Performance of the Project shall be submitted for review within 30 Days following the date of the Notice to Proceed or Early Action Directive, if issued. A Project Schedule, acceptable to the Contracting Officer Representative, shall be in place prior to the 1st progress payment request being submitted.
 - B. The schedule must meet all of the dates listed under Special Conditions Section 00824, PERIOD OF PERFORMANCE AND PROJECT SCHEDULE.
 - C. The Project Schedule shall be prepared utilizing the Precedence Diagram Method (PDM) of CPM scheduling technique with accepted scheduling software compatible with Primavera P6 Enterprise Ver 15.1.

- D. The Project Schedule shall show clearly the sequence and interdependence of activities and shall include specifically:
1. Interim milestone completion dates as specified and staging of the Work shall be prominently identified.
 2. Design development and Authority review of design submittals.
 3. Acquisition of permits, and Jurisdictional Authority and Utility approvals.
 4. Submittals and Authority review of submittals.
 5. Procurement, fabrication, delivery, installation, and testing of major materials and equipment.
 6. Delivery of Authority-furnished equipment, if any.
 7. Interfacing, coordination, and dependencies with preceding, concurrent, and follow-on contractors.
 8. Work to be performed by other agencies, which affect the schedule.
 9. Manpower, material, and equipment restrictions, if any.
 10. Inspection of the Work including Punch List and Acceptance.
 11. The progressive delivery of As-Built Documents as major sections of the work are completed; for example completion of foundation piling or completion of underground utility work.
 12. Resources necessary to accomplish the Work for that activity including, but not limited to, specific equipment, manpower, and material requirements.
 13. The costs of the work for each activity.
- E. The CPM Project Schedule Layouts shall be composed of two parts: 1 - Table of Activity Data and 2- a time-scaled graphic network diagram (Gantt Chart), and shall include the following:
1. Table of Activity Data in columnar format with the pertinent data for each activity in the row corresponding to that activity's placement of schedule. The minimum required data are:
 - (a) Activity ID: An activity numbering system will be utilized, which assigns a unique activity identification number to each activity.
 - (b) Activity Description: Activity descriptions shall be brief but shall convey the scope of the work described and its location. Repeating text Activity descriptions will not be permitted (e.g., "Pour Concrete", add a qualifier location as suffix). If an activity includes work to be done by a Disadvantaged Business Enterprise (DBE), this shall be identified in the activity description by inclusion of an appropriate parenthetical entry (DBE) suffix to the Activity Description.
 - (c) Original Duration: Work activities shall be expressed in work days; WMATA Review Activities and Contractual milestones shall be on a 7-Days Calendar
 - (d) Early Start date,
 - (e) Early Finish date,
 - (f) Late Start date (when requested)
 - (g) Late Finish date (when requested)
 - (h) Total Float

- (i) Activity Calendar (when requested)
 - (j) The Cost Loaded monetary value in dollars (US)
 - (k) The Contracting Officer Representative may require additional data such as total shifts or other resource data.
 - (i) Activity Codes shall be assigned to the project activities as directed by WMATA. The Contractor shall expect to add appropriate coding for up to three categories: Responsibility, SOV, + one other category (TBD) as directed.
 2. A time-scaled graphic network diagram of tasks and Milestones showing logical relationships formatted in accordance with the following requirements:
 - (a) A bar (node) representing the duration of each work activity scaled to the planned duration with arrows (relationship lines) defining predecessor and successor relationships.
 - (b) Each bar shall contain the following information positioned above, below, or adjacent to it in a consistent and legible manner: Description, Start and/or Finish Dates, Activity Duration, and Lag.
 3. Special Restrictions on Scheduling
 - (a) Percentages shall generally not be used in activity descriptions: e.g., Pour West Footing (0 to 50 percent) is not acceptable.
 - (b) Individual schedule activities shall not exceed 20 working days duration, except certain procurement, delivery, or MOS activities, which may exceed 20 working days with the approval of the Contracting Officer Representative. Activities expected to exceed 20 working days duration shall be subdivided into discrete tasks of lesser duration.
 - (c) Schedule activities shall be sufficiently described to include what is to be accomplished and of the activity sequence (i.e. group activities by category of work, work area, and responsibility). Activity durations shall be expressed in whole days. Work that is to be performed by Subcontract shall be clearly defined.
 - (d) The use of lag must be minimized and restricted to only those situations where it is not possible to properly define the start or finish of an activity by the use of a normal Finish-to-Start, Start-to-Finish, Start-to-Start, or Finish-to-Finish relationship. Negative lags shall not be used.
- F. Cost Loading: Monetary value of each activity indicated in the Schedule shall be identified in the Table of Activity Data following the description.
 1. The allocation of monetary values assigned to activities shall be subject to approval and shall contain, as close as can reasonably be determined, all labor, equipment, material, and Subcontractor cost plus its proportional share of all indirect costs.
 2. The total of values allocated to specific work activities shall equal the Contract value of their associated Payment line item, and consequently, the sum of all activities values shall equal the total Contract amount.
 3. Should the Design-Builder intend to deliver materials and receive payment under the delivered Materials on Site (MOS) provision of the Contract, with the approval of the Contracting Officer Representative, the following shall be incorporated into the schedule:
 - (a) MOS delivery activity shall be incorporated into the schedule in logical sequence with the associated installation activity. The cost allocated to the installation activity shall be reduced by the approved MOS activity amount. The activity description shall contain the MOS designation and an MOS activity code shall be assigned.

- (b) The monetary value assigned to that MOS activity shall be arrived at by considering only those materials the monetary values of which are to be excluded from the monetary values of the installation activities to which they relate. The monetary value of the delivery activity shall equal the projected invoiced values of materials, as restricted above and in other relevant provisions of the Contract, to be delivered to the Site. The Design-Builder shall submit a separate, detailed breakdown of the projected total of all MOS activities.
- G. A schedule showing the work completed in less than the Period of Performance, which is found practical and Approved by the Authority, shall be considered to have float. The float shall be the time between the scheduled completion of the Work and the Contract completion date. Float shall not be for the exclusive benefit of either the Authority or the Design-Builder. Float shall be a resource available to both parties.
- H. A schedule found to be impractical by the Contracting Officer Representative for any reason shall be revised by the Design-Builder and resubmitted.
- I. Upon Approval by the Authority, the Project Schedule shall be the baseline schedule used to monitor progress.

3.05 MONTHLY UPDATES AND ASSOCIATED SCHEDULES

- A. Each month the Design-Builder shall submit an updated Project Schedule showing the progress of the Work to date and anticipated activities to be worked on.
- B. PROGRESS ONLY UPDATE: The Project Schedule shall not be revised to include additional activities, deleted activities, revised activity durations, revised network logic, or any other changes to the schedule, without approval of the Contracting Officer Representative. Only actual progress, completion dates, and anticipated future progress shall be incorporated in a schedule update.
- C. REVISIONS TO THE PROJECT SCHEDULE: Any revisions to the planned sequence, activity durations, interdependency of activities and any other change to the schedule shall be submitted separately for review. Written notification and explanation for the proposed changes and separately revised Project Schedule and narrative reports shall accompany the submittal. Changes shall not be incorporated into the current schedule until the submittal has been accepted by the Contracting Officer Representative. The baseline Project Schedule, i.e., the current schedule excluding schedule changes, shall be submitted along with the proposed schedule changes for the Contracting Officer Representative's review and approval. The revisions collectively shall not cause the project to extend beyond the Contractual Finish Date or the current progress-only forecast completion date, whichever is later.
- D. RECOVERY SCHEDULE: If according to the current updated Project Schedule, the Design-Builder is 30 or more working days behind the Contract completion date of any milestone, or the schedule contains 30 or more working days of negative float, considering all granted time extensions, the Design-Builder shall submit a Recovery Schedule, showing a practical plan to complete the work within the Contract time. The Design-Builder shall execute some or all of the following recovery actions as necessary: (i) increase construction labor in such quantities and crafts as necessary to eliminate the backlog of work; (ii) increase the number of working hours per shift, shifts per working day, working days per week, the amount of construction equipment or any combination to eliminate the backlog of work. The Authority may withhold progress payments until a revised schedule, acceptable to the Contracting Officer Representative, is submitted by the Design-Builder.
- E. AS-BUILT SCHEDULE: Maintain the As-Built Project Schedule data according to the field records and submit to the Contracting Officer Representative on a monthly basis. In addition, retain all monthly schedule updates until the Work has been accepted.

- F. After all Contract work items are complete, and as a condition of Final Payment, the Design-Builder shall submit three copies of an As-Built Project Schedule showing actual start and finish dates for all work activities and milestones, based on the accepted monthly updates. The schedule submittals shall be in tabular and in time-scaled PDM plot formats. See Section 00744, METHOD OF PAYMENT, for additional retainage to be withheld until the As-Built Project Schedule is delivered to the Contracting Officer Representative, is reviewed, and is determined to be complete and accurate.

3.06 90-DAY SCHEDULE

- A. A schedule layout depicting only activities occurring in the upcoming 90-Day period; this includes activities already in progress, those to start and finish in the period, and those expected to start in the period but not finish. The logic shall follow the logic of the approved Project update schedule.
- B. The schedule shall be time-scaled to expanded weekly or daily detail and may be submitted in either bar chart or Critical Path Method (CPM) format.
- C. Activities shall be 20 Work Days or less duration with particular focus on design, procurement, and construction activities to be performed in this time frame.
- D. The 90-Day Schedule shall be updated and submitted monthly as part of the Project and Update Schedule packages for review and approval by the Contracting-Officer Representative.

3.07 THREE WEEK WORK PLAN

- A. A schedule in a calendar time-scaled bar chart format depicting the Design-Builder's intended work activities for the upcoming 3-week period shall be submitted on a weekly basis due on the first working day of each week. The time scale shall be shown on single-day increments. Each activity having a 1/2 day or more duration shall be prominently noted.
- B. Deviations, including but not limited to sequences of work, timing, and durations of activities from the Project Schedule shall be noted and explained in writing.
- C. The submittal may be formatted smaller than specified in Article 1.03 herein; however, the format shall not be less than 8-1/2 by 11 inches in size.

3.08 MONTHLY DESIGN PROGRESS REPORT

- A. A description of design progress in the previous month, and a look ahead to the completion of design work.
- B. Identify all design submittals issued to the Authority and the status of the submittals.
- C. Identify all design submittals to be issued to the Authority for review or approval within the next 60 Days.
- D. This report shall be submitted as an attachment to the monthly narrative document.

3.09 REQUESTS FOR TIME EXTENSIONS

- A. The Design-Builder is responsible for submitting a written request for any extensions of Period of Performance within the time specified by the Contract. Requests not submitted in writing, without the required documentation, and not submitted within 30 Days will not be considered.
- B. The request shall include documentation with written justification for the extension of time, supporting evidence, and specific references to the Contract for which the basis of the request is being made.
- C. The request shall also include a calendar time-scaled CPM network schedule analysis and reports specified in Article 1.06 herein, depicting the time impact basis of the request with the affected areas

prominently highlighted. The Project Schedule to be used in determining the time extension request shall be the current and accepted schedule at the time of the event.

- D. If the Contracting Officer Representative finds that the Design-Builder is entitled to an extension of time of any completion date under the provisions of the Contract, the Contracting Officer Representative's determination of the total number of days extension will be based upon the current analysis of the currently approved Project Schedule and upon data relevant to the extension. Extensions of time for performance under any and all of the provisions of the Contract will be granted only to the extent that equitable time adjustments for the activity or activities affected exceed the total float along the paths involved of the most critical path to Project completion.
- E. The Design-Builder shall submit a CPM fragnet with enough detail to depict the causes, duration, and logic relationship and impact of the current schedule activities. The quantum of delay impact on Contract completion or interim milestone(s) must be determined for time extension.
- F. Critical delays, i.e., that which may affect the activities on the current critical path, will be contemporaneously discussed and mutually agreed by all the parties involved. In case the quantum of delays or impact cannot be resolved, the background, issues, work performed, as well as start and finish dates of delays shall be well-documented in chronological order. The Contracting Officer Representative's determination of merit for time extension(s) will be awarded after the Contracting Officer Representative finds entitlement to the Design-Builder's request and only after the alleged delays are demonstrated to impact the most critical path(s). Data furnished by the Design-Builder will be used as a basis in the findings of the Contracting Officer Representative.
- G. A complete As-Built Schedule, which has enough detail to depict delay and demonstrate cause-effect delay impact, shall be submitted at the end of the Project.

3.10 PROGRESS PAYMENTS

Monthly Progress schedules for payment requests shall be submitted at least 5 working days prior to the submittal of a progress payment request. Progress Payments will be based on the progress made as agreed to on the Cost Loaded Schedule, as determined by the WMATA COTR.

END OF SECTION

SECTION 01330
SUBMITTAL PROCEDURES

PART 1 – GENERAL

1.01 SUMMARY

- A. This Section specifies the general requirements and procedures for preparing and submitting design and construction documents to the Authority and Jurisdictional Authorities for approval or for information. The submittals shall consist of, but not be limited to design drawings, computations, and specifications; Shop Drawings; Working Drawings; product data; samples; documents, letters, certifications and reports; permit applications and Jurisdictional Authority approval documents; and other submittals.

1.02 DEFINITIONS

- A. Schedule of Required Submittals: A compendium of all required design and construction related submittals identified throughout the Contract Documents.
- B. Contract Document Submittal Log: A document indicating the status of all Required Submittals listed in the Schedule of Required Submittals.

1.03 SUBMITTAL SCHEDULE

- A. Coordinate the schedule for design submittals with the Project Schedule. The schedule for design submittals shall reflect the time required for designing, reviewing, ordering, manufacturing, fabricating, and delivery, including additional time required for re-submittals.
- B. Provide a preliminary Schedule of Required Submittals, as described in Section 00720, SUBMITTALS, within 14 Days after the effective date of Notice to Proceed (NTP) for the Authority's review. The preliminary Schedule of Required Submittals shall be updated through discussions with the Authority during weekly progress meetings or through special meetings subsequent to initial Authority approval.
- C. Submit a final Schedule of Required Submittals within 30 Days after the effective date of NTP.
- D. Submit a Contract Document Submittal Log, as described in Section 00720, SUBMITTALS, within 30 Days after the effective date of NTP. The Contract Document Submittal Log, created in MS Excel or MS Access, shall consist of all submittals required by the Contract Documents and Issued for Construction Specifications. Populate the Contract Document Submittal Log with submittal data as the design and construction progress. The Contract Document Submittal Log shall list all versions of a submittal, however only one version of a submittal may be in effect at any one time.
- E. Submittals made shall be arranged and maintained in a tabular format by specification Section as well as in chronological order by the dates required for construction. The log shall include:
 - 1. Scheduled date for initial Submittal, review, and "need" date for acceptance in order to fabricate and install, corresponding to the Project Schedule activity.
 - 2. Contract number, specification Section number and title
 - 3. Name of Subcontractor
 - 4. Type of Submittal (Shop Drawings, product data, samples, or other), description of the item, name of manufacturer, trade name, and model number

5. Highlight submittals that are on the critical path and require expedited review to meet the schedule. Indicate lead time to the date of fabrication and installation.
 6. State if submitted for approval or information.
 7. If a Submittal is a safety critical item based on the approved Certifiable Items List (CIL), include the "Item" number and "Section" (paragraph) number, as shown on the Certifiable Items List.
 8. Re-submittals: Reason for change
 9. Tested/Inspected By: Identify the entity performing the test
- F. The Contract Document Submittal Log shall be updated and submitted on a monthly basis.

1.04 SUBMITTAL ADMINISTRATIVE REQUIREMENTS

- A. Submit one electronic copy in the format specified, unless noted otherwise, through the Authority's Project Management Software System (PMSS). The Contracting Officer's Representative will return one electronic copy through the PMSS.
- B. Allow 21 Days for the initial review of each design submittal; allow 15 Days for all other submissions and resubmissions.
- C. The Contracting Officer's Representative will discard submittals received from sources other than the Design-Builder.
- D. Prepare separate submittals for each item in a specification Section. Group them in the order listed, paragraph by paragraph, and package them together.
- E. Transmit submittals of related parts of the Work concurrently such that processing will not be delayed for coordination. Incomplete submittals will be returned to the Design-Builder with no action taken by the Authority.
- F. For Design Drawings submittals, include title block in accordance with the WMATA CAD Manual. For Design Specification submittals:
 1. Indicate Project name and Contract number and the date of submission.
 2. Indicate name of firm or entity that prepared each submittal.
- G. For all other submittals, place a permanent label or title block on each submittal item for identification.
 1. Indicate Project name and Contract number, the date of submission, reference to the specification Section article, and drawing number and detail to which the submittal applies.
 2. Indicate name of firm or entity that prepared each submittal.
 3. Provide a blank space approximately 5 by 5 inches, in the lower right corner of each drawing just above the title block, to record the Design-Builder's review and approval markings and action taken by the Contracting Officer Representative.
- H. All submittals shall be accompanied with a transmittal form containing the following minimum information.
 1. Project name and Contract number, the date of submission, Subcontractor, Supplier, manufacturer name, and submittal number

2. Submittal purpose and description
3. Reference to the specification Section, drawing number, and title
4. Reference applicable standards, such as ASTM or Federal Specification numbers
5. Location(s) where product is to be installed, as appropriate
6. Identification of deviations from the Issued for Construction Drawings and Specifications
7. Notation that Submittal is a safety critical item, if identified on the "Certifiable Items List"

1.05 DESIGN DOCUMENTS

- A. All Design Documents shall be submitted for the Authority's review at the completion level designated by the Authority. This includes design drawings, supporting calculations, design reports based on geotechnical data and field surveys, Jurisdictional Authority correspondence, private and public utility company correspondence, and any other pertinent design basis information.
- B. Submit Design Drawings in AutoCAD and bookmarked-by-discipline Adobe (.PDF) formats that can be edited (without seals) and plotted either as full-size or half-size drawings that are scalable. Submit Adobe (.PDF) of Issued for Construction Drawings sealed and signed by a professional engineer or architect, as applicable, registered in the jurisdiction where the work will be performed for official record.
- C. Submit Design Calculations and Reports in MS Word and bookmarked-by-discipline Adobe (.PDF) formats.
- D. Submit Design Specifications in MS Word and bookmarked-by-Section Adobe (.PDF) formats. Submit Adobe (.PDF) of Issued for Construction Specifications sealed and signed by a professional engineer or architect, as applicable, registered in the jurisdiction where the work will be performed for official record.

1.06 MEETING MINUTES

- A. Prepare meeting minutes that are the responsibility of the Design-Builder immediately after each meeting. Submit draft copy to Contracting Officer Representative for review within 5 Days in MS Word format.
- B. Submit final meeting minutes in Adobe (.PDF) format 3 Days after receipt of Authority review.

1.07 SHOP DRAWINGS

- A. General:
 1. Submit Shop Drawings in AutoCAD and Adobe (.PDF) formats.
 2. Shop Drawings shall indicate all pertinent features of the products and the method of fabrication, connection, erection, or assembly with respect to the Work.
 3. The first drawings submitted by Design-Builder, Subcontractor, or vendor will be reviewed for conformance with this Section. Once accepted, use the drawing format as a standard for subsequent drawings.
- B. Dimensioning: Follow applicable dimensioning and tolerance practices as specified in ANSI/ASME Y14.5.

1. Prepare Project-specific information, drawn accurately to scale. Do not base Shop Drawings on reproductions of the Contract Documents or standard printed data.
2. Provide sufficient dimensions on drawings so that size, shape, and location may be determined without calculation.
3. Show each dimension clearly so that only one interpretation is possible. Show each dimension for a feature once.
4. Text must be legible on 11 by 17-inch prints.
5. Include on the Shop Drawings details necessary for the installation, maintenance, and repair of all equipment provided.

1.08 WORKING DRAWINGS

- A. Submit Working Drawings in AutoCAD and Adobe (.PDF) formats.
- B. Working Drawings indicate the Design-Builder's plan for temporary structures that will not become part of the completed Project 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.
- C. Working Drawings and calculations shall be signed and sealed by a professional engineer registered in the jurisdiction where the work will be performed and shall convey, or be accompanied by information sufficient to completely explain the structure, machine, or system described and its intended manner of use.

1.09 PRODUCT DATA

- A. Submit product data in Adobe (.PDF) format.
- B. If information must be specially prepared for a submittal because standard published data is not suitable for use, submit as Shop Drawings, not as product data.
- C. Modify manufacturers' standard drawings, catalog cuts, brochures, diagrams, schedules, performance charts, illustrations, calculations, printed installation, erection, application, and placing instructions, and other descriptive data to delete information that is not applicable to the Contract. Indicate dimensions, clearances, performance characteristics, capacities, wiring and piping diagrams, and controls. Supplement standard information with additional information applicable to this Contract.
- D. Submit product data concurrent with samples.

1.10 SAMPLES

- A. Submit samples for review of kind, color, pattern, and texture for a check of these characteristics with other elements and for a comparison of these characteristics between submittals and actual components as delivered and installed.
- B. Maintain sets of accepted samples at the Site, available for quality control comparisons throughout the course of construction activity. Sample sets may be used to determine conformance of construction associated with each set.
 1. Samples that may be incorporated into the Work are indicated in individual specification Sections. Samples not incorporated into the Work, or otherwise designated as the Owner's property, are the property of Design-Builder.

- C. Samples for Verification: Submit full-size units or samples of a size indicated, physically identical with material or the product proposed for use and that shows a full range of color and texture variations expected. Samples include, but are not limited to, the following: partial sections of manufactured or fabricated components; small cuts or containers of materials; complete units of repetitively used materials; swatches showing color, texture, and pattern; color range sets; and components used for independent testing and inspection.
- D. Number of Samples: Submit three sets of Samples. The Contracting Officer Representative will retain one Sample sets; the remainder will be returned. Mark up and retain one returned Sample set as a project record sample.
 - 1. Submit a single sample where assembly details, workmanship, fabrication techniques, connections, operation, and other similar characteristics are to be demonstrated.
- E. If variations in color, pattern, texture, or other characteristics are inherent in the material or product represented by a sample, submit at least three sets of paired units that show approximate limits of variations.

1.11 CERTIFICATES AND CERTIFICATIONS

- A. Submit original certificates and certifications in MS Word and Adobe (.PDF) formats.
- B. Provide certificates and certifications that demonstrate proof of compliance with Contract specification requirements for products, materials, equipment, and systems.
- C. Authority Approval of a certification shall not be construed as relieving the Design-Builder from furnishing products that meet the specified design intent.

1.12 REPORTS

- A. Submit original reports, signed and sealed by a professional engineer in the jurisdiction that the Work is to be constructed, and any related drawings in MS Word, AutoCAD and Adobe (.PDF) formats.
- B. The Design-Builder shall provide reports that demonstrate proof of compliance with Contract specification requirements. The reports include manufactured products, materials, research, equipment, systems, and test reporting in the field or laboratory.
- C. Authority Approval of submitted reports shall not be construed as relieving the Design-Builder from furnishing products that meet the specified design intent.

1.13 DATA

- A. Submit data and any related drawings in MS Word, AutoCAD and PDF formats.
- B. The Design-Builder shall provide written and graphic information including, but not limited to, performance and design criteria, list of applicable codes and regulations, and calculations that demonstrate proof of compliance with Contract specification requirements. Provide the name and version of software used for calculations.
- C. Authority Approval of submitted data shall not be construed as relieving the Design-Builder from furnishing products that meet the specified design intent.

1.14 CONSTRUCTION PHOTOGRAPHS

- A. All still photographic documentation of the Work shall be provided by the Design-Builder in digital format.
- B. For detailed submittal procedures see Section 01321, CONSTRUCTION PHOTOGRAPHS.

1.15 AS-BUILT DOCUMENTS

- A. The Design-Builder shall maintain a record set of As-Built Drawings and Specifications annotated to show all changes incorporated as Work progresses.
- B. Submit As-Built Drawings in AutoCAD and bookmarked-by-discipline Adobe (.PDF) formats that can be plotted either as full-size or half-size drawings that are scalable.
- C. Submit approved As-Built Documents for the completed Work as specified in Section 01775, CLOSEOUT, as elements of the Work are completed and before the scheduled date of Substantial Completion and marry information provided under process to update current asset information in the Authorities Asset Management System (Maximo) by location, level, roof, area, manufacturer, roof type, installation date, warranty, O/M etc.

1.16 DESIGN-BUILDER'S REVIEW

- A. Prepare written responses to the Authority's comments on the Design-Builder's Design Drawings and Design Specifications using the Design Review Form provided by the Authority and submit to the Authority within 5 Days of receiving the comments. Responses to Authority comments that are not agreed to by the Design-Builder shall be resolved in a Design Review Meeting. Resolution between the Design-Builder and the Authority of responses to comments in writing on the Design Review Form is required prior to incorporating comments in the subsequent design submittal.
- B. Review each submittal, including all those provided by Subcontractors and Suppliers of any tier, check for coordination with other Work and for compliance with the Issued for Construction Drawings and Issued for Construction Specifications. Note inconsistencies with Contract Documents and Issued for Construction Drawings and Issued for Construction Specifications. Submittals shall bear the Design-Builder's approval stamp and initials of the reviewer before submitting to the Authority.
- C. Each submittal transmittal form shall be signed by the Design-Builder with a statement, "Having checked this submission, we certify that it conforms to the requirements of the Contract in all respects, except as otherwise indicated".
- D. Do not start work where submittals are required until submittal review is completed by the Authority and Approval, if required, has been received.
- E. Identify approval methods of the various jurisdictional authorities and obtain their approvals as required.

1.17 AUTHORITY'S REVIEW

- A. Design Review
 - 1. The Contracting Officer's Representative is responsible for receiving all Project design submittals from the Design-Builder and distributing to the appropriate Authority reviewers.
 - 2. For each design submittal, the Authority will provide written review comments on Design Review Forms to the Design-Builder for incorporation into the design documents. Submittals will be reviewed in accordance with the specified design submittal review schedule.
 - 3. The Authority will review the Design-Builder's responses to comments within 5 Days after receiving the responses. If, in the opinion of the Authority, comments are not resolved, the Authority will arrange a Design Review Meeting with the Design-Builder to discuss and resolve all unresolved comment responses within 21 Days of receiving the responses.
- B. The Contracting Officer Representative shall receive construction submittals from the Design-Builder and will distribute them within the Authority for review.

1. Shop Drawings, samples, and other submission reviews by the Authority will not include checking of dimensions for potential conflicts.
 2. Approval by the Authority of a specific item will not indicate Approval of an assembly of which the item is a component.
 3. Incomplete submittals will be returned for resubmission without review.
- C. Submittals that are reviewed by the Authority will be returned to the Design-Builder with one of the following approval codes:
1. Code 1: Approved Without Condition or Comment.
 2. Code 2: Approved As Noted, Resubmittal Not Required. The Design-Builder shall comply with changes, conditions, or comments on the submittal.
 3. Code 3: Disapproved. The entire submittal is disapproved and shall be resubmitted.

1.18 RESUBMISSIONS, DISTRIBUTION, AND USE

- A. Make resubmissions in same form and number of copies as initial submittal. Note the date and content of previous submittal. Clearly indicate extent of revision.
- B. Furnish copies of final submittals to manufacturers, Subcontractors, Suppliers, fabricators, installers, Jurisdictional Authorities, and others as necessary for performance of construction activities. Show distribution on transmittal forms.
- C. Retain complete copies of submittals on Site.

1.19 RFI ADMINISTRATIVE REQUIREMENTS

- A. Submit one electronic copy on the RFI form provided by the Authority, through the Authority's Project Management Software System (PMSS). The Contracting Officer's Representative will return one electronic copy through the PMSS.
- B. Allow 7 Days for the review of each RFI.
- C. The Contracting Officer's Representative will discard RFIs received from sources other than the Design-Builder.
- D. All submittals shall be accompanied with a transmittal form containing the following minimum information.
 1. Project name and Contract number, the date of submission, and RFI number
 2. Clear statement of the question to be addressed by the Authority
 3. Reference to the specification Section, drawing number, and title that is the subject of the RFI

PART 2 – PRODUCTS (not used)

PART 3 – EXECUTION (not used)

END OF SECTION

* Category Code:

1 No Exceptions Taken

2 Exceptions Taken

3 Not Applicable

4 Comment Noted but More Direction Required

SECTION 01410
REGULATORY REQUIREMENTS

PART 1 – GENERAL

1.01 SUMMARY

- A. This Section includes information required for conformance to regulatory requirements, such as building codes, mechanical codes, electrical codes, ADAAG regulations, or other regulations applicable to the Project.

1.02 GENERAL

- A. Meet or exceed the WMATA Manual of Design Criteria and WMATA Standard Specifications relevant for each element of the Work as these represent the standards to be used for design and construction. Comply with all Federal, state, and local laws and regulations that control the design and construction of the Project, and meet or exceed the laws and standards relevant for each element of the Work to be installed if they are more stringent than the WMATA Manual of Design Criteria and WMATA Standard Specifications.

1.03 THE JURISDICTIONAL AUTHORITIES, RAILROADS, UTILITIES, AND MISCELLANEOUS AGENCIES

- A. Coordinate with the following entities as appropriate and relevant to the Project.

- B. Federal agencies:

- 1. Environmental Protection Agency (EPA)
- 2. Federal Aviation Administration (FAA)
- 3. Federal Highway Administration (FHWA)
- 4. Federal Transit Administration (FTA)
- 5. General Services Administration (GSA)
- 6. Department of the Interior:
 - a. National Park Service (NPS), National Capital Region
- 7. Occupational Safety and Health Administration (OSHA)
- 8. U.S. Army, Corps of Engineers (COE):
 - a. Washington Aqueduct Division
 - b. Baltimore District
 - c. Norfolk
- 9. U.S. Coast Guard (USCG)
- 10. U.S. Navy, Naval Facilities Engineering Command (NAVFAC)
- 11. Architectural and Transportation Barriers Compliance Board (ATBCB):
 - a. American with Disabilities Act Accessibility Guidelines (ADAAG)

12. Federal Emergency Management Agency (FEMA)
 13. U.S. Army Engineer District
 14. Department of Defense (DOD)
- C. District of Columbia:
1. Department of Consumer and Regulatory Affairs:
 - a. Building and Land Regulation Administration
 2. Department of Environmental Services
 3. Department of Health (Environmental Health Administration)
 4. Department of Housing and Community Development:
 - a. Redevelopment Land Agency
 5. Department of Human Services
 6. Department of Public Works:
 - a. Bureau of Traffic Services
 - b. Design and Engineering Construction Administration
 - c. Bureau of Design, Engineering and Research
 - (1) Traffic and Electrical Services Division
 - d. Bureau of Engineering and Construction
 - (1) Project Development Division
 7. Department of Recreation and Parks
 8. Department of Transportation:
 - a. Office of Mass Transit
 9. Fire Department
 10. Metropolitan Police Department
 11. Department of Sanitary Engineering
 12. Department of Highway Facilities
 13. Department of Planning
- D. State of Maryland:
1. Department of Transportation
 - a. State Highway Administration
 - b. State Railroad Division

- c. Office of Traffic
 - d. Office of the District Engineer (District #3)
 - 2. Department of Natural Resources:
 - a. Water Resources
 - 3. Department of Health and Mental Hygiene
 - 4. Department of the Environment:
 - a. Industrial Waste Division
 - 5. Department of Transportation
- E. Montgomery County:
 - 1. Department of Transportation
 - 2. Storm Water Control
 - 3. Department of Fire and Rescue Services
 - 4. Department of Public Works
 - 5. Soil Conservation District
 - 6. Department of Environmental Protection:
 - a. Division of Pollution Control
 - b. Sediment Control Permit
 - 7. Office of Architectural Service
 - 8. Police Department
- F. Prince George's County:
 - 1. Department of Public Works and Transportation
 - 2. Soil Conservation District
 - 3. Health Department
 - 4. Fire Department
 - 5. Department of Environmental Resources
- G. Commonwealth of Virginia:
 - 1. Department of Public Works and Transportation
 - 2. Virginia Department of Highways and Transportation
 - 3. Virginia (Northern) Planning District Commission
 - 4. Virginia (Northern) Park Authority
 - 5. Virginia (Northern) Transportation Commission

6. Virginia State Water Control Board
7. Virginia State Highway Commissioner
- H. City of Alexandria:
 1. Department of Transportation and Environmental Services
 2. Fire Department
 3. Alexandria Sanitation Authority
 4. Police Department
- I. Arlington County:
 1. Department of Public Works:
 - a. Utilities Department
 2. Arlington County Department of Environmental Services
 3. Arlington County Fire Department
 4. Arlington County Sheriff and Police Department
 5. Highway Facilities
 6. Fire Prevention Code
- J. Fairfax County:
 1. Water Authority
 2. Park Authority
 3. Fire and Rescue Services
 4. Soil Conservation District
 5. Department of Public Works and Environmental Services
 6. Transportation Planning Branch
 7. Police Department
- K. City of Falls Church:
 1. Water Authority
 2. Department of Public Works
 3. Department of Public Utility
 4. Police Department
- L. City of Greenbelt
- M. City of College Park
- N. Town of Riverdale

- O. Town of Capital Heights
- P. Town of Cheverly:
 - 1. Building and Fire Prevention
 - 2. Police Department
- Q. Town of Seat Pleasant
- R. Town of University Park
- S. Town of Riverdale
- T. Town of Berwyn Heights
- U. City of Rockville
- V. City of Fairfax
- W. Railroads:
 - 1. Consolidated Rail System Corporation
 - 2. CSX Transportation:
 - a. Baltimore and Ohio Railroad
 - b. Chesapeake and Ohio Railroad
 - c. Richmond, Fredericksburg and Potomac Railroad Company
 - 3. National Railroad Passenger Corporation (AMTRAK):
 - a. Washington Terminal Company
 - 4. Southern Railway System
 - 5. Norfolk Southern Corporation
 - 6. Penn Central Transportation Company
 - 7. Philadelphia, Baltimore & Washington Railroad Co.
- X. Utilities: See Section 01180, PROJECT UTILITY SOURCES.
- Y. Miscellaneous agencies:
 - 1. Maryland-National Capital Park and Planning Commission
 - 2. Metropolitan Washington Airports Authority
 - 3. National Capitol Planning Commission
 - 4. Washington Suburban Transit Commission
 - 5. Metropolitan Washington Council of Governments
 - 6. American Association of State Highway and Transportation Officials (AASHTO)

Z. Other

1. U.S. Green Building Council (USGBC)

PART 2 – PRODUCTS (not used)

PART 3 – EXECUTION (not used)

END OF SECTION

SECTION 01420
REFERENCES

PART 1 – GENERAL

1.01 SUMMARY

- A. This Section lists the reference standards cited in the Contract Documents, the organizations or Jurisdictional Authorities whose standards are cited, and common acronyms used in the Contract Documents.
- B. When reference is made to codes, regulations, reference standards, and specifications, the Work shall conform to the current edition as of the date of Award, unless it is superseded by Jurisdictional Authorities.

1.02 ABBREVIATIONS AND ACRONYMS

AAR	Association of American Railroads
AASHTO	American Association of State Highway and Transportation Officials
ABS	Acrylonitrile-Butadiene-Styrene
ac	Alternating Current
ACGIH	American Conference of Governmental Industrial Hygienists
ACI	American Concrete Institute
A/D	Analog to Digital
ADA	Americans with Disabilities Act
ADAAG	Americans with Disabilities Act Accessibility Guidelines
AHA	American Hardboard Association
AHDGA	American Hot Dip Galvanized Association, Inc
AI	Asphalt Institute
AISC	American Institute of Steel Construction
AISI	American Iron and Steel Institute
AMCA	Air Moving and Conditioning Association
AMTRAK	National Railroad Passenger Corporation
ANSI	American National Standards Institute (synonymous with USASI-ASA)
API	American Petroleum Institute
AREMA	American Railway Engineering and Maintenance of Way Association
ARI	Air Conditioning and Refrigeration Institute
ASHRAE	American Society of Heating, Refrigerating and Air-Conditioning Engineers
ASME	American Society of Mechanical Engineers
ASNT	American Society of Nondestructive Testing
ASTM	ASTM International
ATBCB	Architectural and Transportation Barriers Compliance Board
AT&T	American Telephone and Telegraph Company

AWG	American Wire Gauge (synonymous with Brown and Sharpe)
AWI	Architectural Woodwork Institute
AWWA	American Water Works Association
AWS	American Welding Society
AWPA	American Wood Preservers' Association
BG&E	Baltimore Gas and Electric Company
BIA	Brick Institute of America
BLS	Bureau of Labor Statistics
B&O	Baltimore & Ohio Railroad (Division of the CSX Transportation)
BOCA	Building Officials and Code Administrators International
BTU	British Thermal Unit
BTUH	British Thermal Units Per Hour
C	Celsius (Centigrade)
CAGI	Compressed Air and Gas Institute
CE	US Army, Corps of Engineers
cfm	Cubic Feet Per Minute
CISPI	Cast Iron Soil Pipe Institute
CMU	Concrete Masonry Unit
C&O	Chesapeake and Ohio Railroad (Division of the CSX Transportation)
CONRAIL	Consolidated Rail Corporation (formerly Penn Central)
CQCS	Contractor's Quality Control System
CRSI	Concrete Reinforcing Steel Institute
CSX	CSX Transportation (formerly Chessie System, B&O, C&O, and Chesapeake & Ohio)
CTI	Cooling Tower Institute
dB	Decibel(s)
dc	Direct Current
DFT	Dry Film Thickness
DILM	Ductile Iron Pipe, Cement-Lined and Coated, Mechanical Joint
DILP	Ductile Iron Pipe, Cement-Lined and Coated, Push-On-Joint
DPST	Double Pole, Single Throw
DTS	Data Transmission System
EPA	Environmental Protection Agency
EPR	Ethylene-Propylene-Rubber
F	Fahrenheit
FAA	Federal Aviation Administration
FCCCR	Foundation for Cross-Connection Control Research of the University of Southern California Engineering Center

FHWA	Federal Highway Administration
FM	Factory Mutual Associates
FS	Federal Specifications
FED STD	Federal Standard
FTA	Federal Transit Administration (formerly UMTA)
GPH	Gallons Per Hour
GSA	General Services Administration
HOA	HAND/OFF/AUTOMATIC
HP	Horsepower
HVAC	Heating, Ventilating and Air Conditioning
IBC;	International Building Code
ICEA	Insulated Cable Engineers Association
ICI	Industrial Coatings International
ID	Inside Diameter
IEEE	Institute of Electrical and Electronic Engineers
IPS	Iron Pipe Size
ISO	International Organization for Standardization
JGB	Jackson Graham Building 600 Fifth Street, N.W. Washington, D.C. 20001
kHz	Kilo Hertz
kV	Kilovolts
kVA	Kilovolts-amperes
kW	Kilowatts
LED	Light Emitting Diode
LEED	Leadership in Energy and Environmental Design
mV	1,000 volts
mVA	1,000 volts-amperes
MCM	1,000 Circular Mils
MCP	Motor Circuit Protector
MDNR	Maryland Department of Natural Resources
METRO	Logo for the Washington Metropolitan Area Transit Authority
MNCPPC	Maryland-National Capitol Park and Planning Commission
MS	Military Specification
MSG	Manufacturers' Standard Gauge
MIL STD	Military Standard
MSHA	Maryland State Highway Administration
MSS	Manufacturer's Standardization Society of the Valve and Fitting Industry

MTPD	Metro Transit Police Department
MUTCD	Manual of Uniform Traffic Control Devices
MWAA	Metropolitan Washington Airports Authority
MWRA	Maryland Water Resources Administration (Part of MDNR)
NAAMM	National Association of Architectural Metal Manufacturers
NACE	National Association of Corrosion Engineers
NAVFAC	USN, Naval Facilities Engineering Command
NBGQA	National Building Granite Quarries Association
NBS	National Bureau of Standards
NC	Normally Closed
NCMA	National Concrete Masonry Association
NEBB	National Environmental Balancing Bureau
NEC	National Electrical Code
NEMA	National Electrical Manufacturers Association
NFPA	National Fire Protection Association
NIOSH	National Institute for Occupational Safety and Health
NO	Normally Open
NPS	National Park Service
NTP	Notice to Proceed
NTIS	National Technical Information Service
OCCB	Operations Control Center Building 600 Fifth Street, N.W. Washington, D.C. 20001 (see JGB)
OD	Outside Diameter
OS&Y	Outside Stem and Yoke
OSHA	US Department of Labor, Occupational Safety and Health Administration
PCI	Prestressed Concrete Institute
PDI	Plumbing and Drainage Institute
PE	Polyethylene
PEI	Porcelain Enamel Institute
PEI	Petroleum Equipment Institute
PEPCO	Potomac Electric Power Company
PGFD	Prince Georges County, Fire Department
PGDPW&T	Prince Georges County, Department of Public Works and Transportation
PGSCD	Prince Georges County, Soil Conservation District
PPHM	Parts Per Hundred Million
PPM	Parts Per Million
psf	Pounds Per Square Foot

psi	Pounds Per Square Inch
psig	Pounds Per Square Inch Gauge
PVC	Polyvinyl Chloride
RCRA	Resource Conservation and Recovery Act
rms	Root Mean Square
rpm	Revolutions Per Minute
ROD	Revenue Operation Date
RQD	Rock Quality Designation
SDI	Steel Deck Institute or Steel Door Institute, depending upon context in which it occurs
SMACNA	Sheet Metal and Air-Conditioning Contractors National Association
S1S	Smooth One Side
S2S	Smooth Both Sides
SJI	Steel Joist Institute
SPDT	Single Pole, Double Throw
SPST	Single Pole, Single Throw
SSPC	Steel Structures Painting Council
TBM	Tunnel Boring Machine
TCA	Tile Council of America
TGA	Thermogravimetric Analysis
UFAS	Uniform Federal Accessibility Standards
UL	Underwriters Laboratories, Incorporated
UMTA	Urban Mass Transit Administration
UPS	Unit Price Schedule or Uninterruptible Power System, depending upon context in which it occurs
USBR	US Bureau of Reclamation
USCG	US Coast Guard
USCS	US Commercial Standard
USDA/SCS	US Department of Agriculture - Soil Conservation Service
USDOT	US Department of Transportation
USGBC	US Green Building Council
USN/CD	US Navy, Chesapeake Division
USPS	US Product Standard
USSG	United States Standard Gauge
WAD	Washington Aqueduct Division (Element of U.S. Army C.E., Baltimore District)
WSSC	Washington Suburban Sanitary Commission
XLPE	Cross-Linked Polyethylene

PART 2 – PRODUCTS (not used)

PART 3 – EXECUTION (not used)

END OF SECTION

SECTION 01470
QUALITY MANAGEMENT SYSTEM

PART 1 – GENERAL

1.01 SUMMARY

- A. This Section specifies the Design-Builder's requirements to formalize a system that documents the structure, responsibilities, and procedures required to achieve effective quality management of the Work throughout the duration of the Contract.
- B. The Quality Management System shall be consistent with ISO 9001 standard. The Design-Builder is not required to be ISO certified, however, certain Suppliers and manufacturers shall be certified as required in these specifications.
- C. The Quality Management System shall include a Quality Plan, Design Control Plan, Inspection and Test Plans and corresponding procedures and forms necessary to establish, document, maintain, and execute work that conforms to the Contract Documents.
- D. Inspection and Testing shall be performed by qualified staff and laboratories as specified herein.

1.02 REFERENCES

- A. Federal Transit Administration (FTA)
 - 1. FTA-PA-27-5194-12.1, Quality Management System Guidelines
- B. International Organization for Standardization (ISO)
 - 1. ISO 9001 – Quality Management Systems
 - 2. ISO 10013 – Guidelines for Quality Management System Documentation
- C. U.S. national standards maintained by the U.S. National Institute of Standards and Technology (NIST) and the U.S. Naval Observatory.

1.03 SUBMITTALS

- A. Make submittals in accordance with Section 01330, SUBMITTAL PROCEDURES, and as noted below. Submit plans, procedures, audit schedules and certifications for Approval. Remaining submittals are for information.
- B. Design Control Plan: As specified in Section 01112, DESIGN AND PROGRAM REQUIREMENTS.
- C. Quality Plan: Contract-specific Quality Plan modeled after ISO 9001 within 30 Days of NTP and with each revision. As a minimum, the following quality elements shall be included in the Quality Plan.
 - 1. Management Responsibility
 - 2. Document Control
 - 3. Subcontracting and Purchasing
 - 4. Product Identification and Traceability
 - 5. Inspection and Testing

6. Inspection Measuring and Test Equipment
 7. Inspection and Test Status
 8. Nonconformance
 9. Corrective Action
 10. Quality Records
 11. Quality Audits
 12. Training
- D. Quality Procedures: Procedures for each of the quality elements in the Quality Plan within 60 Days of NTP.
- E. Inspection and Test Plans/Specific: Submit Work task or component specific Inspection and Test Plans a minimum 60 Days in advance of when the covered work is scheduled to begin.
- F. Quality Reports: Submit the following reports in accordance with the approved Quality Plan and Quality Procedures.
1. Design Status Reports: Monthly.
 2. Daily Quality Reports: Daily.
 3. Test Status Report: Monthly.
 4. Review and Disposition of Nonconforming Product: With each occurrence.
 5. Summary of Management Reviews: Monthly during the first 6 months after NTP and not less than quarterly thereafter.
 6. Proposed audit schedule within 60 Days of NTP.
 7. Report of audit results and completion of corrective actions within 30 Days of the completion of an Audit.
 8. Quality Compliance Certification with each Monthly Progress Report

1.04 QUALITY MANAGEMENT SYSTEM REQUIREMENTS

A. Quality Management System

1. The Quality Management System shall be updated to improve the system as necessary throughout the Period of Performance of the Contract to reflect changes determined to be necessary by Design-Builder management review, Design-Builder internal audit, and Authority audit. Each update of the Quality Management System requires Authority Approval.
2. During the Period of Performance, exercise positive control over all of the Work, including that of sub consultants, Subcontractors, fabricators, manufacturers, installers, and Suppliers in accordance with the Quality Plan and Quality Procedures described within the approved Design-Builder Quality Management System.
3. The execution of the Quality Management System shall be subject to Authority audit throughout the Period of Performance of the Contract.

B. Quality Plan

1. The Quality Plan shall include the signatures of the Officer(s) responsible for the Design-Build entity indicating their approval of the Quality Management System.
2. Quality Manager
 - a. Shall have the qualifications specified in Section 01111, DESIGN-BUILDER KEY STAFF.
 - b. Shall perform as the Design-Builder's Management Representative.
 - c. Is responsible for implementing the Quality Management System and shall have the authority to stop the Work.
3. Document Control: Current version of all documents shall be managed in the Authority's Project Management Software System (PMSS). The database shall be kept current throughout the Period of Performance of the Contract.
4. Subcontracting and Purchasing
 - a. Purchased material, equipment, and services shall be controlled to ensure that they are properly integrated into the Work.
 - b. Assure that Design-Builder's sub consultants, Suppliers, and Subcontractors satisfactorily demonstrate and document an adequate system for managing quality to the Design-Builder.
 - c. Provide adequate surveillance of sub consultants, Subcontractors, and Suppliers to assure conformance with the Quality Management System and specification requirements. This surveillance shall include inspection and audit of off-Site activities of Design-Builder's sub consultants, Subcontractors, and Suppliers.
5. Product Identification and Traceability: The Design-Builder's Quality Management System shall include provisions to identify and provide traceability of products and materials where appropriate and as required in the Issued for Construction Specifications.
6. Inspection and Testing/General
 - a. Establish an Inspection and Test Plan that conforms to the Quality Management System and the Issued for Construction Specifications and that allows for tracking of actual performance of inspections and tests.
 - b. The Inspection and Test Plan shall incorporate elements of the Authority furnished Inspection Guidelines, Part 2, as needed to meet the requirements of the Quality Plan.
 - c. Testing laboratories shall be certified as required by the Issued for Construction Specifications.
 - d. The Inspection and Test Plan shall be designed to assure that testing is performed to demonstrate that components and systems perform satisfactorily in service. Testing shall be performed by qualified and experienced personnel, and using certified in accordance with approved test procedures. Tests shall incorporate acceptance limits defined by industry codes and standards or by the Issued for Construction Specifications; the more restrictive standard shall take precedence. All test results shall be documented and submitted to the Authority for review.
 - e. Provide the Authority 14 working days notice of tests except when greater notice is required in these specifications.

- f. Include instructions necessary to implement source inspections; receiving inspections; inspection of work in progress; hold point inspections, and completion inspections.
 - g. Forms for recording test results and authorized approval signatures shall be used for all tests. Each test form shall identify the applicable specification Section, Article, and Paragraph.
 - h. Subcontractors testing their own work shall be supervised and managed by the Design-Builder. The responsibility for testing and Subcontractor performance remains with the Design-Builder.
 - i. If tests or certifications conducted by the Authority disclose that work is not in conformance with the Issued for Construction Specifications, then the Authority will advise the Design-Builder as to the particular defects to be remedied. Upon correction of the defects, provide written notification to the Contracting Officer Representative, and additional testing or certification shall be conducted as necessary to result in a proven and certified system(s). Further, in the case of such non-conformance with the Issued for Construction Drawings and Issued for Construction Specifications, provide details on the preventive action taken to avoid such non-conformance for remaining installations.
7. Inspection, Measuring, and Test Equipment: Ensure that test equipment used meets the specified requirements, and that the equipment and instruments are controlled, maintained, and calibrated by a nationally recognized certification entity/agency. Devices used to calibrate measuring and test equipment or other measurement standards shall be traceable to one or more of the following:
 - a. U.S. national standards maintained by the U.S. National Institute of Standards and Technology (NIST) and the U.S. Naval Observatory.
 - b. Fundamental or natural physical constants with values assigned or accepted by the U.S. NIST.
 - c. National standards of other countries, which are correlated, with U.S. national standards.
 - d. Comparison to consensus standards.
8. Inspection and Test Status: Require inspection and test schedules for the Authority's use in scheduling test witnessing and other quality assurance functions.
9. Review and Disposition of Nonconforming Product: The authority within the Design-Builder organization to review and provide disposition of nonconforming products shall be identified. The disposition of product that does not conform to Issued for Construction Drawings and Issued for Construction Specifications shall be subject to approval by the Contracting Officer Representative.
10. Corrective Action: Corrective action shall be established, documented, and maintained. These include the investigation of the root cause of nonconforming work and the corrective action needed to prevent recurrence, and analysis to detect and eliminate potential causes of nonconforming work.
11. Control of Quality Records
 - a. Quality records document results achieved (e.g. test data sheets, test reports, electronic test data, mill certifications, measurement verification sheets, batch tickets) or provide evidence of activities performed (e.g. inspection reports, photos or videos, checklists with sign-offs).

- b. Establish and implement measures to identify, collect, index, file, and store. These procedures shall include a database to track and maintain control over all Quality Records generated by the Contract Work.
- c. Quality records shall be legible, reproducible, identifiable with the item involved, and contain the date of origination and identity of the originator, verifier, and responsible supervisor.
- d. Quality records generated by Subcontractors, Suppliers, fabricators, and test laboratories shall be traceable to the product being supplied or fabricated and shall be provided in advance of shipment or shall be shipped with the product.
- e. Retain quality records for the duration required to meet statutory requirements.

12. Quality Audits

- a. Management reviews conducted by Design-Builder:
 - (1) Management reviews shall occur monthly during the first 6 months of the Contract and not less than quarterly thereafter.
 - (2) Written summaries of findings and major corrective actions shall be provided to the Contracting Officer Representative within 5 Days of completion of each review.
- b. Internal quality audits conducted by Design-Builder:
 - (1) Internal audits shall be performed at least quarterly.
 - (2) Deficiencies in the Quality Management System, the causes of deficiencies in the Quality Management System, and the status of corrective action and preventive action, when appropriate shall be recorded in the audit results.
 - (3) Audit results shall be provided to the Contracting Officer Representative within 14 Days of the audit with a plan for corrective and preventative action.
 - (4) Provide notification of completed corrective and preventative action.

13. Training: Establish, maintain and provide the training needs for all personnel performing activities affecting quality.

C. Design Control Plan

- 1. The Design-Builder's design process shall translate the Authority's needs and requirements into an acceptable design.
- 2. Design control shall be defined by the Design Control Plan as described in Section 01112, DESIGN AND PROGRAM REQUIREMENTS.
- 3. Configuration management shall be defined by a Configuration Management Plan developed as a part of the Design Control Plan.

D. Inspection and Test Plans/Specific

- 1. As a minimum, Inspection Plans shall include the following information:
 - a. A matrix of all inspections required by the Issued for Construction Specifications to be performed by Design-Builder, Suppliers, or Subcontractors and their frequency.

- b. Established hold points that require work stoppage until Authority action relative to that work activity is complete.
 - c. Established witness points that identify when Authority notification is required for a Design-Builder work activity.
 - d. Checklists to be utilized.
2. As a minimum, the Test Plans shall include the following information:
- a. A matrix of all tests required by the Issued for Construction Specifications to be performed by Design-Builder, Suppliers, or Subcontractors.
 - b. Samples of test reports: the test reports shall meet the minimum requirements called for in the applicable test standards specified in the Issued for Construction Specifications.
 - c. Provisions for coordinating onsite and offsite testing.
 - d. Provisions for meeting the Authority notification criteria for planned tests and inspections specified to be witnessed by the Authority. Provide the Authority a minimum of 14 Days advance notice.
 - e. Description of test
 - f. Specification Section, Article, and Paragraph related to each test
 - g. Type of test
 - h. Applicable standard
 - i. Test frequency
 - j. Responsibility for test performance
 - k. Completion status
 - l. Means of tracking and recording corrective actions being taken to assure compliance with the Issued for Construction Specifications.
 - m. Means for recording test results.

E. QUALITY REPORTS

1. Design Status Report
- a. Design status report shall track and report the status of design products for Authority review. The report shall be revised, updated, and submitted for approval at least monthly.
 - b. The design status report shall be consistent with and follow from the Design Control Plan and shall specifically track all design and design verification activities included in the approved Design Control Plan.
 - c. The design status report shall be in a format that allows the Design-Builder and the Authority to reasonably understand the means by which the design of the Project is being completed. It shall provide planned versus actual schedule performance and shall be accurate and useful as a means for project personnel to understand how the Design is proceeding throughout the term.
 - d. The Design Status Report shall include subcontracted design work, if appropriate.

2. Daily Quality Reports: Daily quality reports shall summarize the construction activities to the Authority, record the inspections and tests completed and the results, and record deficiencies identified, during the previous 24 hours of work. These reports shall be provided to the Contracting Officer Representative daily.
3. Test Status Report: Track and report the status of testing. Revisions, updates, and additions the test status report shall be submitted to the Contracting Officer Representative at least monthly.
4. Quality Compliance Certification: As specified in Section 00744, METHOD OF PAYMENT, the Quality Manager's Quality Compliance Certification shall be provided with each Monthly Progress Report stating that application of the Quality Management System has demonstrated that the items requested for payment have been designed or constructed to meet the design requirements and have been inspected and tested as required to comply with Contract Documents, Issued for Construction Drawings and Issued for Construction Specifications. Work for which satisfactory records for design, testing, inspection, or other quality elements are not available, will not qualify for payment.

1.05 AUTHORITY QUALITY OVERSIGHT

- A. The principal role of the Authority in the implementation of the Design-Build Quality Program will be oversight of the effectiveness of the Design-Builder's Quality Management System including quality control and quality assurance activities. The Authority reserves the right to conduct inspection of all phases of design and construction by Authority field staff. Deficiencies discovered will be brought to the immediate attention of the Design-Builder including written follow-up notification.
- B. When the Authority determines that the approved Quality Management System or plans, or any portion or feature thereof, are not controlling work sufficiently for the Work to conform to Contract Documents, Issued for Construction Drawings and Issued for Construction Specifications, Design-Builder shall take appropriate action to correct such deficiencies. The Contracting Officer Representative may stop the Work activities if the Quality Management System is not functioning properly due to lack of Design-Builder's staff or for any other Contract non-compliance.
- C. Notwithstanding the above, Authority inspection, testing, or other actions shall not constitute Acceptance of work, nor shall it relieve the Design-Builder of its contractual responsibilities.
- D. When Authority inspection is required, add to the purchasing document the following statement:

"Authority inspection is required prior to shipment from the plant. Upon receipt of this order, promptly notify the Contracting Officer Representative, in writing, so that appropriate planning for Authority inspection can be accomplished."

1.06 AUTHORITY AUDITS OF THE DESIGN-BUILDER'S QUALITY MANAGEMENT SYSTEM

- A. At its sole discretion, the Authority may conduct audits, tests, and inspections in addition to those performed by the Design-Builder.
- B. There will be an ongoing review and evaluation of implementation of the Design-Builder's Quality Management System to verify that the Design-Builder is effectively controlling the quality of design and construction.
- C. Audits include audits of fabricators, Subcontractors, sub consultants, Suppliers, and third-party audits (i.e., ISO audits, trade organization certification audits, and audits required to maintain laboratory or testing accreditation).
- D. If the implementation of the Design-Builder's Quality Management System is determined to be ineffective by the Authority, the Authority, at its sole discretion, may withhold payment for any and

all work it deems to be deficient or non-conforming to the Contract Documents, Issued for Construction Drawings and Issued for Construction Specifications. The Design-Builder will be expected to make whatever changes are necessary in the organization or in the Quality Management System to provide effective control of the quality of the Work.

- E. The Authority will perform audits to verify that the Design-Builder is effectively controlling the quality of the Work. The basis for the audits will be the Quality Management System and the Issued for Construction Drawings and Issued for Construction Specifications.

PART 2 – PRODUCTS (not used)

PART 3 – EXECUTION (not used)

END OF SECTION

SECTION 01580
PROJECT SIGNS

PART 1 – GENERAL

1.01 SUMMARY

- A. This Section includes the requirements for Project signs that will be required at the Site during the construction of the Project.

1.02 PROJECT IDENTIFICATION SIGNS

- A. Furnish Authority Project identification signs in the locations at the Site selected by the Contracting Officer Representative.
- B. Sign size, content, lettering, and format for the large permanent-mount WMATA sign shall be as directed by the Authority and shall be shown on the Design-Builder's Working Drawings.
 - 1. Refer to WMATA Standard Drawings.
- C. Signs shall be installed 20 Days after Notice to Proceed is given, shall be maintained during the Work, and shall be removed upon the completion of the Project.

1.03 WARNING SIGNS AND INSTRUCTIONAL SAFETY SIGNS

- A. Provide "No Trespassing" signs, load limit on decking, and other warning and instructional safety aluminum signs with minimum 2-inch high Helvetica Medium style lettering and mount at locations on fencing/barriers/barricades/pedestrian bridges and on other areas as directed. Sign panel size and thickness shall be as directed. Mount the signs with stainless-steel cap screws with hex nuts and lock washers.

PART 2 – PRODUCTS (not used)

PART 3 – EXECUTION (not used)

END OF SECTION

SECTION 01610
BASIC PRODUCT REQUIREMENTS

PART 1 – GENERAL

1.01 SUMMARY

- A. This Section includes administrative and procedural requirements governing the Design-Builder's selection of products for use in construction of the Project.
- B. Administrative procedures for handling requests for substitutions made after award of the Contract are included under Section 01630, PRODUCT SUBSTITUTION PROCEDURES.

1.02 DEFINITIONS

- A. As used herein, the term brand name includes identification of products by make and model. If items called for in the Contract Documents have been identified by a brand name or equal description, such identification is intended to be descriptive, but not restrictive, and is to indicate the quality and characteristics of products that will be satisfactory. Design Specifications identifying equal products including products of the brand name manufacturer other than the one described by brand name as specified in Section 01630, PRODUCT SUBSTITUTION PROCEDURES, will be considered if such products are clearly identified and are determined by the Designer and the Authority to meet fully the salient characteristics of the products specified in the Contract Documents.

1.03 SUBMITTALS

- A. Submit for review an initial product list with the Preliminary Design in accordance with Section 01330, SUBMITTAL PROCEDURES. A written explanation for omissions of data and for known variations from Contract requirements shall be included.
- B. Submit for review and Approval a completed product list including a written explanation for omissions of data and for variations from Contract requirements within 30 Days after date of commencement of the construction work. Authority will notify Design-Builder of acceptance or rejection of the documentation within 21 Days of receipt of the submittal.
- C. Authority Acceptance of the product list does not constitute a waiver of the requirement that products comply with the Contract Documents and the Design Drawings and Design Specifications.

1.04 QUALITY ASSURANCE

- A. Provide products of the same kind from a single source.
- B. Except for required labels and operating data, the manufacturer's or producer's nameplates or trademarks shall not be attached or imprinted on exposed surfaces.
 - 1. Labels: Locate required product labels and stamps on a concealed surface or, where required for observation after installation, on an accessible surface that is not conspicuous.
 - 2. Equipment Nameplates: Provide a permanent nameplate on each item of service connected or power-operated equipment. The nameplate shall contain the following information and other essential operating data:
 - a. Name of product and manufacturer
 - b. Model and serial number

- c. Capacity
- d. Speed
- e. Ratings

1.05 PRODUCT DELIVERY, STORAGE, AND HANDLING

- A. All products shall be delivered, stored, and handled in accordance with the manufacturer's recommendations so as to prevent damage, deterioration, loss, or invalidation of the manufacturer's warranty.
- B. Schedule delivery to minimize long-term storage at the Site and to prevent overcrowding of construction storage and staging areas.
- C. Coordinate the time of delivery with the installation schedule to ensure that hazardous, easily damaged, or those items sensitive to deterioration, theft, and other losses are stored for a minimum holding period.
- D. Products shall be delivered to the Site in the manufacturer's original sealed container or other appropriate packaging, complete with labels and instructions for handling, storing, unpacking, protecting, and installing.
- E. Products shall be inspected upon delivery by the Design-Builder to ensure compliance with the Design Drawings and Design Specifications, and to ensure that products are undamaged and properly protected. Documentation noting the time, date, and manner of delivery shall be maintained by the Design-Builder. A statement attesting to the inspection of the products at time of delivery shall be included in the documentation signed by the Design-Builder's authorized representative.
- F. Products shall be stored at the Site in a manner that will facilitate inspection and measurement of quantity or counting of units. Heavy materials shall be stored in a manner that will not damage supporting construction. Products subject to damage by the elements shall be stored under cover in weather-tight enclosures with ventilation adequate to prevent condensation. Temperature and humidity shall be maintained within range required by manufacturer's instructions.

PART 2 – PRODUCTS

2.01 PRODUCT SELECTION

- A. Provide products that comply with the Issued for Construction Drawings and Issued for Construction Specifications. All products to be installed in the Work shall be undamaged and, unless otherwise permitted, unused at the time of installation. Products shall include all accessories, trim, finish, safety guards, and other devices and details needed for a complete installation and suitable for the intended use.
- B. Unless otherwise specified, provide standard products of the type that have been produced and used successfully in similar situations on other Authority projects of a similar nature.
- C. Procedures governing product selection include:
 - 1. Where only a single product or manufacturer is named and the notation "no substitution is permitted" is included in the specification, provide the product indicated. No substitutions will be permitted.
 - 2. Where two or more products or manufacturers are named followed by the notation "no substitutions are permitted" is included in the specification, provide one of the products indicated. No substitutions will be permitted.

3. Where the Issued for Construction Drawings and Issued for Construction Specifications list products or manufacturers that are available and acceptable for incorporation into the Work, accompanied by the term ...or equal or ...or approved equal, the Design-Builder may propose any available product that complies with Contract requirements. Comply with the requirement of Section 01630, PRODUCT SUBSTITUTION PROCEDURES, to obtain approval for use of an unnamed product.
4. Where the Issued for Construction Drawings and Issued for Construction Specifications list the salient features that explicitly describe a product or assembly and a brand name is not included, provide a product or assembly that provides the listed features and otherwise complies with the Contract requirements.
5. Where the Issued for Construction Drawings and Issued for Construction Specifications explicitly require compliance with performance requirements, and the product complies with those requirements based on the manufacturer's recommended use of the product for the application indicated in the Design Drawings and Design Specifications (as evidenced in published product literature, or by the manufacturer's certification of performance), the Design-Builder may submit the product for incorporation into the Work.
6. Where the Issued for Construction Drawings and Issued for Construction Specifications require only compliance with an imposed code, standard, or regulation, the Design-Builder may select a product that complies with the standards, codes, or regulations specified.
7. Visual Matching: Where specifications require matching an established item, the Authority's decision will be final on whether a proposed product matches satisfactorily. Where no product is available that adequately matches adjacent products or complies with the other specified requirements, comply with provisions of Section 01630, PRODUCT SUBSTITUTION PROCEDURES, for selection of an alternate product.
8. Where specified product requirements include the phrase ...as selected from manufacturer's standard colors, patterns, textures..., select a manufacturer that provides a range of colors in a product that meets all other Design Drawings and Design Specifications requirements. In this situation, standard shall imply regularly or routinely produced.

PART 3 – EXECUTION

3.01 PRODUCT LIST

- A. Prepare a product list in tabular form acceptable to the Authority showing products specified in the Design Drawings and Design Specifications. Coordinate the timing of delivery of products on the product list with the Design-Builder's Project Schedule as specified in Section 01322, CONTRACT PROGRESS REPORTING, and Contract Document Submittal Log as specified in Section 01330, SUBMITTAL PROCEDURES. At a minimum, provide the following information for each product:
 1. Related specification Section number.
 2. Generic name used in the Design Drawings and Design Specifications.
 3. Proprietary name, model number, and similar designation.
 4. Manufacturer's name and address.
 5. Supplier's name and address.
 6. Installer's name and address.
 7. Projected delivery date and length of delivery period.

- B. Within 14 Days of receipt of product list submittals, Contracting Officer Representative will notify the Design-Builder of Authority acceptance or rejection of the product list. If rejected, product list shall be corrected by the Design-Builder and resubmitted for review.

3.02 INSTALLATION OF PRODUCTS

- A. Comply with the manufacturer's instructions and recommendations for installation of all products installed under this Contract unless otherwise specified. Products shall be accurately located, aligned with other elements of the Work, and securely installed in place. All exposed surfaces shall be clean as specified in Section 01740, CLEANING, and protected as necessary to prevent damage and deterioration as specified in Section 01723, PROTECTION OF ADJACENT CONSTRUCTION.

END OF SECTION

SECTION 01630
PRODUCT SUBSTITUTION PROCEDURES

PART 1 – GENERAL

1.01 SUMMARY

- A. This Section includes administrative and procedural requirements for handling requests for substitutions made after award of the Contract.
- B. Other requirements governing the Design-Builder's selection of products and product options are included under 01610, BASIC PRODUCT REQUIREMENTS.

1.02 DEFINITIONS

- A. Definitions used in the Section are not intended to change the meaning of other terms used in the approved Issued for Construction Drawings and Issued for Construction Specifications.
- B. Design-Builder requests for changes in products, materials, equipment, and methods of construction as required or specified by Contract Documents or in approved Issued for Construction Drawings and Issued for Construction Specifications are considered requests for substitutions. The following are not considered substitutions:
 - 1. Revisions to Contract Documents or approved Issued for Construction Drawings and Issued for Construction Specifications requested by the Authority.
 - 2. Specified options of products and construction methods included in Contract Documents or in approved Issued for Construction Drawings and Issued for Construction Specifications. Note that products submitted under approve or equal or not limited to provision are considered to be substitutions as specified in Section 00210, SUPPLEMENTARY INSTRUCTIONS TO PROPOSERS.
 - 3. The Design-Builder's determination of and compliance with governing regulations and orders issued by governing authorities.

1.03 SUBMITTALS

- A. Requests for substitution from the Design-Builder during design work will be considered by the Authority. Requests for substitution from the Design-Builder during construction will be considered by the Authority if received with adequate time to allow for Authority review and Approval without delaying the Project Schedule. Requests received that may delay the Project Schedule will be considered or rejected at the sole discretion of the Authority.
 - 1. Submit one electronic copy in Adobe (.PDF) file format of the Brand Name or Equal Form, Section 00433, BRAND NAME OR EQUAL FORM, for each request for substitution to the Contracting Officer Representative for consideration of the form and in accordance with procedures required for Change Order proposals as specified in Section 00748, CHANGES, as deemed appropriate by the Contracting Officer Representative.
 - 2. In each substitution request, identify the product and fabrication or installation method to be replaced. The related WMATA Standard Specification Section, Standard or RFP Drawing numbers, or approved Issued for Construction Drawing numbers shall be referenced in the submittal. Complete documentation showing compliance with the requirements for substitutions shall also be submitted including the following information as appropriate:

- a. Product Data, including drawings, fabrication, and installation procedures.
- b. Samples, where samples of the specified product are requested.
- c. A detailed comparison of significant qualities/salient features of the proposed substitution with those of the material or work specified. Significant qualities shall include elements such as size, weight, durability, performance, visual effect, code compliance, maintenance requirements, energy usage, and environmental considerations.
- d. Coordination information, including a list of changes or modifications made necessary to other parts of the Work and to construction performed by the Authority or separate contractors.
- e. A statement indicating the substitution's effect on the Design-Builder's Construction Schedule. Indicate the effect of the proposed substitution on overall Period of Performance.
- f. Cost comparison between the product specified and the requested substitution, including a proposal of the net change, if any in the Contract Price.
- g. Certification by the Design-Builder that the substitution proposed is equal to or better in every respect to that required under the Contract, and that the product will perform as intended. Include a waiver of rights to additional payment or time that may subsequently become necessary should the product fail to perform adequately, or because of changes to other work were required as a consequence of the substitution.
- h. Failure by the Design-Builder to include the above requirements in the submittal may be cause for rejection of the submittal in its entirety.

1.04 If deemed necessary and within 14 Days of receipt of the submittal, the Contracting Officer Representative may request additional information or documentation that, in its sole judgment is required for the evaluation of the substitution request. Within 21 Days of receipt of the original substitution request or of requested additional information or documentation, the Design-Builder will be notified of acceptance or rejection of the proposed substitution. If a decision on the use of a proposed substitute cannot be made or obtained within the time allocated, the product specified by name in the Contract Documents or approved Issued for Construction Drawings and Issued for Construction Specifications shall be used.

1.05 SUBSTITUTION PROCEDURE

- A. The Design-Builder's request for substitution may be rejected by the Contracting Officer Representative if the substitution would involve:
1. Extensive revisions to Contract Documents.
 2. A proposed change not in keeping with the general intent of Contract Documents.
 3. An untimely request, not fully documented when submitted.
 4. A request that is directly related to approve or equal clause or similar language in the Contract Documents.
 5. A product or method of construction that could not be provided within the Period of Performance.
 6. A product or method of construction that could not be approved by a governing authority.

7. Additional responsibilities or expense to the Authority (including additional expenses for redesign and evaluation services, increased cost of related construction, and other similar considerations) that outweighs any advantage that is being offered to the Authority as a result of the substitution.
 8. A method of construction that cannot be provided in a manner that is compatible with other materials, the product cannot be coordinated with other materials, and a warranty cannot be provided for the product in accordance with the requirements of the Contract even though the Design-Builder expresses a willingness to certify that the apparent deficiencies can be corrected.
- B. Neither the Design-Builder's submittal nor the Authority's review or Approval of Shop Drawings, product data, or samples that relate to a substitution constitutes an Approval of the requested substitution. Submission of Shop Drawing, product data, or sample submittals does not relieve the Design-Builder from fulfilling Contract requirements for substitutions.

PART 2 – PRODUCTS (not used)

PART 3 – EXECUTION (not used)

END OF SECTION

SECTION 01711
ACCEPTANCE OF CONDITIONS

PART 1 – GENERAL

1.01 SUMMARY

- A. This Section specifies basic requirements for determining acceptable conditions for installation.

1.02 SUBMITTALS

- A. One electronic copy of the preconstruction inspection records.

1.03 PRECONSTRUCTION INSPECTION REQUIREMENTS

- A. Prior to beginning construction work, the Design-Builder shall inform the Authority of buildings or structures on which it intends to perform work or which performance of the Project Work will affect.
- B. 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 jointly by the Authority and the Design-Builder. This inspection will be conducted prior to the commencement of construction work to determine pre-existing conditions. After this inspection, the Authority will not assume any responsibility for damages arising from the Work performed and it shall be the responsibility of the Design-Builder to correct all damages caused by performance of the Contract Work.
- C. Examine substrates, areas, and conditions, with Authority personnel present, for compliance with requirements for installed tolerance and other conditions affecting performance. Record observations from the required preconstruction inspection.
- D. Where a written inspection report requires listing conditions detrimental to performance of the Work, include the following:
 - 1. Description of the Work.
 - 2. List of detrimental conditions, including substrates.
 - 3. List of unacceptable installation tolerances.
 - 4. Recommended corrections.

1.04 EXAMINATION

- A. General: Verify dimensions shown on existing work and dimensions required for work that is to connect with work not in place.
- B. Existing Conditions
 - 1. The existence and location of Site improvements, above and below-ground utilities, and other construction indicated as existing are not guaranteed. Before beginning work, investigate and verify the existence and location of above and below-ground utilities, mechanical and electrical systems, and other construction affecting the Work. Verify the location and point of connection of utility services.
 - 2. Before construction, verify the location and invert elevation at points of connection of sanitary sewer, storm sewer, water service pipes, and electrical services.
 - 3. Furnish location data for work related to the Project that must be performed by public utilities serving the Project Site.

- C. Verify compatibility with and suitability of substrates, including compatibility with existing finishes or primers.
- D. Examine rough-in for mechanical and electrical systems to verify actual location of connections before equipment and fixture installation.
- E. Examine new and existing facilities for suitable conditions where products and systems are to be installed.

1.05 ACCEPTANCE OF CONDITIONS

- A. Examine substrates, areas, and conditions, with contract personnel present where indicated, for compliance with requirements for installation tolerances and other conditions affecting performance. Record observations.
 - 1. Written Report: Where a written report listing conditions detrimental to performance of the Work is required by other Sections, include the following:
 - a. Description of the Work.
 - b. List of detrimental conditions, including substrates.
 - c. List of unacceptable installation tolerances.
 - d. Recommended corrections.
 - 2. Verify compatibility with and suitability of substrates, including compatibility with existing finishes or primers.
 - 3. Examine roughing-in for mechanical and electrical systems to verify actual locations of connections before equipment and fixture installation.
 - 4. Examine new and existing facilities for suitable conditions where products and systems are to be installed.
- B. Proceed with installation only after unsatisfactory conditions have been corrected.
- C. Proceeding with work indicates acceptance of surfaces and conditions.

PART 2 – PRODUCTS (not used)

PART 3 – EXECUTION (not used)

END OF SECTION

SECTION 01722
MOBILIZATION

PART 1 – GENERAL

1.01 SUMMARY

- A. This Section includes specifications for the following:
 - 1. Organization and mobilization of Contractor's forces;
 - 2. Transporting various tools, materials, and equipment to the Site; and
- B. Mobilization shall include mobilization of all construction equipment, temporary facilities, materials, supplies, appurtenances, staffed and ready for commencing and prosecuting the Work; and the subsequent demobilization and removal from the Site of said equipment, appurtenances, and the like upon completion of the Work.
- C. Mobilization shall also include equipment, materials, and supplies necessary for the prosecution of work, which are not intended to be incorporated in the Work; the clearing of and preparation of the Design-Builder's work area; the complete assembly, in working order, of equipment necessary to perform the required work; personnel services preparatory to commencing actual work; and all other preparatory work required to permit commencement of the actual work on construction items for which payment is provided under the Contract.

PART 2 – PRODUCTS (not used)

PART 3 – EXECUTION

3.01 DELIVERY

- A. Delivery to the jobsite of construction tools, equipment, materials, and supplies shall be accomplished in conformance with local governing ordinances and regulations.

3.02 TOOLS AND SUPPLIES

- A. Provide construction tools, equipment, materials, and supplies of the types and quantities that will facilitate the timely execution of the Work.
- B. Provide personnel, products, construction materials, equipment, tools, and supplies at the jobsite at the time they are scheduled to be installed or utilized.

3.03 DEMOBILIZATION

- A. Upon completion of the Work, remove construction tools, apparatus, equipment, unused materials, and supplies, plant, temporary facilities, and personnel from the jobsite.
- B. Restore all areas utilized for the Design-Builder's temporary facilities and staging purposes to their original, natural state or, when called for in the Contract Documents, complete such areas as indicated.

END OF SECTION

SECTION 01723
PROTECTION OF ADJACENT CONSTRUCTION

PART 1 – GENERAL

1.01 SUMMARY

- A. This Section specifies the appropriate methods for protection of adjacent construction when performing installations and improvements in and around existing facilities.

1.02 PROTECTION OF EXISTING SURFACES

- A. Existing surfaces shall be carefully protected during construction operations under this Contract to avoid damaging existing surfaces.
 - 1. Existing surfaces shall be protected by the Design-Builder from all possible damages including chipping, staining, and corroding during performance of the Work.
 - 2. If damage occurs, the Design-Builder shall repair or replace to match original undisturbed conditions.

PART 2 – PRODUCTS (not used)

PART 3 – EXECUTION (not used)

END OF SECTION

**SECTION 01731
CUTTING AND PATCHING**

PART 1 – GENERAL

1.01 SUMMARY

- A. This Section specifies the appropriate methods for performing cutting and patching when installations occur in existing facilities or for improvements including selective demolition, salvaging of materials and equipment, and restoring of pavement and other surfaces and improved areas from damage caused by the Design-Builder's operations.

1.02 SUBMITTALS

- A. Written Request: Submit a written request for approval by the Contracting Officer Representative prior to cutting and patching. A written request is required for any cutting or alteration, which affects:
1. The work of the Authority or any separate contractor,
 2. The structural value or integrity of any element of the Project,
 3. The integrity or effectiveness of weather exposed or moisture-resistant elements or systems,
 4. Building aesthetic qualities for exterior areas or in occupied spaces, or
 5. The efficiency, operation life, maintenance, or safety of operational systems.
- B. Cutting and Patching Proposal: Include in written request the following:
1. Describe the extent of cutting and patching required. Show how it will be performed and indicate why it cannot be avoided.
 2. Describe anticipated results in terms of changes to existing construction. Include changes to structural elements and operating components as well as changes in the building's appearance and other significant visual elements.
 3. List utilities that will be disturbed or affected, including those that will be relocated and those that will be temporarily out-of-service. Indicate how long service will be disrupted.
- C. Structural Elements: Where cutting and patching involves addition of reinforcement to structural elements, submit details and engineering calculations to show how reinforcement is integrated with the original structure to satisfy requirements.
- D. Should conditions of work or schedule indicate change of materials or methods, submit written recommendations to the Contracting Officer Representative, including:
1. Conditions indicating change,
 2. Recommendations for alternative materials or methods, and
 3. Resubmittal as required for substitution.
- E. Approval by the Contracting Officer Representative to proceed with cutting and patching work does not waive the Authority's right to later require complete removal and replacement of any part of the Work found to be unsatisfactory.

1.03 QUALITY ASSURANCE

- A. Requirements for Structural Work: Do not cut and patch structural elements in a manner that would change their load carrying capacity or load deflection ratio. Obtain prior approval from the Contracting Officer Representative of the cutting and patching procedures proposed.
- B. Operational Limitations: Do not cut and patch operating elements or related components in a manner that would result in reducing their capacity to perform as intended. Do not cut and patch operating elements or related components in a manner that would result in increased maintenance or decreased operational life or safety. Obtain prior approval from the Contracting Officer Representative of the cutting and patching procedures proposed.
- C. Visual Requirements: Do not cut and patch construction exposed on the exterior or in occupied spaces in a manner that would, in the Contracting Officer Representative's opinion, reduce the building's aesthetic qualities. Do not cut and patch construction in a manner that would result in visual evidence of cutting and patching.
 - 1. If possible, retain the original installer or fabricator to cut and patch exposed Work. If it is impossible to engage the original installer or fabricator, engage another recognized experienced and specialized firm.
 - 2. Remove and replace construction cut and patched in a visually unsatisfactory manner.

1.04 EMBEDDED ITEMS

- A. When reinforcing steel, conduit or other items embedded in the concrete are encountered in a drilling or coring operation, the operation shall be stopped and the Contracting Officer Representative immediately notified. Determine whether the embedded item may be cut through and if determined to be permissible, obtain Contracting Officer Representative's concurrence before doing so. If it is not permissible to cut through the embedded item, holes shall be drilled in another location and the original holes patched as directed by Contracting Officer Representative.

1.05 PAVEMENT AND IMPROVED AREAS RESTORATION

- A. As applicable, secure permits from the Jurisdictional Authority for all pavement restoration within the limits of said Jurisdictional Authority. Submit Working Drawings of such pavement restoration prepared in accordance with the requirements of the Issued for Construction Drawings, Issued for Construction Specifications, and the Jurisdictional Authority to the Jurisdictional Authority for approval.
- B. During construction operations on this Contract, certain areas currently grassed, landscaped, or otherwise improved may be disturbed or damaged. Restore such areas as specified in Section 00736, PROTECTION OF EXISTING VEGETATION, STRUCTURES, UTILITIES AND IMPROVEMENTS.
- C. Existing surfaces marred or damaged by operations under this Contract shall be repaired or replaced by the Design-Builder to the condition prior to being marred or damaged as approved by the Contracting Officer Representative.

PART 2 – PRODUCTS

2.01 MATERIALS

- A. General: Use materials identical to existing materials. For exposed surfaces, use materials that visually match existing adjacent surfaces to the fullest extent possible if identical materials are unavailable or cannot be used, use materials whose installed performance will equal or surpass that of existing materials.

PART 3 – EXECUTION

3.01 INSPECTION

- A. Examine surfaces to be cut and patched and conditions under which cutting and patching is to be performed before cutting. If unsafe or unsatisfactory conditions are encountered, take corrective action before proceeding.
- B. After uncovering work, inspect conditions affecting installation of new products.
- C. Report unsatisfactory or questionable conditions to the Contracting Officer Representative in writing, and do not proceed with the Work until the Contracting Officer Representative has provided further instruction.

3.02 PREPARATION PRIOR TO CUTTING AND PATCHING

- A. Temporary Support: Provide shoring, bracing, and support as required to maintain structural integrity of the affected portion of the Work.
- B. Protection: Protect existing equipment during cutting and patching to prevent damage. Provide protection from adverse weather conditions for portions of the Project that might be exposed during cutting and patching operations.
- C. Avoid interference with use of adjoining areas or interruption of free passage to adjoining areas.

3.03 PERFORMANCE

- A. General: Employ skilled workmen to perform cutting and patching. Proceed with cutting and patching at the earliest feasible time and complete without delay. Cut existing construction to provide for installation of other components or performance of other construction activities and the subsequent patching required to restore surfaces to their original condition.
- B. Cutting: Cut existing construction using methods least likely to damage elements to be retained or elements adjoining construction. Where possible review proposed procedures with the original installer; comply with the original installer's recommendations.
 - 1. In general, where cutting is required, use hand or small power tools designed for sawing or grinding, not hammering and chopping. Cut holes and slots neatly to size required with minimum disturbance of adjacent surfaces. Temporarily cover openings when not in use.
 - 2. To avoid marring existing finished surfaces, cut or drill from the exposed or finished side into concealed surfaces.
 - 3. Cut through concrete and masonry using a cutting machine such as a carborundum saw or diamond core drill.
 - 4. By-pass utility services such as pipe or conduit, before cutting, where services are shown or required to be removed, relocated, or abandoned. Cut off pipe or conduit in walls or partitions to be removed. Cap, valve or plug and seal the remaining portion of pipe or conduit to prevent entrance of moisture or other foreign matter after bypassing and cutting.
- C. Patching: Patch with durable seams that are as invisible as possible. Comply with specified tolerances.
 - 1. Where feasible, inspect and test patched areas to demonstrate integrity of the installation.
 - 2. Restore exposed finishes of patched areas and extend finish restoration into retained adjoining construction in a manner that will eliminate evidence of patching and refinishing.

3. Where removal of walls or partitions extends from one finished area into another, patch and repair floor and wall surfaces in the new space to provide an even surface of uniform color and appearance. Remove existing floor and wall coverings and replace with new materials, if necessary to achieve uniform color and appearance.
4. Where patching occurs within a smooth painted surface, apply a primer and second coat over the patched area and extend the final coat over the entire unbroken area containing the patch.
5. Patch, repair, or rehang existing ceilings as necessary to provide an even plane surface of uniform appearance.

3.04 CLEANING

- A. General: Thoroughly clean areas and spaces where cutting and patching is performed or used as access. Completely remove paint, mortar, oils, putty and items of similar nature. Thoroughly clean piping, conduit and similar features before painting or other finishing is applied. Restore damaged pipe covering to its original condition.

END OF SECTION

SECTION 01740
CLEANING

PART 1 – GENERAL

1.01 SUMMARY

- A. This Section includes specifications for furnishing all labor, materials, equipment, and services, and performing all operations necessary for, and properly incidental to, cleanup during construction and final cleaning of the facilities and site prior to Acceptance by the Authority.

PART 2 – PRODUCTS (not used)

PART 3 – EXECUTION

3.01 CLEANUP DURING CONSTRUCTION

- A. Keep the entire Site in a neat and orderly condition at all times during construction. Conduct a general cleanup of the Site daily as a part of the Work. Provide general daily cleanup and disposal service for removal of waste and rubbish from the jobsite. Clean material as necessary prior to incorporating into the Work.
- B. Dispose and recycle waste, trash, and debris in a safe, acceptable manner, in accordance with applicable laws and ordinances and as prescribed by Jurisdictional Authorities. Bury no waste material and debris on the Site. Burning of trash and debris on the Site is prohibited.
- C. Provide daily litter pickup within Project limits. Provide adequate number of trash receptacles for worker's lunches, cigarette butts, and other miscellaneous garbage.

3.02 FINAL CLEANING OF FACILITIES

- A. Prior to final inspection by the Contracting Officer Representative, and after all construction work is essentially complete, thoroughly clean facilities.
- B. Items to be cleaned include, but are not limited to, all glass, doors, opening frames, grilles, trim, exposed non-ferrous metal surfaces, floor coverings, light fixtures and plates, plumbing fixtures and trim, and all finish surfaces throughout the construction.
- C. Vacuum-clean where appropriate and remove all spots, smears, dust, debris, hand prints, and defacements of every sort, including those of vandals. Use commercial cleaning compounds where necessary.
- D. Follow the recommendations of the manufacturers of the materials and items to be cleaned for all cleaning, polishing, and treatment such as waxing or sealing.

3.03 FINAL SITE CLEANUP

- A. Prior to final inspection, thoroughly clean the entire Site so it is in a neat, acceptable condition. Remove from the entire Site all construction equipment and facilities, construction waste and unused materials, dunnage, loose rock and stones, excess earth, and debris of any description resulting from the Work.
- B. Hose down and scrub clean where necessary all pavement and paved walks.
- C. Thoroughly remove mortar droppings from masonry work. Hose down and scrub clean all concrete flatwork and exposed vertical surfaces of concrete and masonry.

- D. All drainage systems shall be free and clear. All drainage systems and sewers shall be pressure cleaned and inspected, and all catch basins and sumps shall be cleaned.
- E. All spare material shall be delivered to the Authority.

END OF SECTION

SECTION 01775
CLOSEOUT

PART 1 – GENERAL

1.01 SUMMARY

- A. This Section includes specifications for performing all operations necessary for and incidental to closing out a Contract and assisting in the Authority's final inspection.
- B. This Section includes procedures for closeout submittals including the following:
 - 1. Operation and Maintenance manuals;
 - 2. As-Built Drawings and Specifications;
 - 3. Spare parts list, delivery information, and distribution of spare parts;
 - 4. Configuration management system;
 - 5. Training manual, lesson plans, and student's training manual and electronic media of such, as applicable;
 - 6. Survey record log;
 - 7. Correspondence file;
 - 8. Releases;
 - 9. Vouchers;
 - 10. Records for design, inspection, testing or other quality elements;
 - 11. Request for final payment;
 - 12. Certifications, affidavits, and warranties and guarantees; and
 - 13. Correction of deficiencies submittals as applicable
- C. This Section establishes required actions by the Design-Builder for facility systems and subsystems commissioning that include the preparation of an asset database, the preparation of preventive maintenance instructions, and labeling and packaging of spare parts.

1.02 CLOSEOUT SCHEDULE AND PROCEDURE

- A. Changes from Original Conditions:
 - 1. Upon completion of the Work and prior to Substantial Completion, the Design-Builder shall examine each property to determine changes from the original conditions established by the preconstruction inspection, and Section 01711, ACCEPTANCE OF CONDITIONS, and shall furnish a written description to the Contracting Officer Representative of measures taken to correct damage that may have resulted from performance of this Contract, and shall obtain a written release from each owner accepting condition of the building or structure, corrections, or both, thereby relinquishing any claim against the Design-Builder. In the event any owner refuses to furnish a release of claims, the Design-Builder shall notify the Contracting Officer Representative in writing. The Design Builder shall coordinate with Authorities existing asset record system

2. The Authority will not assume responsibility for alleged damages arising from the Work performed under this Contract.
- B. Requirements Preparatory to Final Inspection by the Authority:
1. Notify the Contracting Officer Representative to perform a preliminary final inspection for the purpose of determining the state of completion of the Work. Notify the Contracting Officer Representative at least 14 Days in advance of requested inspection. The Contracting Officer Representative will perform the inspection within 3 working days of the requested date. From the information gathered from this inspection, the Contracting Officer Representative will prepare a Punch List of work to be performed, corrected, or completed before the Work will be accepted. All work on the Punch List shall be completed by the Design-Builder prior to final inspection.
 2. Temporary facilities, except as may be required during Punch List work, shall be removed from the Site.
 3. Clean the Site and all applicable appurtenances and improvements as specified in Section 01740, CLEANING.
 4. Properly mount operating instructions for equipment and post as specified or required.
- C. Final Inspection by the Authority:
1. After all requirements preparatory to the final inspection have been completed as hereinbefore specified, notify the Contracting Officer Representative to perform the final inspection. Notice shall be given at least 14 Days in advance of the time the Work will be available for final inspection. The Contracting Officer Representative will perform the inspection within 3 working days of the requested date.
 2. Design-Builder or its principal superintendent, authorized to act on behalf of the Design-Builder, shall accompany the Contracting Officer Representative on the final inspection, as well as any principal Subcontractors that the Contracting Officer Representative may request to be present.
 3. If the Work has been completed in accordance with the Contract and Issued for Construction Documents, and no further corrective measures are required, the Contracting Officer Representative will accept the Work and will issue a Certificate of Completion as evidence of acceptance.
 4. If the Work has been substantially completed in accordance with the Contract and "Issued for Construction" Documents, and the Work can be used for its intended purpose with only minor corrective measures required, the Contracting Officer Representative will conditionally accept the Work and will issue a Certificate of Substantial Completion based upon the Design-Builder's assurance that corrective measures will be completed within the shortest practicable time. A fixed schedule for such corrective measures shall be submitted to the Contracting Officer Representative for approval.
 5. If the Work has not been substantially completed in accordance with the Contract and Issued for Construction Documents, and several or many corrective measures are still required, the Contracting Officer Representative will not issue a Certificate of Substantial Completion. Instead, a new Punch List will be prepared based on the information gathered from the final inspection, and the Design-Builder will be required to complete this work and then call for another final inspection, following the procedure outlined above.
- D. Asset and Parts Databases:

1. Prepare an asset database listing roofing system and subsystem assets with attribute data to include asset name, asset location, description, contract number and specification section, supplier/vendor, manufacturer name and contact information, make, model number, serial number, year of manufacture, purchase price, expected useful life, installation date, acceptance date, Design-Builders and manufacturer's warranty period with start date, digital link to warranty documentation, digital link to Operation and Maintenance Manual, and special tools required to perform asset maintenance. Provide this asset database for assets as determined by Authority review of an asset list submittal prepared by Design-Builder. The asset list submittal shall be based on equipment and systems noted below.
 2. Prepare a parts database listing parts for assets with attribute data to include parent asset name, part name, description, contract number and specification section, supplier/vendor, manufacturer name and contact information, illustrated parts catalog (IPC) drawing number, vendor catalog number, original equipment manufacturer (OEM) part number, model number, unit cost, unit of measure for the part(s), number of spare units provided, replacement lead time, forecasted usage, hazardous material designation, and storage and handling instructions. Provide this parts database for parts as determined by Authority review of a parts list submittal prepared by Design-Builder. The parts list submittal shall be based on the lowest maintainable parts for each asset as defined in the Operation and Maintenance Manuals.
 3. Databases shall provide asset and parts information for the following equipment and systems:
 - a. Building Maintenance Equipment
 - b. Building Mechanical Systems
 - c. Building Electrical Systems
 - d. Fire Alarm and Suppression Systems
 - e. Communication Systems
 - f. Building and Site Security Systems
 4. Sample asset table and parts table are attached at the end of this Section for the Design-Builder's guidance in preparing the asset database.
- E. Preventive Maintenance Instructions:
1. Prepare preventive maintenance instructions for each asset, including asset name, asset location, manufacturer name, model number, serial number, maintenance instructions for each asset and each scheduled maintenance based on requirements of the associated Operations and Maintenance Manual, and identification of special test equipment required to test the asset subsequent to performing maintenance.
 2. Sample preventive maintenance instructions are attached at the end of this section for the Design-Builder's guidance in preparing the preventive maintenance instructions.

1.03 SUBMITTALS

- A. Make all submittals in accordance with Section 01330, SUBMITTAL PROCEDURES and as specified below.
- B. Operation and Maintenance:
 1. Furnish manuals for equipment and systems as required by the Issued for Construction Specifications.

2. Data copy included from standard catalogs shall be edited to reflect only conditions pertinent to this Contract.
3. Data copy shall be suitable for dry-copy reproduction on standard office copy machines.
4. Hard copy manuals shall be prepared using the following materials:
 - a. Binder:
 - (1) One of following:
 - (a) Loose-leaf; three-ring with elliptical rings; stiff cover with covering resistant to oil, water, and wear; reinforced hinges; label holder on spine; mechanical device to open, close and lock rings; and sheet lifters. Size for 8-1/2-inch by 11-inch paper, 3-inch maximum capacity.
 - (b) Loose-leaf three-post binder conforming to FS UU-B-320, Type II, Class 2, with covering resistant to oil, water, and wear; label holder on spine; size for 8-1/2-inch by 11-inch paper; capacity as required, 4-inch maximum thickness.
 - (2) When the assembled data exceeds the capacity of one binder, provide additional binders as necessary.
 - b. Pages:
 - (1) Originals: White, 60-pound bond with plastic-reinforced binding edge.
 - (2) Catalog data: Offset-printed copy on white paper, with plastic-reinforced edge.
 - (3) Standard: 8-1/2 inches by 11 inches.
 - (4) Fold-out: 11 inches by 8-1/2 inches for binding portion of page plus 7-1/2 inches for each additional portion of folded page; title and page number visible without unfolding. Provide a filler at the binding edge of fold-out pages, equal in thickness to the folded portion.
 - (5) Holes punched for standard three-ring binder.
 - (6) Consecutively numbered.
5. Electronic Copies shall accompany the paper copies of all submittals of all manuals. These electronic copies shall be submitted in an editable, non-copyrighted Microsoft Office format. There shall be two electronic copies per submitted manual delivered one each to the programs office and to the applicable training department.
6. Manuals shall include the following data:
 - a. Table of contents.
 - b. Design-Builder's name, address and telephone number, with similar data for its 24-hour service organization.
 - c. Manufacturer's name, address and telephone number, with similar data for its local representative, distributor, and service agency.
 - d. Catalog, model, and serial number of equipment installed. Include WMATA unit numbers where applicable.
 - e. Description of equipment.

- f. Detailed Theory of Operation of each system and subsystem to LRU
 - g. Troubleshooting and Diagnostic Procedures for each piece of equipment delivered to LRU
 - h. Block Diagrams and Schematics of equipment as installed
 - i. Software administrative procedures for data input, failure diagnosis and system restoration
 - j. Statement of warranty as specified.
 - k. Description of modification, servicing and repairs performed prior to start of warranty.
 - l. Dates warranty begins and expires.
 - m. Standard starting, stopping and operating procedures.
 - n. Emergency and special operating procedures.
 - o. Routine maintenance procedures.
 - p. Servicing and lubrication schedule.
 - q. Manufacturer's printed operating and maintenance instructions, manufacturer's parts list, illustrations, and diagrams.
 - r. O&M data as required to meet LEED required design goals.
 - s. One copy of each wiring diagram.
 - t. List of spare parts, prices and recommended stock quantities for routine maintenance of the equipment for 1 year and list of spare parts that are considered critical and for which extended time frames for acquisition would create undesirable down-time for equipment.
 - u. List of special tools required to perform inspection, adjustment, maintenance, and repair. Special tools are those developed to perform a unique function related to the particular equipment and not available from commercial sources.
 - v. Copy of each approved Shop Drawing of equipment and system. Include drawings which show outline dimensions, weights, and assembly data. Do not include drawings which show manufacturing details.
7. Manuals submittal schedule:
- a. Four copies of sample formats and outlines of contents in draft form 120 Days prior to the time scheduled for operation inspection, testing, or acceptance of the equipment.
 - b. Four copies of complete manual in final form 45 Days prior to the time scheduled for operation inspection, testing, or acceptance of the equipment.
 - c. Four bound sets and electronic media of approved manual before the time scheduled for operation inspection, testing, or acceptance of the equipment.
 - (1) Electronic copy files shall be in latest version of Adobe (.PDF) file format. Files shall be submitted in accordance with Section 01330, SUBMITTAL PROCEDURES.
 - (2) Shop Drawings submitted with manuals shall be in AutoCAD (.DWG) file format. Line work shall be shown on designated layers in accordance with standard CAD layering

guidelines as specified in the WMATA CAD Manual. Images shall be clear, sharp, and readily legible.

- (3) The Authority reserves the right to have any images, illustrations, diagrams, and drawings resubmitted until the Contracting Officer Representative approves their legibility.
 - d. In addition to the other requirements of this Section, if manufacturer's hardcopy illustrations, diagrams, and drawings are also used in the preparation of Operation and Maintenance manual illustrations, diagrams, and drawings, they shall also be furnished in Adobe (.PDF) file formats.
 8. If operation and maintenance training is included in the Contract, provide to each trainee, hard and electronic copies of approved operation and maintenance manuals for this purpose as specified in Section 01820, DEMONSTRATION AND TRAINING.
 9. Furnish additional operation and maintenance manuals required for LEED Silver Certification per the quantity and documentation requirements for LEED for New Construction and Major Renovation.
- C. As-Built Drawings and Specifications:
1. General:
 - a. As-Built drawings shall include Shop Drawings, Working Drawings, and field prepared drawings.
 - b. Maintain a hard copy drawing and specification record of as-built conditions on a set of Issued for Construction Drawings and Specifications as the Work progresses. The Issued for Construction Drawings and Specifications shall be kept current with all Modifications issued by the Authority. The hard copy drawing and specification record shall be maintained at the Design-Builder's field office. Periodic review of the completeness of the hard copy record will be conducted by the Authority as deemed necessary to ensure the record is kept up to date.
 2. As-Built Drawings:
 - a. Draft Deliverable: Submit to the Authority, for review and comment, separate sets of draft As-Built Drawings in both an AutoCAD (.DWG) file format and an Adobe (.PDF) file format (.PDF files shall be capable of printing full-size drawings.), in print quality black and white, with all fonts embedded. The latest versions of both file formats shall be used. All line work shall be shown in accordance with the WMATA CAD Manual. Images shall be clear, sharp, and readily legible. The Authority reserves the right to have drawing(s) resubmitted until the Contracting Officer Representative accepts the legibility of the drawing contained in the file. Submit one set of full-size and two sets of half-size black ink on white paper copies of draft As-Built Drawings for review and comment by the Authority in accordance with Section 01330, SUBMITTAL PROCEDURES.
 - b. Upon return of one set of full-size black ink on white paper copy of the draft As-Built Drawings with Authority comments, incorporate additions and corrections resulting from Authority review comments. Design-Builder shall direct specific attention, by annotation on resubmitted As-Built Drawings, to revisions other than the corrections requested by the Contracting Officer Representative on previous submittals.
 - c. Final Deliverable: By the date scheduled for receipt of final approved As-Built Drawing deliverables in the Contract Schedule, separate sets of As-Built Drawings in both an AutoCAD (.DWG) file format and an Adobe (.PDF) file format, in print quality black and white, with all fonts embedded. Submit one set of full-size and two sets of half-size black

ink on white paper copies, produced from the Adobe file, to the Contracting Officer Representative for review and Approval. If this submittal is found to be incomplete it will be returned to the Design-Builder with comments for re-submittal.

- d. The completed As-Built Drawings do not require the signature of the Engineer or Architect of Record. Each completed As-Built Drawing produced in Adobe (.PDF) electronic format shall have the signature of an officer of the Design-Builder's organization, certifying compliance with as-built conditions, using a stamp as follows:

AS-BUILT

I CERTIFY THAT THIS DRAWING
ACCURATELY DEPICTS THE WORK
CONSTRUCTED AS OF

(date)

(an officer of the Design-Builder)

Design-Builder's Name

3. As-Built Specifications:

- a. By the date scheduled for receipt of final approved As-Built Specification deliverables in the Contract Schedule, submit As-Built Specifications in both latest version of Word (.DOCX) file format and an Adobe (.PDF) file format, in print quality black and white. Submit two bound sets of black ink on white paper copies produced from the Adobe (.PDF) format to the Contracting Officer Representative for review and acceptance in accordance with Section 01330, SUBMITTAL PROCEDURES. The Word file format (.DOCX) does not require the professional seal or signature of the Engineer or Architect of Record. The Adobe (.PDF) file format will require the professional seal and signature of the Engineer or Architect of Record for all disciplines on the cover page. If this submittal is found to be incomplete it will be returned to the Design-Builder with comments for re-submittal.
- b. The Authority's Standard Specifications are not to be edited, however specifications prepared by the Design Builder as part of the development of the Issued for Construction Specifications shall be edited to be Project specific.

D. As-Built Project Schedule:

1. Submit one electronic copy of the approved As-Built Project Schedule as required.

E. Spare Parts:

1. This Contract includes the requirement for spare parts, either specifically identified in the price schedule or to be identified later during the term of the Contract. Ensure that all spare parts required by this Contract are provided and delivered in accordance with the following paragraphs.
2. Submit to the Authority the one electronic copy of the list of required spare parts either specifically identified in the unit price schedule or later identified by the Authority in accordance with the Issued for Construction Specifications. The list provided by the Design-Builder shall include part name, model number, part number, serial number, stock number, component name, location for use, manufacturer's name and contact information, unit cost,

quantity, available packaging, special storage and handling instructions, replacement schedule, and anticipated annual usage. In addition, the spare parts listing shall include the following additional information as appropriate:

- a. Group the list by system and subsystem for inventory system identification. Include order and procurement information for subassemblies and components.
 - b. Correlate the required quantities with the reliability requirements and lead time considering the following classifications:
 - (1) Wear: Components which may be expected to require regular replacement under normal maintenance schedule and operations, such as mechanical parts subject to continuous operation within projected mean time between failure levels.
 - (2) Consumables or expendables: Components which are consumed, used up, destroyed, or upon failure, are otherwise made unusable for their intended purpose and are economically unrecoverable except for inherent scrap value.
 - (3) Recoverable or repairable: Components, which upon failure are capable of being repaired or remanufactured to a serviceable, operational condition and maintained available for use within their initial intended purpose. Such items shall be accounted for via appropriate asset records.
 - (4) Long lead: Components, which are not available on short notice from commercial distributors or within 48 hours from the manufacturer, such as specially made or selected components.
 - (5) Cross referencing: Where replacement components are common to more than one system or subsystem, include a cross reference and indexing system in the replacement components list.
 3. Within 30 Days after the Design-Builder submits the required spare parts listing, the Authority will provide the Design-Builder with shipping instructions and with WMATA stock numbers for each item the Design-Builder is required to furnish. Spare parts shall be packaged such that parts for a particular asset or a particular facility are grouped together. The Design-Builder shall ship, within a 25-mile radius of the Project, the required parts to the designated points specified by the Authority and shall include the Contract number, manufacturer part number, quantity, unit price, and WMATA part number on the shipping document.
 4. The identification of the individual manufacturer's part numbers shall be cross referenced to the assigned WMATA stock numbers by including a column with appropriate heading adjacent to the manufacturer's part numbers in any parts manual or listing provided in accordance with Article 1.04E.2 above.
 5. Parts furnished in accordance with this provision shall not be used to satisfy replacement needs under any warranty provision of this Contract.
 6. Spare parts shall be the same in all respects as their counterparts furnished as part of the assembled equipment to be delivered under the terms of this Contract.
 7. Unless otherwise specified in this Contract, the spare parts shall be delivered at the same time as the counterpart equipment delivery. The spare parts shall be properly packaged or crated so as to prevent damage during shipment and long-term storage. The spare parts shall be labeled in accordance with the instructions contained in Article 1.04E.3 above.
- F. Asset and Parts Database submitted in MS Excel format.
1. Asset list based on equipment and systems specified for review and finalization by Authority.

2. Parts list based on lowest maintainable parts as defined in Operating and Maintenance Manuals for review and finalization by Authority.
 3. Asset database tables based on the sample asset database table provided. Asset database shall be limited to the asset list approved by the Authority based on the submittal defined in 1.04.F.1.
 4. Parts database tables based on the sample parts database table provided for each system specified. Parts database shall be limited to the parts list approved by the Authority based on the submittal defined in 1.04.F.2.
- G. Preventive Maintenance Instructions
1. As applicable, submit one original hard copy and electronic media, in Adobe (.PDF) file format, of releases and vouchers.
- H. Records for Design, Inspection, Testing and Other Quality Elements:
1. Submit one original hard copy and electronic media, in Adobe (.PDF) file format, of records for design, inspection, testing or other quality elements as more fully specified in Section 01470, QUALITY MANAGEMENT SYSTEM.
- I. Request for Final Payment:
1. Submit one original hard copy and electronic media, in Adobe (.PDF) file format, of final payment request. Final Settlement will be made in accordance with Section 00744, METHOD OF PAYMENT.
- J. Correction of Deficiencies Submittals:
1. As applicable, submit original hard copy and electronic media, in Adobe (.PDF) file format, of Schedule of Deficiency Corrections, Recommendation for Corrective Actions, together with supporting information, Data and Reports applicable to any correction, and a Technical and Cost Proposal to amend the Contract to permit acceptance of the affected materials, equipment, systems, or subsystems as specified in Section 00758, CORRECTION OF DEFICIENCIES.
- K. Certifications, Affidavits, and Warranties and Guarantees:
1. Required Affidavits, Certificates, Written Descriptions and Releases and Warranties and Guarantees provided by the Design-Builder; i.e., Certificates of Acceptance and Compliance, Certification that all facilities were constructed in conformance with ADAAG regulations (Form attached at end of Section), of System Safety and Security, of Substantial Completion, and of Final Payment; Written Description of measures taken to correct damage that may have resulted from performance of this Contract; Written Releases; Design-Builder's executed Affidavit of Payment of All Applicable Taxes and License Fees in connection with the Contract and Affidavit of Payment of Debts and Claims; Consent of Surety Company to Final Payment; Warranties and Guarantees as specified in Section 00757, WARRANTY/GUARANTEE OF CONSTRUCTION, and Section 00758, CORRECTION OF DEFICIENCIES, and various Sections of the specifications as applicable: Submit the original hard copy and one electronic copy in Adobe (.PDF) file format.

PART 2 – PRODUCTS (not used)

PART 3 – EXECUTION (not used)

END OF SECTION

INSERT

DIVISION 01

HERE